TWELFTH DIVISION

[CA–G.R. CV No. 99027, January 27, 2015]

IN RE: PETITION FOR THE DECLARATION OF NULLITY OF MARRIAGE OF MILADAY PINPIN-DONATO AND LUIS T. DONATO, JR.,

MILADAY PINPIN-DONATO, PETITIONER-APPELLEE, VS. LUIS T. DONATO, JR., RESPONDENT,

REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT,

D E C I S I O N

GALAPATE-LAGUILLES, J:

This is an Appeal assailing the Decision[1] dated July 11, 2011 of the Regional Trial Court (Branch 12) of Sanchez Mira, Cagayan granting the Petition for the Declaration of Nullity of Marriage[2] filed by Miladay Pinpin-Donato, which was docketed as Civil Case No. 3613-S-Cv-10. The *fallo* of the assailed Decision reads:

> IN VIEW OF THE FOREGOING, the Court declares NULL AND VOID *AB INITIO* due to LACK OF THE REQUISITE MARRIAGE LICENSE, the marriage between petitioner Miladay Pinpin-Donato and respondent Luis T. Donato celebrated on January 15, 2001, in Tuguegarao City, Cagayan.
>
> Furnish a copy each of this Decision to the Office of the Civil Registrar of Tuguegarao City, Cagayan, and the National Statistics Office in Manila, for the information and appropriate action.
>
> IT IS SO DECIDED.[3]

The facts are simple.

Miladay Pinpin-Donato and Luis T. Donato, Jr. exchanged their marital vows before Judge Pablo M. Agustin on January 15, 2001, without securing a marriage license.[4] In lieu thereof, they executed an Affidavit of Cohabitation[5] attesting that they had been living together as husband and wife since 1995, or five years from the time of the celebration of marriage, in order to avail of the exemption from the requirement of a marriage license under Article 34 of the Family Code.

On March 31, 2003, Miladay and Luis begot a son, Kierr Lord Louis P. Donato[6] and, thereafter, their relationship turned sour. The mother and son moved out from the conjugal dwelling and lived separately from Luis.

On October 1, 2010, Miladay filed the instant *Petition* before the Regional Trial Court (Branch 12) of Sanchez Mira, Cagayan, alleging, in the main, that the allegation in

the Affidavit of Cohabitation was false as she and Luis did not live together as husband and wife for five years before the solemnization of their marriage. During trial, Miladay likewise disavowed that she and Luis cohabited from 1995-2001 and testified that she met the latter in 1999 at the provincial Capitol of Cagayan where they both worked.[7] According further to Miladay she had been living with her sisters, Jennifer and Dianalyn, from 1995 to 2000. She also asserted that the sole purpose of the said Affidavit was merely to hasten the solemnization of their marriage because of her fear that she was pregnant at the time.[8] She thus averred that the marriage was void because the same was celebrated without a valid marriage license.

Diana Pinpin Manuel corroborated her sister's testimony. She testified that Miladay was living with her and their eldest sister, Jennifer, from the years 1995-1999 in an apartment in Tuguegarao City. According to Diana, she only met Luis in 1999.[9]

Luis did not participate in the proceedings before the trial court while the Republic was represented by the Office of the Solicitor General and assisted by the Office of the Provincial Prosecutor of Sanchez Mira, Cagayan.

On July 11, 2011, the trial court rendered the assailed Decision based on the evidence presented by Miladay, ruling that the parties did not live together as husband and wife for five years prior to their marriage on January 15, 2001, hence, they were not exempt from the requisite of securing a valid marriage license. Accordingly, the trial court declared the marriage of Miladay and Luis as void *ab initio* due to lack of the requisite marriage license.

The Republic moved for reconsideration[10] of the assailed Decision, contending that the trial court's reliance on the biased and self-serving testimonies of Miladay and Diana was misplaced; and that the same could not be sufficient to overturn the validity of the Affidavit of Cohabitation, which is a public instrument. The Republic invoked the Supreme Court's admonition in *So v. Valera*[11] that "if the biased and interested testimony of a witness is deemed sufficient to overcome a public instrument, drawn up with all the formalities prescribed by law, then there will have been established a very dangerous doctrine that would throw the door wide open to fraud."

Miladay opposed[12] the Republic's motion for reconsideration arguing that there were clear and convincing pieces of evidence to prove the falsity of the Affidavit of Cohabitation. She insisted that she was only eighteen (18) years old in 1995, studying in Tuguegarao and living with her two siblings. On the other hand, Luis was still studying at the University of Santo Tomas in Manila and graduated in 1997[13]. She thus contended that it would be physically impossible that both of them were living together as husband and wife for a period of five years from 1995-2001.

On November 29, 2011, the trial court rendered a Resolution[14] sustaining the credibility of Miladay and Diana – that they were in the proper position to verify the facts stated in the Affidavit of Cohabitation. It likewise cited independent pieces of evidence that supported Miladay's claim, to wit:

1. Petitioner's Counsel Jessie B. Usita submitted the transcript of records of respondent Luis Donato Jr. from 1995 to 1997, issued by the University of Santo Tomas (UST) where he graduated with a degree of Bachelor of Arts, major in Philosophy.

