CAGAYAN DE ORO CITY

TWENTY-THIRD DIVISION

[CA-G.R. CV No. 03003, January 23, 2014]

RICHARD T. TABANAO, PLAINTIFF-APPELLANT, VS. ROBERTA A. YOSHIMINE, DEFENDANT-APPELLEE.

D E C I S I O N

LLOREN, J.:

This is an appeal from the Order[1] dated August 15, 2012 of the Regional Trial Court of Cagayan de Oro City, 10th Judicial Region, Branch 19 in FC Civil Case No. 2010-064. The dispositive portion of which reads as follows:

> "THE FOREGOING CONSIDERED, and taking into account that Petitioner is not the aggrieved party but had himself entered into two marriages, he has no *locus standi* to file this instant petition and for which the same is hereby ordered DIMISSED.
>
> IT IS SO ORDERED."[2]

The facts as culled from the records:

On November 23, 1988, appellant Richard T. Tabanao married Imelda A. Taban-ud.[3] On March 19, 2001, during the subsistence of the first marriage, appellant married appellee Roberta A. Yoshimine.[4]

On October 12, 2010, appellant filed with the RTC of Cagayan de Oro City, Branch 19, a Petition for Declaration of Absolute Nullity of his second marriage which was docketed as FC Civil Case No. 2010-064[5]. He alleged that his second marriage is merely simulated as there was no marriage license issued to them and there was no actual marriage ceremony that took place.[6] He avers that the simulated marriage was done upon the insistence and insinuation of the relatives of the appellee that he would find a job in Japan as appellee is of Japanese descent.[7]

On August 15, 2012, the RTC rendered an Order[8] dismissing the petition, the dispositive portion of which was quoted at the outset.

The appellant appealed[9] the RTC decision and raised the following as errors:

> THE HONORABLE COURT A QUO ERRED IN DISMISSING THE INSTANT CASE WHEN IT DECLARED THAT HEREIN PETITIONER-APPELLANT IS THE GUILTY PARTY;
>
> THE HONORABLE COURT A QUO ERRED IN FAILING TO CONSIDER THE OTHER GROUNDS RELIED UPON BY PETITIONER-APPELLANT IN FILING THIS INSTANT PETITION.[10]

The Ruling of this Court

The appellant assails the RTC's dismissal of his Petition for Declaration of Absolute Nullity of Marriage on the ground that he has no locus standi to file the instant petition. Appellant cites *Carlos v. Sandoval*,[11] and *Niñal v. Bayadog*[12] as authorities on the subject.[13]

The foregoing cases are not on all fours with the case at bar. In *Carlos v. Sandoval*[14], the Supreme Court does not only require that the petition for declaration of absolute nullity of marriage be filed by the husband or wife but qualifies that the husband or wife who files the petition must be the aggrieved or injured party. In the present case, appellant is not the injured or aggrieved party as he was the one who entered into a second bigamous marriage. In *Carlos v. Sandoval*[15], Supreme Court ruled in this wise:

> Under the *Rule on Declaration of Absolute Nullity of Void Marriages* and Annulment of Voidable Marriages, the petition for declaration of absolute nullity of marriage may not be filed by any party outside of the marriage. The Rule made it exclusively a right of the spouses by stating:
>
> > SEC. 2. *Petition for declaration of absolute nullity of void marriages*. –
> >
> > (a) *Who may file*. – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.
>
> Section 2(a) of the Rule makes it the sole right of the husband or the wife to file a petition for declaration of absolute nullity of void marriage. The rationale of the Rule is enlightening, *viz.*:
>
> > Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and, hence, can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution. (Underscoring supplied)

While in the case of *Ninal v. Bayadog*[16], the Supreme Court allowed the petitioners to file a petition for the declaration of nullity of their father's marriage to therein respondent after the death of their father. However, We cannot apply its ruling in the present case for the reason that the impugned marriage therein was solemnized prior to the effectivity of the Family Code. The Supreme Court in *Niñal* recognized that the applicable law to determine the validity of the two marriages involved therein is the Civil Code, which was the law in effect at the time of their celebration.