828 Phil. 168

SECOND DIVISION

[G.R. No. 212860, March 14, 2018]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. FLORIE GRACE M. COTE, RESPONDENT.

DECISION

REYES, JR., J:

This is a Petition for Review under Rule 45 of the Rules of Court which seeks to reverse and set aside the Decision[1] dated January 21, 2014 and Resolution[2] dated June 11, 2014 of the Court of Appeals (CA) in CA-G.R. SP No. 122313.

The Facts

As culled from the records, the antecedent facts are as follows:

On July 31, 1995, Rhomel Gagarin Cote (Rhomel) and respondent Florie Grace Manongdo-Cote (Florie) were married in Quezon City. At the time of their marriage, the spouses were both Filipinos and were already blessed with a son, Christian Gabriel Manongdo who was born in Honolulu, Hawaii, United States of America (USA).[3]

On August 23, 2002, Rhomel filed a Petition for Divorce before the Family Court of the First Circuit of Hawaii on the ground that their marriage was irretrievably broken. This was granted on August 23, 2002 by the issuance of a decree that states among others:

> A decree of absolute divorce is hereby granted to [Rhomel], the bonds of matrimony between [Rhomel] and [Florie] are hereby dissolved and the parties hereto are restored to the status of single persons, and either party is permitted to marry from and after the effective date of this decree.[4]

Seven years later, Florie commenced a petition for recognition of foreign judgment granting the divorce before the Regional Trial Court (RTC). Florie also prayed for the cancellation of her marriage contract, hence, she also impleaded the Civil Registry of Quezon City and the National Statistics Office (NSO). The Office of the Solicitor General, representing Republic of the Philippines (petitioner), deputized the Office of the City Prosecutor to appear on behalf of the State during the trial.[5]

On April 7, 2011, the RTC granted the petition and declared Florie to be capacitated to remarry after the RTC's decision attained finality and a decree of absolute nullity has been issued. The RTC ruled, *inter alia*, that Rhomel was already an American citizen when he obtained the divorce decree,[6] *viz.*:

> [Florie] has sufficiently established that she is a Filipino citizen and married to an American citizen. Her husband obtained a Divorce Decree on 22 August 2002 and was authenticated and registered by the Consulate General to the Philippines in Honolulu, Hawaii, U.S.A. [Florie] being a Filipino citizen and is governed by Philippine laws, she is placed in an absurd, if not awkward situation where she is married to somebody who is no longer married to her. This is precisely the circumstances contemplated under Article 26, paragraph 2 of the Family Code which provides a remedy for Filipino spouses like [Florie].
>
> Under the above-cited provision, [Florie] is allowed to contract a subsequent marriage since the divorce had been validly obtained abroad by her American husband, capacitating her to remarry. In this line, the court holds that this petition be, as it is, hereby GRANTED.
>
> WHEREFORE, in view of the foregoing, judgment is hereby rendered declaring [Florie] capacitated to remarry pursuant to Article 26 paragraph 2 of the Family Code, in view of the Divorce Decree which had been validly obtained abroad by her American spouse, dissolving their marriage solemnized on 31 July 1995 in Quezon City, Philippines.[7]

Petitioner filed a Notice of Appeal on May 17, 2011. However, the RTC, believing that the petition was covered by A.M. No. 02-11-10-SC or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, applied Section 20 of said Rule and denied the appeal because the notice was not preceded by a motion for reconsideration.[8]

Petitioner then filed a petition for *certiorari* with the CA claiming that the RTC committed grave abuse of discretion.

In a Decision[9] dated January 21, 2014, the CA denied the petition. The pertinent portions read as follows:

> The fact that even the Solicitor General and private respondent were confused as to the true nature of the petition and the procedure that must be followed only shows that We cannot attribute a whimsical and capricious exercise of judgment to the RTC.
>
> x x x x
>
> Besides, petitioner's omission, by itself, is a ground for dismissing the petition. The last paragraph of Section 3, Rule 46 of the Rules of Court allows the dismissal of a petition for *certiorari* if the material parts of the records were not attached to the petition. "*Certiorari*, being an extraordinary remedy, the party seeking it must strictly observe the requirements for its issuance." Although it has been ruled that the better policy is for petitioner to be accorded, in the interest of substantial justice, "a chance to submit the same instead of dismissing the petition" We cannot allow petitioner to

benefit from this rule because the need to submit the transcript of stenographic notes and all other pieces of evidence is quite obvious for petitioner which is questioning the sufficiency of the evidence presented. Hence, it would be bending the rules too far if We still allow petitioner to be excused from this lapse.[10]

Hence, this present petition.

