

## **SPECIAL FOURTEENTH DIVISION**

**[ CA-G.R. CV NO. 78255, August 15, 2006 ]**

**MICHAEL ALEXIUS SARTE, PETITIONER-APPELLEE, VS. ANGELA MAE ARABE-SARTE, RESPONDENT-APPELLANT.**

### **D E C I S I O N**

**BATO, JR., J.:**

On appeal is the Decision dated March 30, 2000 of the Regional Trial Court of Manila, National Capital Judicial Region, Branch 38 in Civil Case No. 99-96021, declaring as null and void *ab initio* the marriage contracted by herein petitioner-appellee Michael Alexious A. Sarte and respondent-appellant Angela Mae Arabe-Sarte. The dispositive portion of the court *a quo*'s decision reads:

"WHEREFORE, judgment is hereby rendered:

1. DECLARING the marriage between Michael Alexius A. Sarte and Angela Mae Arabe-Sarte solemnized on August 8, 1995 in Quezon City as null and void *ab initio*;
2. DISSOLVING the conjugal partnership of gains if any, pursuant to Article 126 in relation to Article 43 and 44 of the Family Code of the Philippines, with petitioner slapped to forfeit his share thereto in favor of respondent;
3. ORDERING the City Registry of Quezon City and the National Statistics Office to delete and expunge the entry of such marriage from their respective marriage registers and all other documents pertaining thereto.

Let (*sic*) copy of this Decision be furnished the City Civil Registries of Manila and Quezon City as well as the National Statistics Office for record purposes.

SO ORDERED."<sup>[1]</sup>

The facts are as follows:

Petitioner-appellee filed a petition<sup>[2]</sup> dated December 21, 1999 for the declaration of nullity of his marriage with respondent-appellant on the ground of psychological incapacity on his part. As per process server's return,<sup>[3]</sup> process server Abe B. Antonio attempted to serve the summons to respondent-appellant personally on January 7, 2000 and January 12, 2000, respectively, but in both instances, respondent-appellant was not home. Thus, process server Abe B. Antonio resorted to substituted service on January 12, 2000 by tendering the summons to the respondent-appellant's mother who refused to sign its receipt.<sup>[4]</sup>

Upon respondent-appellant's failure to answer the petition, the court *a quo* ordered the assistant city prosecutor assigned to its branch to determine whether collusion existed between the parties. In compliance with the court *a quo*'s order, the assistant city prosecutor submitted his report categorically stating therein that there was no evidence of collusion between the parties. Upon motion of the petitioner-appellee, the case was set for hearing on March 24, 2000. During the hearing of the case, no representative from the Office of the Solicitor General was present despite notice duly served on said office. The court *a quo* therefore decided the case based solely on the evidenced adduced by the petitioner-appellee consisting mainly of his testimony and that of Dr. Efren Reyes, a psychiatrist.

According to petitioner-appellee, he and respondent met sometime in March 1995 at the University of Sto. Tomas (UST), Hospital. Petitioner-appellee was then a first year ENT resident while respondent-appellant was a fourth year medical clerk. When petitioner-appellee and respondent-appellant met, petitioner-appellee had just split-up with his girlfriend of two years who was a daughter of a prominent physician in the UST, School of Medicine. After two months of courtship and another two months as sweethearts, petitioner-appellee and respondent-appellant eventually got married on August 8, 1995 before Judge Maximo C. Asuncion of the Regional Trial Court of Quezon City, Branch 104. Nobody from their respective families knew about their August 8, 1995 wedding. After the wedding ceremony, petitioner-appellee and respondent-appellant just went to a restaurant for lunch and thereafter went back to the UST Hospital as if nothing happened. Despite the fact that they were already husband and wife, petitioner-appellee and respondent-appellant did not live together. Petitioner-appellee returned to his house while respondent-appellant continued to live with her parents. They begot no children.

