681 Phil. 493

SECOND DIVISION

[G. R. No. 183622, February 08, 2012]

MEROPE ENRIQUEZ VDA. DE CATALAN, PETITIONER, VS. LOUELLA A. CATALAN-LEE, RESPONDENT.

R E S O L U T I O N

SERENO, J.:

Before us is a Petition for Review assailing the Court of Appeals (CA) Decision[1] and Resolution[2] regarding the issuance of letters of administration of the intestate estate of Orlando B. Catalan.

The facts are as follows:

Orlando B. Catalan was a naturalized American citizen. After allegedly obtaining a divorce in the United States from his first wife, Felicitas Amor, he contracted a second marriage with petitioner herein.

On 18 November 2004, Orlando died intestate in the Philippines.

Thereafter, on 28 February 2005, petitioner filed with the Regional Trial Court (RTC) of Dagupan City a Petition for the issuance of letters of administration for her appointment as administratrix of the intestate estate of Orlando. The case was docketed as Special Proceedings (Spec. Proc.) No. 228.

On 3 March 2005, while Spec. Proc. No. 228 was pending, respondent Louella A. Catalan-Lee, one of the children of Orlando from his first marriage, filed a similar petition with the RTC docketed as Spec. Proc. No. 232.

The two cases were subsequently consolidated.

Petitioner prayed for the dismissal of Spec. Proc. No. 232 on the ground of *litis pendentia*, considering that Spec. Proc. No. 228 covering the same estate was already pending.

On the other hand, respondent alleged that petitioner was not considered an interested person qualified to file a petition for the issuance of letters of administration of the estate of Orlando. In support of her contention, respondent alleged that a criminal case for bigamy was filed against petitioner before Branch 54 of the RTC of Alaminos, Pangasinan, and docketed as Crim. Case No. 2699-A.

Apparently, Felicitas Amor filed a Complaint for bigamy, alleging that petitioner

contracted a second marriage to Orlando despite having been married to one Eusebio Bristol on 12 December 1959.

On 6 August 1998, the RTC had acquitted petitioner of bigamy.[3] The trial court ruled that since the deceased was a divorced American citizen, and since that divorce was not recognized under Philippine jurisdiction, the marriage between him and petitioner was not valid.

Furthermore, it took note of the action for declaration of nullity then pending action with the trial court in Dagupan City filed by Felicitas Amor against the deceased and petitioner. It considered the pending action to be a prejudicial question in determining the guilt of petitioner for the crime of bigamy.

Finally, the trial court found that, in the first place, petitioner had never been married to Eusebio Bristol.

On 26 June 2006, Branch 70 of the RTC of Burgos, Pangasinan dismissed the Petition for the issuance of letters of administration filed by petitioner and granted that of private respondent. Contrary to its findings in Crim. Case No. 2699-A, the RTC held that the marriage between petitioner and Eusebio Bristol was valid and subsisting when she married Orlando. Without expounding, it reasoned further that her acquittal in the previous bigamy case was fatal to her cause. Thus, the trial court held that petitioner was not an interested party who may file a petition for the issuance of letters of administration.[4]

After the subsequent denial of her Motion for Reconsideration, petitioner elevated the matter to the Court of Appeals (CA) via her Petition for Certiorari, alleging grave abuse of discretion on the part of the RTC in dismissing her Petition for the issuance of letters of administration.

Petitioner reiterated before the CA that the Petition filed by respondent should have been dismissed on the ground of *litis pendentia*. She also insisted that, while a petition for letters of administration may have been filed by an "uninterested person," the defect was cured by the appearance of a real party-in-interest. Thus, she insisted that, to determine who has a better right to administer the decedent's properties, the RTC should have first required the parties to present their evidence before it ruled on the matter.

