360 Phil. 932

SECOND DIVISION

[G.R. No. 132524, December 29, 1998]

FEDERICO C. SUNTAY, PETITIONER, VS. ISABEL COJUANGCO-SUNTAY* AND HON. GREGORIO S. SAMPAGA, PRESIDING JUDGE, BRANCH 78, REGIONAL TRIAL COURT, MALOLOS, BULACAN, RESPONDENTS.

D E C I S I O N

MARTINEZ, J.:

Which should prevail between the *ration decidendi* and the *fallo* of a decision is the primary issue in this petition for *certiorari* under Rule 65 filed by petitioner Federico C. Suntay who opposes respondent Isabel's petition for appointment as administratrix of her grandmother's estate by virtue of her right of representation.

The suit stemmed from the following:

On July 9, 1958, Emilio Aguinaldo Suntay (son of petitioner Federico Suntay) and Isabel Cojuangco-Suntay were married in the Portuguese Colony of Macao. Out of this marriage, three children were born namely: Margarita Guadalupe, Isabel Aguinaldo and Emilio Aguinaldo all surnamed Cojuangco Suntay. After 4 years, the marriage soured so that in 1962, Isabel Cojuanco-Suntay filed a criminal case[1] against her husband Emilio Aguinaldo Suntay. In retaliation, Emilio Aguinaldo filed before the then Court of First Instance (CFI)[2] a complaint for legal separation against his wife, charging her, among others, with infidelity and praying for the custody and care of their children who were living with their mother.[3] The suit was docketed as civil case number Q-7180.

On October 3, 1967, the trial court rendered a decision the dispositive portion which reads:

> "WHEREFORE, the marriage celebrated between Emilio Aguinaldo Suntay and Isabel Cojuangco-Suntay on July 9, 1958 is hereby declared null and void and of no effect as between the parties. It being admitted by the parties and shown by the records that the question of the case and custody of the three children have been the subject of another case between the same parties in another branch of this Court in Special Proceeding No. 6428, the same cannot be litigated in this case.
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> "With regard to counterclaim, in view of the manifestation of counsel that the third party defendants are willing to pay P50,000.00 for damages and that defendant is willing to accept the offer instead of her original demand for P130,000.00, the defendant is awarded the sum of P50,000.00 as her counterclaim and to pay attorney's fees in the amount of P5,000.00.

"SO ORDERED.[4] (Emphasis supplied)

As basis thereof, the CFI said:

"From February 1965 thru December 1965 plaintiff was confined in the Veterans Memorial Hospital. Although at the time of the trial of parricide case (September 8, 1967) the patient was already out of the hospital he continued to be under observation and treatment.

"It is the opinion of Dr. Aramil that the symptoms of the plaintiff's mental aberration classified as schizophernia (sic) had made themselves manifest even as early as 1955; that the disease worsened with time, until 1965 when he was actually placed under expert neuro-psychiatrist (sic) treatment; that even if the subject has shown marked progress, the remains bereft of adequate understanding of right and wrong.

"There is no controversy that the marriage between the parties was effected on July 9, 1958, years after plaintiff's mental illness had set in. This fact would justify a declaration of nullity of the marriage under Article 85 of the Civil Code which provides:

"Art. 95. (sic) A marriage may be annulled for nay of the following causes after (sic) existing at the time of the marriage:

"xxx xxx xxx

"(3) That either party was of unsound mind, unless such party, after coming to reason, freely cohabited with the other as husband or wife.

"There is a dearth of proof at the time of the marriage defendant knew about the mental condition of the plaintiff; and there is proof that plaintiff continues to be without sound reason. The charges in this very complaint add emphasis to the findings of the neuro-psychiatrist handling the patient, that plaintiff really lives more in fancy that in reality, a strong indication of schizophernia (sic).[5] (emphasis supplied)

On June 1, 1979, Emilio Aguinaldo Suntay predeceased his mother, the decedent Cristina Aguinaldo-Suntay. The latter is respondent Isabel's paternal grandmother. The decedent died on June 4, 1990 without leaving a will.[6]

