

## SECOND DIVISION

[ G.R. No. 127263, April 12, 2000 ]

**FILIPINA Y. SY, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, THE HONORABLE REGIONAL TRIAL COURT, SAN FERNANDO, PAMPANGA, BRANCH XLI, AND FERNANDO SY, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

For review is the decision<sup>[1]</sup> dated May 21, 1996 of the Court of Appeals in CA-G.R. CV No. 44144, which affirmed the decision<sup>[2]</sup> of the Regional Trial Court of San Fernando, Pampanga, denying the petition<sup>[3]</sup> for declaration of absolute nullity of marriage of the spouses Filipina Sy and Fernando Sy.

Petitioner Filipina Y. Sy and private respondent Fernando Sy contracted marriage on November 15, 1973 at the Church of Our Lady of Lourdes in Quezon City.<sup>[4]</sup> Both were then 22 years old. Their union was blessed with two children, Frederick and Farrah Sheryll who were born on July 8, 1975 and February 14, 1978, respectively.<sup>[5]</sup>

The spouses first established their residence in Singalong, Manila, then in Apalit, Pampanga, and later at San Matias, Sto. Tomas, Pampanga. They operated a lumber and hardware business in Sto. Tomas, Pampanga.<sup>[6]</sup>

On September 15, 1983, Fernando left their conjugal dwelling. Since then, the spouses lived separately, and their two children were in the custody of their mother. However, their son Frederick transferred to his father's residence at Masangkay, Tondo, Manila on May 15, 1988, and from then on, lived with his father.<sup>[7]</sup>

On February 11, 1987, Filipina filed a petition for legal separation, docketed as Civil Case No. 7900 before the Regional Trial Court of San Fernando, Pampanga. Later, upon motion of petitioner, the action was later amended to a petition for separation of property on the grounds that her husband abandoned her without just cause; that they have been living separately for more than one year; and that they voluntarily entered into a Memorandum of Agreement dated September 29, 1983, containing the rules that would govern the dissolution of their conjugal partnership.<sup>[8]</sup> Judgment was rendered dissolving their conjugal partnership of gains and approving a regime of separation of properties based on the Memorandum of Agreement executed by the spouses.<sup>[9]</sup> The trial court also granted custody of the children to Filipina.<sup>[10]</sup>

In May 1988, Filipina filed a criminal action for attempted parricide against her husband, docketed as Criminal Case No. 88-68006, before the Regional Trial Court

of Manila. Filipina testified that in the afternoon of May 15, 1988, she went to the dental clinic at Masangkay, Tondo, Manila, owned by her husband but operated by his mistress, to fetch her son and bring him to San Fernando, Pampanga. While she was talking to her son, the boy ignored her and continued playing with the family computer. Filipina got mad, took the computer away from her son, and started spanking him. At that instance, Fernando pulled Filipina away from their son, and punched her in the different parts of her body. Filipina also claimed that her husband started choking her when she fell on the floor, and released her only when he thought she was dead. Filipina suffered from hematoma and contusions on different parts of her body as a result of the blows inflicted by her husband, evidenced by a Medical Certificate issued by a certain Dr. James Ferraren. She said it was not the first time Fernando maltreated her.<sup>[11]</sup>

The Regional Trial Court of Manila, however, in its decision<sup>[12]</sup> dated April 26, 1990, convicted Fernando only of the lesser crime of slight physical injuries, and sentenced him to 20 days imprisonment.

Petitioner later filed a new action for legal separation against private respondent, docketed as Civil Case No. 8273, on the following grounds: (1) repeated physical violence; (2) sexual infidelity; (3) attempt by respondent against her life; and (4) abandonment of her by her husband without justifiable cause for more than one year. The Regional Trial Court of San Fernando, Pampanga, in its decision<sup>[13]</sup> dated December 4, 1991, granted the petition on the grounds of repeated physical violence and sexual infidelity, and issued a decree of legal separation. It awarded custody of their daughter Farrah Sheryll to petitioner, and their son Frederick to respondent.

On August 4, 1992, Filipina filed a petition<sup>[14]</sup> for the declaration of absolute nullity of her marriage to Fernando on the ground of psychological incapacity. She points out that the final judgment rendered by the Regional Trial Court in her favor, in her petitions for separation of property and legal separation, and Fernando's infliction of physical violence on her which led to the conviction of her husband for slight physical injuries are symptoms of psychological incapacity. She also cites as manifestations of her husband's psychological incapacity the following: (1) habitual alcoholism; (2) refusal to live with her without fault on her part, choosing to live with his mistress instead; and (3) refusal to have sex with her, performing the marital act only to satisfy himself. Moreover, Filipina alleges that such psychological incapacity of her husband existed from the time of the celebration of their marriage and became manifest thereafter.<sup>[15]</sup>

The Regional Trial Court of San Fernando, Pampanga, in its decision<sup>[16]</sup> dated December 9, 1993, denied the petition of Filipina Sy for the declaration of absolute nullity of her marriage to Fernando. It stated that the alleged acts of the respondent, as cited by petitioner, do not constitute psychological incapacity which may warrant the declaration of absolute nullity of their marriage.