On 18 October 2007, the CA promulgated the assailed Decision. First, it held that petitioner undertook the wrong remedy. She should have instead filed a petition for review rather than a petition for certiorari. Nevertheless, since the Petition for Certiorari was filed within the fifteen-day reglementary period for filing a petition for review under Sec. 4 of Rule 43, the CA allowed the Petition and continued to decide on the merits of the case. Thus, it ruled in this wise:

> As to the issue of *litis pendentia,* we find it not applicable in the case. For *litis pendentia* to be a ground for the dismissal of an action, there must be:

(a) identity of the parties or at least such as to represent the same interest in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same acts, and (c) the identity in the two cases should be such that the judgment which may be rendered in one would, regardless of which party is successful, amount to *res judicata* in the other. A petition for letters of administration is a special proceeding. A special proceeding is an application or proceeding to establish the status or right of a party, or a particular fact. And, in contrast to an ordinary civil action, a special proceeding involves no defendant or respondent. The only party in this kind of proceeding is the petitioner of the applicant. Considering its nature, a subsequent petition for letters of administration can hardly be barred by a similar pending petition involving the estate of the same decedent unless both petitions are filed by the same person. In the case at bar, the petitioner was not a party to the petition filed by the private respondent, in the same manner that the latter was not made a party to the petition filed by the former. The first element of *litis pendentia* is wanting. The contention of the petitioner must perforce fail.

Moreover, to yield to the contention of the petitioner would render nugatory the provision of the Rules requiring a petitioner for letters of administration to be an "interested party," inasmuch as any person, for that matter, regardless of whether he has valid interest in the estate sought to be administered, could be appointed as administrator for as long as he files his petition ahead of any other person, in derogation of the rights of those specifically mentioned in the order of preference in the appointment of administrator under Rule 78, Section 6 of the Revised Rules of Court, which provides:

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The petitioner, armed with a marriage certificate, filed her petition for letters of administration. As a spouse, the petitioner would have been preferred to administer the estate of Orlando B. Catalan. However, a marriage certificate, like any other public document, is only *prima facie* evidence of the facts stated therein. **The fact that the petitioner had been charged with bigamy and was acquitted has not been disputed by the petitioner.** Bigamy is an illegal marriage committed by contracting a second or subsequent marriage before the first marriage has been dissolved or before the absent spouse has been declared presumptively dead by a judgment rendered in a proper proceedings. **The deduction of the trial court that the acquittal of the petitioner in the said case negates the validity of her subsequent marriage with Orlando B. Catalan has not been disproved by her. There was not even an attempt from the petitioner to deny the findings of the trial court.** There is therefore no basis for us to make a contrary finding. Thus, not being an interested party and a stranger to the estate of Orlando B. Catalan, the dismissal of her petition for letters of administration by the trial court is in place.

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> **WHEREFORE**, premises considered, the petition is **DISMISSED** for lack of merit. No pronouncement as to costs.
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> **SO ORDERED.**[5] (Emphasis supplied)

Petitioner moved for a reconsideration of this Decision.[6] She alleged that the reasoning of the CA was illogical in stating, on the one hand, that she was acquitted of bigamy, while, on the other hand, still holding that her marriage with Orlando was invalid. She insists that with her acquittal of the crime of bigamy, the marriage enjoys the presumption of validity.

On 20 June 2008, the CA denied her motion.

Hence, this Petition.

At the outset, it seems that the RTC in the special proceedings failed to appreciate the finding of the RTC in Crim. Case No. 2699-A that petitioner was never married to Eusebio Bristol. Thus, the trial court concluded that, because petitioner was acquitted of bigamy, it follows that the first marriage with Bristol still existed and was valid. By failing to take note of the findings of fact on the nonexistence of the marriage between petitioner and Bristol, both the RTC and CA held that petitioner was not an interested party in the estate of Orlando.

