

FIRST DIVISION

[G.R. No. 130087, September 24, 2003]

**DIANA M. BARCELONA, PETITIONER, VS. COURT OF APPEALS
AND TADEO R. BENGZON, RESPONDENTS.**

DECISION

CARPIO, J.:

The Case

The Petition for Review before us assails the 30 May 1997 Decision^[1] as well as the 7 August 1997 Resolution of the Court of Appeals in CA-G.R. SP No. 43393. The Court of Appeals affirmed the Order^[2] dated 21 January 1997 of the Regional Trial Court of Quezon City, Branch 106, in Civil Case No. Q-95-24471. The Regional Trial Court refused to dismiss private respondent's Petition for Annulment of Marriage for failure to state a cause of action and for violation of Supreme Court Administrative Circular No. 04-94. The assailed Resolution denied petitioner's motion for reconsideration.

The Facts

On 29 March 1995, private respondent Tadeo R. Bengzon ("respondent Tadeo") filed a Petition for Annulment of Marriage against petitioner Diana M. Barcelona ("petitioner Diana"). The case was docketed as Civil Case No. Q-95-23445 ("first petition") before the Regional Trial Court of Quezon City, Branch 87.^[3] On 9 May 1995, respondent Tadeo filed a Motion to Withdraw Petition which the trial court granted in its Order dated 7 June 1995.

On 21 July 1995, respondent Tadeo filed anew a Petition for Annulment of Marriage against petitioner Diana. This time, the case was docketed as Civil Case No. Q-95-24471 ("second petition") before the Regional Trial Court of Quezon City, Branch 106 ("trial court").

Petitioner Diana filed a Motion to Dismiss the second petition on two grounds. First, the second petition fails to state a cause of action. Second, it violates Supreme Court Administrative Circular No. 04-94 ("Circular No. 04-94") on forum shopping. Respondent Tadeo opposed the Motion to which petitioner Diana filed Additional Arguments in Support of the Motion.

The trial court, through Judge Julieta P. Tabiolo, issued on 18 September 1996 an Order ("first order") deferring resolution of the Motion until the parties ventilate their arguments in a hearing. Petitioner Diana filed a motion for reconsideration. However, the trial court, through Pairing Judge Rosalina L. Luna Pison, issued on 21 January 1997 an Order ("second order") denying the motion. In denying the motion for reconsideration, Judge Pison explained that when the ground for dismissal is the

complaint's failure to state a cause of action, the trial court determines such fact solely from the petition itself. Judge Pison held that contrary to petitioner Diana's claim, a perusal of the allegations in the petition shows that petitioner Diana has violated respondent Tadeo's right, thus giving rise to a cause of action. Judge Pison also rejected petitioner Diana's claim that respondent Tadeo is guilty of forum shopping in filing the second petition. Judge Pison explained that when respondent Tadeo filed the second petition, the first petition (Civil Case No. Q-95-23445) was no longer pending as it had been earlier dismissed without prejudice.

Petitioner Diana filed a Petition for Certiorari, Prohibition and Mandamus before the Court of Appeals assailing the trial court's first order deferring action on the Motion and the second order denying the motion for reconsideration on 14 February 1997. The Court of Appeals dismissed the petition and denied the motion for reconsideration.

Hence, this petition.

Ruling of the Court of Appeals

The Court of Appeals agreed with petitioner Diana that the trial court in its first order erred in deferring action on the Motion until after a hearing on whether the complaint states a cause of action. Nevertheless, the Court of Appeals pointed out that the trial court's second order corrected the situation since in denying the motion for reconsideration, the trial court in effect denied the Motion. The appellate court agreed with the trial court that the allegations in the second petition state a cause of action sufficient to sustain a valid judgment if proven to be true.

The Court of Appeals also held that there was no violation of Circular No. 04-94. To determine the existence of forum shopping, the elements of *litis pendentia* must exist or a final judgment in one case must amount to *res judicata* in the other. In this case, there is no *litis pendentia* because respondent Tadeo had caused the dismissal without prejudice of the first petition before filing the second petition. Neither is there *res judicata* because there is no final decision on the merits.