The Issues

I. THE CA ERRED IN FINDING THAT THE TRIAL COURT JUDGE DID NOT COMMIT GRAVE ABUSE OF DISCRETION IN APPLYING THE PROCEDURAL RULES FOR NULLITY OF MARRIAGE PROCEEDINGS UNDER A.M. NO. 02-11-10-SC IN A PROCEEDING FOR RECOGNITION OF FOREIGN DECREE OF DIVORCE;

II. THE CA GRAVELY ERRED IN RULING THAT THE STATE HAS NO PERSONALITY TO INTERVENE IN PROCEEDINGS FOR RECOGNITION OF FOREIGN DECREE OF DIVORCE;

III. THE CA ERRED IN FINDING THAT THE FAILURE OF THE PETITIONER TO APPEND COPIES OF THE TRANSCRIPT OF STENOGRAPHIC NOTES OF FLORIE'S DIRECT EXAMINATION AND HER JUDICIAL AFFIDAVIT IS FATAL, NOTWITHSTANDING THAT THE VERY SAME DOCUMENTS WERE INCORPORATED AND QUOTED BY FLORIE IN HER COMMENT; and

IV. THE CA ERRED IN AFFIRMING THE TRIAL COURT'S DECISION DATED APRIL 7, 2011 GRANTING FLORIE'S PETITION FOR RECOGNITION OF FOREIGN DECREE OF DIVORCE DESPITE LACK OF SHOWING THAT HER FORMER FILIPINO HUSBAND WAS ALREADY AN AMERICAN CITIZEN AT THE TIME HE PROCURED THE DECREE OF DIVORCE.[11]

Ruling of the Court

The core issue for the Court's resolution is whether or not the provisions of A.M. No. 02-11-10-SC[12] applies in a case involving recognition of a foreign decree of divorce.

It bears stressing that as of present, our family laws do not recognize absolute divorce between Filipino husbands and wives. Such fact, however, do not prevent our family courts from recognizing divorce decrees procured abroad by an alien spouse who is married to a Filipino citizen.

Article 26 of the Family Code states:

> Art. 26. All marriages solemnized outside the Philippines, in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

Where a marriage between a Filipino citizen and a foreigner is validly celebrated and a divorce is thereafter validly obtained abroad by the alien spouse capacitating him or her to remarry, the Filipino spouse shall likewise have capacity to remarry under Philippine law.

The wordings of the second paragraph of Article 26 initially spawned confusion as to whether or not it covers even those marriages wherein both of the spouses were Filipinos at the time of marriage and then one of them eventually becomes a naturalized citizen of another country.

In the landmark case of *Republic v. Orbecido III*,[13] the Court ruled that the reckoning point is not the citizenship of the parties at the time of the celebration of the marriage, but their citizenship at the time a valid divorce is obtained abroad by the alien spouse capacitating the latter to remarry.[14]

Although the Court has already laid down the rule regarding foreign divorce involving Filipino citizens, the Filipino spouse who likewise benefits from the effects of the divorce cannot automatically remarry. Before the divorced Filipino spouse can remarry, he or she must file a petition for judicial recognition of the foreign divorce.

The starting point in any recognition of a foreign divorce judgment is the acknowledgment that our courts do not take judicial notice of foreign judgments and laws. Justice Herrera explained that, as a rule, "no sovereign is bound to give effect within its dominion to a judgment rendered by a tribunal of another country." This means that the foreign judgment and its authenticity must be proven as facts under our rules on evidence, together with the alien's applicable national law to show the effect of the judgment on the alien himself or herself. The recognition may be made in an action instituted specifically for the purpose or in another action where a party invokes the foreign decree as an integral aspect of his claim or defense.[15]

To clarify, respondent filed with the RTC a petition to recognize the foreign divorce decree procured by her naturalized (originally Filipino) husband in Hawaii, USA. By impleading the Civil Registry of Quezon City and the NSO, the end sought to be achieved was the cancellation and or correction of entries involving her marriage status.