Second, it is imperative to note that at the time the bigamy case in Crim. Case No. 2699-A was dismissed, we had already ruled that under the principles of comity, our jurisdiction recognizes a valid divorce obtained by a spouse of foreign nationality. This doctrine was established as early as 1985 in *Van Dorn v. Romillo, Jr.*[7] wherein we said:

> It is true that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces[,] the same being considered contrary to our concept of public policy and morality. **However, aliens may obtain divorces abroad, which may be recognized in the Philippines, provided they are valid according to their national law. In this case, the divorce in Nevada released private respondent from the marriage from the standards of American law, under which divorce dissolves the marriage.** xxx

We reiterated this principle in *Llorente v. Court of Appeals*,[8] to wit:

> In *Van Dorn v. Romillo, Jr*. we held that owing to the nationality principle embodied in Article 15 of the Civil Code, only Philippine nationals are covered by the policy against absolute divorces, the same being considered contrary to our concept of public policy and morality. In the same case**, the**

Court ruled that aliens may obtain divorces abroad, provided they are valid according to their national law.

Citing this landmark case, the Court held in *Quita v. Court of Appeals*, that once proven that respondent was no longer a Filipino citizen when he obtained the divorce from petitioner, the ruling in *Van Dorn* would become applicable and petitioner could "very well lose her right to inherit" from him.

In *Pilapil v. Ibay-Somera*, we recognized the divorce obtained by the respondent in his country, the Federal Republic of Germany. **There, we stated that divorce and its legal effects may be recognized in the Philippines insofar as respondent is concerned in view of the nationality principle in our civil law on the status of persons.**

For failing to apply these doctrines, the decision of the Court of Appeals must be reversed. **We hold that the divorce obtained by Lorenzo H. Llorente from his first wife Paula was valid and recognized in this jurisdiction as a matter of comity.** xxx

Nonetheless, the fact of divorce must still first be proven as we have enunciated in *Garcia v. Recio,*[9] to wit:

Respondent is getting ahead of himself. Before a foreign judgment is given presumptive evidentiary value, the document must first be presented and admitted in evidence. A divorce obtained abroad is proven by the divorce decree itself. **Indeed the best evidence of a judgment is the judgment itself.** The decree purports to be a written act or record of an act of an official body or tribunal of a foreign country.

Under Sections 24 and 25 of Rule 132, on the other hand, a writing or document may be proven as a public or official record of a foreign country by either (1) an official publication or (2) a copy thereof attested by the officer having legal custody of the document. If the record is not kept in the Philippines, such copy must be (a) accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept and (b) authenticated by the seal of his office.

The divorce decree between respondent and Editha Samson appears to be an authentic one issued by an Australian family court. However, appearance is not sufficient; **compliance with the aforementioned rules on evidence must be demonstrated.**

Fortunately for respondent's cause, when the divorce decree of May 18, 1989 was submitted in evidence, counsel for petitioner objected, not to its admissibility, but only to the fact that it had not been registered in the Local

Civil Registry of Cabanatuan City. The trial court ruled that it was admissible, subject to petitioner's qualification. Hence, it was admitted in evidence and accorded weight by the judge. Indeed, petitioner's failure to object properly rendered the divorce decree admissible as a written act of the Family Court of Sydney, Australia.

Compliance with the quoted articles (11, 13 and 52) of the Family Code is not necessary; respondent was no longer bound by Philippine personal laws after he acquired Australian citizenship in 1992. Naturalization is the legal act of adopting an alien and clothing him with the political and civil rights belonging to a citizen. Naturalized citizens, freed from the protective cloak of their former states, don the attires of their adoptive countries. By becoming an Australian, respondent severed his allegiance to the Philippines and the *vinculum juris* that had tied him to Philippine personal laws.

Burden of Proving Australian Law

Respondent contends that the burden to prove Australian divorce law falls upon petitioner, because she is the party challenging the validity of a foreign judgment. He contends that petitioner was satisfied with the original of the divorce decree and was cognizant of the marital laws of Australia, because she had lived and worked in that country for quite a long time. Besides, the Australian divorce law is allegedly known by Philippine courts; thus, judges may take judicial notice of foreign laws in the exercise of sound discretion.