Five years later or on October 26 1995, respondent Isabel Aguinaldo Cojuangco Suntay filed before the Regional Trial Court (RTC)[7] a petition for issuance in her favor of Letters of Administration of the Intestate Estate of her late grandmother Cristina Aguinaldo Suntay which case was docketed as Special Proceeding Case No. 117-M-95. In her petition, she alleged among others, that she is one of the legitimate grandchildren of the decedent and prayed that she be appointed as administratrix of the estate.[8]

On December 15, 1995, petitioner filed an Opposition claiming that he is the surviving spouse of the decedent, that he has been managing the conjugal properties even while the decedent has been alive and is better situated to protect

the integrity of the estate than the petitioner, that petitioner and her family have been alienated from the decedent and the Oppositor for more than thirty (30) years and thus, prayed that Letters of Administration be issued instead to him.[9]

On September 22, 1997 or almost two years after filing an opposition, petitioner moved to dismiss the special proceeding case alleging in the main that respondent Isabel should not be appointed as administratrix of the decedent's estate. In support thereof, petitioner argues that under Article 992 of the Civil Code an illegitimate child has no right to succeed by right of representation the legitimate relatives of her father or mother. Emilio Aguinaldo Suntay, respondent Isabel's father predeceased his mother, the late Cristina Aguinaldo Suntay and thus, opened succession by representation. Petitioner contends that as a consequence of the declaration by the then CFI of Rizal that the marriage of the respondent Isabel's parents is "null and void," the latter is an illegitimate child, and has no right nor interest in the estate of her paternal grandmother - the decedent.[10] On October 16, 1997, the trial court issued the assailed order denying petitioner's Motion to Dismiss.[11] When his motion for reconsideration was denied by the trial court in an order dated January 9, 1998,[12] petitioner, as mentioned above filed this petition.

Petitioner imputes grave abuse of discretion to respondent court in denying his motion to dismiss as well as his motion for reconsideration on the grounds that: (a) a motion to dismiss is appropriate in a special proceeding for the settlement of estate of a deceased person; (b) the motion to dismiss was timely filed; (c) the dispositive portion of the decision declaring the marriage of respondent Isabel's parents "null and void" must be upheld; and (d) said decision had long become final and had, in fact, been executed.

On the other hand, respondent Isabel asserts that petitioner's motion to dismiss was late having been filed after the opposition was already filed in court, the counterpart of an answer in an ordinary civil action and that petitioner in his opposition likewise failed to specifically deny respondent Isabel's allegation that she is a legitimate child of Emilio Aguinaldo Suntay, the decedent's son. She further contends that petitioner proceeds from a miscomprehension of the judgment in Civil Case No. Q-7180 and the erroneous premise that there is a conflict between the body of the decision and its dispositive portion because in an action for annulment of a marriage, the court either sustains the validity of marriage or nullifies it. It does not, after hearing a marriage "voidable" otherwise, the court will fail to decide and lastly, that the status of marriages under Article 85 of the Civil Code before they are annulled is "voidable."

The petition must fail.

Certiorari as a special civil action can be availed of only if there is concurrence of the essential requisites, to wit: (a) the tribunal, board or officer exercising judicial functions has acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack or in excess or jurisdiction, and (b) there is no appeal, nor any plain, speedy and adequate remedy in the ordinary course of law for the purpose of annulling or modifying the proceeding.[13] There must be a capricious, arbitrary and whimsical exercise of power for it to prosper.[14]

A reading of the assailed order, however, shows that the respondent court did not

abuse its discretion in denying petitioner's motion to dismiss, pertinent portions of which are quoted hereunder. To with:

> "The arguments of both parties judiciously and objectively assessed and the pertinent laws applied, the Court finds that a motion to dismiss at this juncture is inappropriate considering the peculiar nature of this special proceeding as distinguished from an ordinary civil action. At the outset, this proceeding was not adversarial in nature and the petitioner was not called upon to assert a cause of action against a particular defendant. Furthermore, the State has a vital interest in the maintenance of the proceedings, not only because of the taxes due it, but also because if no heirs qualify, the State shall acquire the estate by escheat.
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> "xxx xxx xxx
>
> "The court rules, for the purpose of establishing the personality of the petitioner to file ad maintain this special proceedings, that in the case at bench, the body of the decision determines the nature of the action which is for annulment, not declaration of nullity.
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> "The oppositor's contention that the fallo of the questioned decision (Annex "A" - Motion) prevails over the body thereof is not of a final decision is definite, clear and unequivocal and can be wholly given effect without need of interpretation or construction.
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> "Where there is ambiguity or uncertainty, the opinion or body of the decision may be referred to for purposes of construing the judgement" (78 SCRA 541 citing Morelos v. Go Chin Ling; and Heirs of Juan Presto v. Galang). The reason is that the dispositive portion must find support from the decision's ratio decidendi.
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> "Per decision of the Court of First Instance Branch IX of Quezon City, marked as Annex "A" of oppositor's motion, the marriage of Emilio Aguinaldo Suntay and Isabel Cojuangco-Suntay was annulled on the basis of Art. 85 par. 3 of the Civil Code which refers to marriages which are considered voidable. Petitioner being conceived and born of a voidable marriage before the decree of annulment, she is considered legitimate (Art. 89, par. 2, Civil Code of the Phils.)."[15]

The trial court correctly ruled that "a motion to dismiss at this juncture is inappropriate." The 1997 Rules of Civil Procedure governs the procedure to be observed in actions, civil or criminal and **special proceedings.**"[16] The Rules do not **only** apply to election cases, land registration, cadastral, naturalization and insolvency proceedings, and other cases not therein provided for.

Special proceedings being one of the actions under the coverage of the Rules on Civil Procedure, a motion to dismiss filed thereunder would fall under Section 1, Rule 16 thereof. Said rule provides that the motion to dismiss may be filed **"within the time for but before** filing the answer to the complaint." Clearly, the motion should have been filed on or before the filing of petitioner's opposition.[17] which is the counterpart of an answer in ordinary civil actions.

Not only was petitioner's motion to dismiss filed out of time, it was filed almost two years after respondent Isabel was already through with the presentation of her witnesses and evidence and petitioner had presented two witnesses. The filing of the motion to dismiss is not only improper but also dilatory.

The respondent court, far from deviating or straying off course from established jurisprudence on this matter, as petitioner asserts, had in fact faithfully observed the law and legal precedents in this case. In fact, the alleged conflict between the body of the decision and the dispositive portion thereof which created the ambiguity or uncertainty in the decision of the CFI of Rizal is reconcilable. The legal basis for setting aside the marriage of respondent Isabel's parents is clear under paragraph 3, Article 85 of the New Civil Code, the law in force prior to the enactment of the Family Code.

Petitioner, however, strongly insists that the dispositive portion of the CFI decision has categorically declared that the marriage of respondent Isabel's parents is "null and void" and that the legal effect of such declaration is that the marriage from its inception is void and the children born out of said marriage is illegitimate. Such argument cannot be sustained. Articles 80, 81, 82 and 83[18] of the New Civil Code classify what marriages are void while Article 85 enumerates the causes for which a marriage may be annulled.[19]

The fundamental distinction between void and voidable marriages is that void marriage is deemed never to have taken place at all. The effects of void marriages, with respect to property relations of the spouses are provided for under Article 144 of the Civil Code. Children born of such marriages who are called natural children by legal fiction have the same status, rights and obligations as acknowledged natural children under Article 89[20] irrespective of whether or not the parties to the void marriage are in good faith or in bad faith.

On the other hand, a voidable marriage, is considered valid and produces all its civil effects, until it is set aside by final judgment of a competent court in an action for annulment. Juridically, the annulment of a marriage dissolves the special contract as if it had never been entered into but the law makes express provisions to prevent the effects of the marriage from being totally wiped out. The status of children born in voidable marriages is governed by the second paragraph of Article 89 which provides that:

> "Children conceived of voidable marriages before the decree of annulment shall be considered legitimate; and children conceived thereafter shall have the same status, rights and obligations as acknowledged natural children, and are also called natural children by legal fiction."[21] (Emphasis supplied)

Stated otherwise, the annulment of "the marriage by the court abolishes the legal character of the society formed by the putative spouses, but it cannot destroy the juridical consequences which the marital union produced during its continuance."[22]

Indeed, the terms "annul" and "null and void" have different legal connotations and implications. Annul means to reduce to nothing; annihilate; obliterate; to make void or of no effect; to nullify; to abolish; to do away with[23] whereas null and void is