Issues

In her Memorandum, petitioner Diana raises the following issues:

- I. WHETHER THE ALLEGATIONS OF THE SECOND PETITION FOR ANNULMENT OF MARRIAGE SUFFICIENTLY STATE A CAUSE OF ACTION;
- II. WHETHER RESPONDENT TADEO VIOLATED SUPREME COURT ADMINISTRATIVE CIRCULAR NO. 04-94 IN FAILING TO STATE THE FILING OF A PREVIOUS PETITION FOR ANNULMENT OF MARRIAGE, ITS TERMINATION AND STATUS.^[4]

The Court's Ruling

The petition has no merit.

Sufficiency of Cause of Action

Petitioner Diana's contention that the second petition fails to state a cause of action is untenable. A cause of action is an act or omission of the defendant in violation of the legal right of the plaintiff.^[5] A complaint states a cause of action when it contains three essential elements: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises; (2) an obligation of the defendant to respect such right; and (3) the act or omission of the defendant violates the right of the plaintiff.^[6]

We find the second petition sufficiently alleges a cause of action. The petition sought the declaration of nullity of the marriage based on Article 36 of the Family Code.^[7] The petition alleged that respondent Tadeo and petitioner Diana were legally married at the Holy Cross Parish after a whirlwind courtship as shown by the marriage contract attached to the petition. The couple established their residence in Quezon City. The union begot five children, Ana Maria, born on 8 November 1964; Isabel, born on 28 October 1968; Ernesto Tadeo, born on 31 March 1970; Regina Rachelle born on 7 March 1974; and Cristina Maria born in February 1978. The petition further alleged that petitioner Diana was psychologically incapacitated at the time of the celebration of their marriage to comply with the essential obligations of marriage and such incapacity subsists up to the present time. The petition alleged the non-complied marital obligations in this manner:

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5. During their marriage, they had frequent quarrels due to their varied upbringing. Respondent, coming from a rich family, was a disorganized housekeeper and was frequently out of the house. She would go to her sister's house or would play tennis the whole day.
6. When the family had crisis due to several miscarriages suffered by respondent and the sickness of a child, respondent withdrew to herself and eventually refused to speak to her husband.
7. On November 1977, the respondent, who was five months pregnant with Cristina Maria and on the pretext of re-evaluating her feelings with petitioner, requested the latter to temporarily leave their conjugal dwelling. She further insisted that she wanted to feel a little freedom from petitioner's marital authority and influences. The petitioner argued that he could occupy another room in their conjugal dwelling to accommodate respondent's desire, but no amount of plea and explanation could dissuade her from demanding that the petitioner leave their conjugal dwelling.
8. In his desire to keep peace in the family and to safeguard the respondent's pregnancy, the petitioner was compelled to leave their conjugal dwelling and reside in a condominium located in Greenhills.
9. This separation resulted in complete estrangement between the petitioner and the respondent. The petitioner waived his right to

the conjugal dwelling in respondent's favor through an extrajudicial dissolution of their conjugal partnership of gains. The separation in fact between the petitioner and the respondent still subsists to the present time.

10. The parties likewise agreed on the custody and support of the children. The extrajudicial dissolution of conjugal partnership of gains is hereto attached as Annex "C" and taken as an integral part hereof.
11. The respondent at the time of the celebration of their marriage was psychologically incapacitated to comply with the essential obligation of marriage and such incapacity subsisted up to and until the present time. Such incapacity was conclusively found in the psychological examination conducted on the relationship between the petitioner and the respondent.
12. Under Article 36 of the Family Code, the marriage between the petitioner and the respondent is void ab initio and needs to be annulled. This petition is in accordance with Article 39 thereof.

xxx.^[8]

The second petition states the ultimate facts on which respondent bases his claim in accordance with Section 1, Rule 8 of the old Rules of Court.^[9] Ultimate facts refer to the principal, determinative, constitutive facts upon the existence of which the cause of action rests. The term does not refer to details of probative matter or particulars of evidence which establish the material elements.^[10]

Petitioner Diana relies mainly^[11] on the rulings in ***Santos v. Court of Appeals***^[12] as well as in ***Republic v. Court of Appeals and Molina***.^[13] ***Santos*** gave life to the phrase "psychological incapacity," a novel provision in the Family Code, by defining the term in this wise:

xxx "psychological incapacity" should refer to no less than mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage is celebrated. xxx.

Molina additionally provided procedural guidelines to assist the courts and the parties in cases for annulment of marriages grounded on psychological incapacity.^[14]

Petitioner Diana argues that the second petition falls short of the guidelines set forth