Petitioner appealed to the Court of Appeals which affirmed the decision of the trial court. In the decision<sup>[17]</sup> of the Court of Appeals dated May 21, 1996, it ruled that the testimony of petitioner concerning respondent's purported psychological incapacity falls short of the quantum of evidence required to nullify a marriage celebrated with all the formal and essential requisites of law. Moreover, the Court of

Appeals held that petitioner failed to show that the alleged psychological incapacity of respondent had existed at the time of the celebration of their marriage in 1973. It reiterated the finding of the trial court that the couple's marital problems surfaced only in 1983, or almost ten years from the date of the celebration of their marriage. And prior to their separation in 1983, they were living together harmoniously. Thus, the Court of Appeals affirmed the judgment of the lower court which it found to be in accordance with law and the evidence on record.<sup>[18]</sup>

Petitioner filed a motion for reconsideration,<sup>[19]</sup> which the Court of Appeals denied in its resolution dated November 21, 1996.<sup>[20]</sup>

Hence, this appeal by certiorari<sup>[21]</sup> wherein petitioner now raises the following issues:

1. WHETHER OR NOT THE HONORABLE COURT OF APPEALS MANIFESTLY OVERLOOKED THE FACT THAT ON THE DATE OF THE CELEBRATION OF THE PARTIES' MARRIAGE ON NOVEMBER 15, 1973, NOT DISPUTED BY RESPONDENT FERNANDO, THERE WAS NO MARRIAGE LICENSE THERETO;

2. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED MISAPPREHENSION OF FACTS BY STATING THAT THE GROUNDS RELIED UPON BY APPELLANT [herein petitioner] DO NOT CONSTITUTE PSYCHOLOGICAL INCAPACITY AS WOULD JUSTIFY NULLIFICATION OF HER MARRIAGE TO APPELLEE [herein respondent];

3. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED MISAPPREHENSION OF FACTS BY STATING THAT APPELLANT FAILED TO SHOW THAT THE ALLEGED UNDESIRABLE ACTUATIONS OF APPELLEE HAD EXISTED OR WERE PRESENT AT THE TIME THEIR MARRIAGE WAS CELEBRATED IN 1973;

4. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN AFFIRMING THE ERRONEOUS RULING OF THE LOWER COURT THAT THERE IS A REDEEMING ATTITUDE SHOWN TO THE COURT BY RESPONDENT FERNANDO WITH RESPECT TO HIS CHILDREN AND ALSO BELIEVES THAT RECONCILIATION BETWEEN THE PARTIES IS NOT A REMOTE POSSIBILITY WHICH IS ERRONEOUS; AND

5. WHETHER OR NOT THE CASE OF SANTOS V. COURT OF APPEALS (240 SCRA 20) IS APPLICABLE HERETO.<sup>[22]</sup>

In sum, two issues are to be resolved:

1. Whether or not the marriage between petitioner and private respondent is void from the beginning for lack of a marriage license at the time of the ceremony; and

2. Whether or not private respondent is psychologically incapacitated at the time of said marriage celebration to warrant a declaration of its absolute nullity.

Petitioner, for the first time, raises the issue of the marriage being void for lack of a

valid marriage license at the time of its celebration. It appears that, according to her, the date of the actual celebration of their marriage and the date of issuance of their marriage certificate and marriage license are different and incongruous.

Although we have repeatedly ruled that litigants cannot raise an issue for the first time on appeal, as this would contravene the basic rules of fair play and justice,<sup>[23]</sup> in a number of instances, we have relaxed observance of procedural rules, noting that technicalities are not ends in themselves but exist to protect and promote substantive rights of litigants. We said that certain rules ought not to be applied with severity and rigidity if by so doing, the very reason for their existence would be defeated.<sup>[24]</sup> Hence, when substantial justice plainly requires, exempting a particular case from the operation of technicalities should not be subject to cavil.<sup>[25]</sup> In our view, the case at bar requires that we address the issue of the validity of the marriage between Fillipina and Fernando which petitioner claims is void from the beginning for lack of a marriage license, in order to arrive at a just resolution of a deeply seated and violent conflict between the parties. Note, however, that here the pertinent facts are not disputed; and what is required now is a declaration of their effects according to existing law.

Petitioner states that though she did not categorically state in her petition for annulment of marriage before the trial court that the incongruity in the dates of the marriage license and the celebration of the marriage itself would lead to the conclusion that her marriage to Fernando was void from the beginning, she points out that these critical dates were contained in the documents she submitted before the court. The date of issue of the marriage license and marriage certificate, September 17, 1974, is contained in their marriage contract which was attached as Annex "A" in her petition for declaration of absolute nullity of marriage before the trial court, and thereafter marked as Exhibit "A" in the course of the trial.<sup>[26]</sup> The date of celebration of their marriage at Our Lady of Lourdes, Sta. Teresita Parish, on November 15, 1973, is admitted both by petitioner and private respondent, as stated in paragraph three of petitioner's petition for the declaration of absolute nullity of marriage before the trial court, and private respondent's answer admitting it.<sup>[27]</sup> This fact was also affirmed by petitioner, in open court, on January 22, 1993, during her direct examination,<sup>[28]</sup> as follows:

ATTY. In the last hearing, you said that you were married  
RAZON: on November 15, 1973?  
FILIPINA SY: Yes, Sir.

November 15, 1973, also appears as the date of marriage of the parents in both their son's and daughter's birth certificates, which are also attached as Annexes "B" and "C" in the petition for declaration of absolute nullity of marriage before the trial court, and thereafter marked as Exhibits "B" and "C" in the course of the trial.<sup>[29]</sup> These pieces of evidence on record plainly and indubitably show that on the day of the marriage ceremony, there was no marriage license. A marriage license is a formal requirement; its absence renders the marriage *void ab initio*. In addition, the marriage contract shows that the marriage license, numbered 6237519, was issued in Carmona, Cavite, yet, neither petitioner nor private respondent ever resided in Carmona.<sup>[30]</sup>