We are not persuaded. **The burden of proof lies with the "party who alleges the existence of a fact or thing necessary in the prosecution or defense of an action." In civil cases, plaintiffs have the burden of proving the material allegations of the complaint when those are denied by the answer; and defendants have the burden of proving the material allegations in their answer when they introduce new matters. Since the divorce was a defense raised by respondent, the burden of proving the pertinent Australian law validating it falls squarely upon him.**

It is well-settled in our jurisdiction that our courts cannot take judicial notice of foreign laws. Like any other facts, they must be alleged and proved. Australian marital laws are not among those matters that judges are supposed to know by reason of their judicial function. The power of judicial notice must be exercised with caution, and every reasonable doubt upon the subject should be resolved in the negative. (Emphasis supplied)

It appears that the trial court no longer required petitioner to prove the validity of Orlando's divorce under the laws of the United States and the marriage between petitioner and the deceased. Thus, there is a need to remand the proceedings to the trial court for further reception of evidence to establish the fact of divorce.

Should petitioner prove the validity of the divorce and the subsequent marriage, she has the preferential right to be issued the letters of administration over the estate. Otherwise, letters of administration may be issued to respondent, who is undisputedly the daughter or next of kin of the deceased, in accordance with Sec. 6 of Rule 78 of the Revised Rules of Court.

This is consistent with our ruling in *San Luis v. San Luis,*[10] in which we said:

> Applying the above doctrine in the instant case, the divorce decree allegedly obtained by Merry Lee which absolutely allowed Felicisimo to remarry, would have vested Felicidad with the legal personality to file the present petition as Felicisimo's surviving spouse. **However, the records show that there is insufficient evidence to prove the validity of the divorce obtained by Merry Lee as well as the marriage of respondent and Felicisimo under the laws of the U.S.A.** In *Garcia v. Recio*, the Court laid down the specific guidelines for pleading and proving foreign law and divorce judgments. It held that presentation solely of the divorce decree is insufficient and that proof of its authenticity and due execution must be presented. Under Sections 24 and 25 of Rule 132, a writing or document may be proven as a public or official record of a foreign country by either (1) an official publication or (2) a copy thereof attested by the officer having legal custody of the document. If the record is not kept in the Philippines, such copy must be (a) accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept and (b) authenticated by the seal of his office.
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> With regard to respondent's marriage to Felicisimo allegedly solemnized in California, U.S.A., she submitted photocopies of the Marriage Certificate and the annotated text of the Family Law Act of California which purportedly show that their marriage was done in accordance with the said law. As stated in Garcia, however, the Court cannot take judicial notice of foreign laws as they must be alleged and proved.
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> **Therefore, this case should be remanded to the trial court for further reception of evidence on the divorce decree obtained by Merry Lee and the marriage of respondent and Felicisimo**. (Emphasis supplied)

Thus, it is imperative for the trial court to first determine the validity of the divorce to ascertain the rightful party to be issued the letters of administration over the estate of Orlando B. Catalan.

WHEREFORE, premises considered, the Petition is hereby **PARTIALLY GRANTED.** The Decision dated 18 October 2007 and the Resolution dated 20 June 2008 of the Court of Appeals are hereby **REVERSED** and **SET ASIDE**. Let this case be **REMANDED** to Branch 70 of the Regional Trial Court of Burgos, Pangasinan for further proceedings in accordance with this Decision.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and *Reyes, JJ.*, concur.

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[1] Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Lucenito N. Tagle and Ramon R. Garcia concurring; *rollo*, pp. 20-30.

[2] Id. at 49.

[3] Id. at 38-45; penned by Judge Jules A. Mejia.

[4] As narrated by the Court of Appeals on p. 3 of its Decision.

[5] *Rollo*, pp. 26-29.

[6] Id. at 31-36.

[7] 223 Phil. 357, 362 (1985).

[8] 399 Phil. 342, 355-356 (2000).

[9] 418 Phil. 723, 723-735 (2001).

[10] G.R. Nos. 133743 & 134029, 6 February 2007, 514 SCRA 294, 313-314.