2. Petitioner and respondent were married on January 15, 2001, when both were 23 years old. By computation, the start of their supposed continuous and unbroken cohabitation was in January 15, 1996 when they were only 18 years old.

3. In 1996, respondent Donato was a student of UST in Manila while petitioner Pinpin-Donato was enrolled at the Saint Louis College of Tuguegarao, Cagayan.

4. Admitted as judicial notice, being geographic locations, Manila and Tuguegarao are around 500 kilometers apart. To commute this distance by land will take 12 hours, more or less, depending on how hurried or starved the driver is. This tiring and time-consumming travel makes continuous and unbroken cohabitation between petitioner and respondent as husband and wife impossible.

5. It was only in 1999, when the petitioner and the respondent were employees of the provincial government, that they met each other.[15]

Unperturbed, the Republic interposed the instant appeal ascribing to the trial court this lone error, *viz*:

> THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR ANNULMENT OF MARRIAGE DESPITE PETITIONER-APPELLEE'S FAILURE TO SHOW BY COMPETENT EVIDENCE THAT SHE AND RESPONDENT FALSIFIED THEIR AFFIDAVIT OF COHABITATION, WHICH HAD EXEMPTED THEM FROM SECURING THE REQUISITE MARRIAGE LICENSE PRIOR TO THEIR MARRIAGE.[16]

The Republic bewails that Miladay's evidence is not sufficient to disprove the authenticity of the Affidavit of Cohabitation, it being a public document. The Republic further contends that even Luis' school records do not conclusively show physical impossibility of marital cohabitation.

The appeal is bereft of merit.

It is deeply ingrained in Our rules and jurisprudence that a notarial document celebrated with all the legal requisites under the safeguard of a notarial certificate carries the evidentiary weight conferred upon it with respect to its due execution. [17] Although a notarized document partakes the nature of a public document as provided for under Section 19,[18] Rule 132 of the Rules of Court, it is not deemed a prima facie evidence of the facts stated therein[19] unlike the other types of public documents, as the said legal presumption extends only to the facts that gave rise to its execution as well as the date thereof, thus:

> Sec. 23. Public documents as evidence. – Documents consisting of entries in public records made in the performance of a duty by a public

> officer are *prima facie* evidence of the facts therein stated. **All other public documents are evidence, even against a third person, of the fact which gave rise to their execution and of the date of the latter.** (Emphasis Ours)

In *Philippine Trust Company (Also Known as Philtrust Bank) v. Court of Appeals,*[20] the Supreme Court had the occasion to elucidate on the nature of a notarized affidavit as follows:

> "Public records made in the performance of a duty by a public officer" include those specified as public documents under Section 19(a), Rule 132 of the Rules of Court and the acknowledgement, affirmation or oath, or jurat portion of public documents under Section 19(c). **Hence, under Section 23, notarized documents are merely proof of the fact which gave rise to their execution (e.g., the notarized Answer to Interrogatories in the case at bar is proof that Philtrust had been served with Written Interrogatories), and of the date of the latter (e.g., the notarized Answer to Interrogatories is proof that the same was executed on October 12, 1992, the date stated thereon), but is not *prima facie* evidence of the facts therein stated.** Additionally, under Section 30 of the same Rule, the acknowledgement in notarized documents is prima facie evidence of the execution of the instrument or document involved (e.g., the notarized Answer to Interrogatories is prima facie proof that petitioner executed the same).
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> The reason for the distinction lies with the respective official duties attending the execution of the different kinds of public instruments. Official duties are disputably presumed to have been regularly performed. As regards affidavits, including Answers to Interrogatories which are required to be sworn to by the person making them, the only portion thereof executed by the person authorized to take oaths is the jurat. **The presumption that official duty has been regularly performed therefore applies only to the latter portion, wherein the notary public merely attests that the affidavit was subscribed and sworn to before him or her, on the date mentioned thereon. Thus, even though affidavits are notarized documents, we have ruled that affidavits, being self-serving, must be received with caution.** (Emphasis Ours)

Here, it is beyond cavil that the Affidavit of Cohabitation has been duly executed by the parties as admitted by Miladay during trial.[21] The real issue is whether or not Miladay and Luis lived together as husband and wife for five year prior to the date of marriage as stated in the Affidavit of Cohabitation.

The records show the physical impossibility for Miladay and Luis to cohabit for five years before January 15, 2001, the date of their marriage. As aptly observed by the trial court, Miladay was only 18 years old in 1995, was studying in Tuguegarao and living together with her sisters in a scrimp apartment until 2000. On the same period, Luis was studying at the University of Santo Tomas in Manila where he graduated with a degree in Bachelor of Arts in Philosopy in 1997 as shown in his official transcript of records. Also, the testimony of Miladay that she met Luis in