Petitioner-appellee claimed that after their marriage, respondent-appellant began to demand that they save-up money for a church wedding. Respondent-appellant also manifested her jealousy towards his female friends and associates. During their arguments, petitioner-appellee saw the aggressiveness and domineering personality of respondent-appellant. Petitioner-appellee thereafter realized that he committed a mistake when he married respondent-appellant. He realized that he only proposed marriage to the respondent-appellant out of his impulse and rebelliousness towards his first girlfriend. Petitioner-appellee came to a point where he avoided the respondent-appellant which irked the latter thereby causing more quarrels between them. He was further turned-off by respondent-appellant when she flunked the medical board examination and became overweight. Petitioner-appellee felt that respondent-appellant did not have the right attitude towards her career. In addition, petitioner-appellee was annoyed about respondent-appellant's lack of determination to lose weight. Sometime in August 1997, respondent-appellant left for the United States for three months. Petitioner-appellee claimed that respondent-appellant left with him their marriage contract and told him that he can do whatever he wanted to do with it. Upon her return to the Philippines, respondent-appellant tried to reconcile with petitioner-appellee but the latter decided not to continue their marital relationship.

Dr. Efren B. Reyes, using the pieces of information he gathered from the: 1) psychiatric interviews and examination of the petitioner; 2) psychological tests administered on the petitioner; 3) copy of the petition filed in court; and 4) social

case study of the marital relationship between the petitioner and respondent, made the following psychiatric evaluation report<sup>[5]</sup> on the petitioner-appellee, to wit:

"The petitioner in this case manifested severe psychological problems of IMMATURITY and DEPENDENCY as a result of the negative Oedipal situation. The problems have affected his relationships in adolescence and adulthood. It has governed negatively his relationships with the members of the opposite sex in general, and with the respondent in particular.

The symptom mixture of dependency, immaturity, with some manipulative and passive aggressive trends which is found pervasive in the petitioner since adolescence, satisfies the diagnosis of an ATYPICAL PERSONALITY DISORDER. The disorder is permanent and not curable."<sup>[6]</sup>

As stated at the outset, the court *a quo* granted petitioner-appellee's petition for declaration of nullity of marriage on March 30, 2000.

Also on March 30, 2000, respondent-appellant through counsel filed a Manifestation and Motion<sup>[7]</sup> alleging therein that she did not receive any summons nor a copy of the petition. She asserted that the court *a quo*'s process server never talked to her mother on January 12, 2000. What happened was that the process server tried to serve the summons but since no one was at home, the guard at the entrance of the village where she lives did not allow the process server to enter the village, thus she could not have possibly been served with the summons through substituted service.

On June 2, 2000, respondent-appellant filed a Notice of Appeal.<sup>[8]</sup> On June 6, 2000, the court *a quo* issued a Certificate of Finality,<sup>[9]</sup> certifying that its March 30, 2000 decision attained finality on May 20, 2000. Then on July 17, 2000, the court *a quo* issued an Order<sup>[10]</sup> denying respondent-appellant's appeal for her failure to pay the appeal docket fee within the required period. From said denial, respondent-appellant filed a motion for reconsideration dated August 15, 2000 which was denied by the court *a quo* on June 25, 2001. On March 4, 2002, respondent-appellant filed before the court *a quo* a Petition for Relief from Denial of Appeal<sup>[11]</sup> under Rule 38, Section 2 of the Rules of Court, praying therein that the June 25, 2001 Order denying her appeal be set aside and a new one be issued giving due course to the appeal and to elevate the records of the case to the Court of Appeals. Despite the vigorous opposition by the petitioner-appellee, the court *a quo* granted respondent-appellant's Petition for Relief from Denial of Appeal on September 6, 2002 and respondent-appellant's notice of appeal was given due course upon her payment of the required docket fee. Consequently, the court *a quo* recalled the Certificate of Finality that it issued on June 6, 2000 and rendered the same to be of no effect.

Hence this appeal wherein respondent-appellant sets forth the following issues for our resolution:

"I WHETHER OR NOT THE LOWER COURT WAS ABLE TO ACQUIRE JURISDICTION OVER THE PERSON OF HEREIN APPELLANT

II WHETHER OR NOT THE PETITION FOR DECLARATION OF NULLITY OF MARRIAGE SHOULD HAVE BEEN GRANTED"<sup>[12]</sup>