In *Corpuz v. Sto. Tomas, et al.*,[16] the Court briefly explained the nature of recognition proceedings *vis-a-vis* cancellation of entries under Rule 108 of the Rules of Court, *viz*.:

> Article 412 of the Civil Code declares that no entry in a civil register shall be changed or corrected, without judicial order. The Rules of Court supplements Article 412 of the Civil Code by specifically providing for a special remedial proceeding by which entries in the civil registry may be judicially cancelled or corrected. Rule 108 of the Rules of Court sets in detail the jurisdictional and procedural requirements that must be complied with before a judgment, authorizing the cancellation or correction, may be annotated in the civil registry. It also requires, among others, that the verified petition must be

> filed with the RTC of the province where the corresponding civil registry is located; that the civil registrar and all persons who have or claim any interest must be made parties to the proceedings; and that the time and place for hearing must be published in a newspaper of general circulation. x x x.
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> We hasten to point out, however, that this ruling should not be construed as requiring two separate proceedings for the registration of a foreign divorce decree in the civil registry one for recognition of the foreign decree and another specifically for cancellation of the entry under Rule 108 of the Rules of Court. The recognition of the foreign divorce decree may be made in a Rule 108 proceeding itself, as the object of special proceedings (such as that in Rule 108 of the Rules of Court) is precisely to establish the status or right of a party or a particular fact. Moreover, Rule 108 of the Rules of Court can serve as the appropriate adversarial proceeding by which the applicability of the foreign judgment can be measured and tested in terms of jurisdictional infirmities, want of notice to the party, collusion, fraud, or clear mistake of law or fact.[17]

The RTC, in its Decision[18] dated January 21, 2014 ruled that Florie had sufficiently established that she is married to an American citizen and having proven compliance with the legal requirements, is declared capacitated to remarry.

The confusion arose when the RTC denied petitioner's appeal on the ground that no prior motion for reconsideration was filed as required under Section 20 of A.M. No. 02-11-10-SC. Petitioner posits that A.M. No. 02-11-10-SC *do not* cover cases involving recognition of foreign divorce because the wording of Section 1 thereof clearly states that it shall only apply to petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages, *viz*.:

> **Section 1.** *Scope* - This Rule shall govern petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages under the Family Code of the Philippines. [Underscoring Ours]

Rule 41 of the Rules of Court applies; Motion for Reconsideration not a condition precedent to the filing of an appeal

The CA is correct when it ruled that the trial court misapplied Section 20 of A.M. No. 02-11-10-SC.

A decree of absolute divorce procured abroad is different from annulment as defined by our family laws. A.M. No. 02-11-10-SC only covers void[19] and voidable[20] marriages that are specifically cited and enumerated in the Family Code of the Philippines. Void and voidable mmTiages contemplate a situation wherein the basis for the judicial declaration of absolute nullity or annulment of the marriage exists before or at the time of the marriage. It treats the marriage as if it never existed. Divorce, on the other hand, ends a legally valid marriage and is usually due to circumstances arising after the marriage.

It was error for the RTC to use as basis for denial of petitioner's appeal Section 20 of A.M. No. 02-11-10-SC. Since Florie followed the procedure for cancellation of entry in the civil registry, a special proceeding governed by Rule 108 of the Rules of Court, an appeal from the RTC decision should be governed by Section 3[21] of Rule 41 of the Rules of Court and not A.M. No. 02-11-10-SC.

As culled from the records, petitioner received a copy of the RTC Decision on May 5, 2011. It filed a Notice of Appeal[22] on May 17, 2011, thus complying with the 15-day reglementary period for filing an appeal.

An appeal is a statutory right that must be exercised only in the manner and in accordance with the provisions of law. Having satisfactorily shown that they have complied with the rules on appeal, petitioners are entitled to the proper and just disposition of their cause.[23]

This now brings the Court to the issue whether or not the RTC's denial of petitioner's appeal is tantamount to grave abuse of discretion. The Court rules in the negative.

No grave abuse of discretion

Although the Court agrees with petitioner that the RTC erroneously misapplied A.M. No. 02-11-10-SC, such error does not automatically equate to grave abuse of discretion. The Court has ruled time and again that not all errors attributed to a lower court or tribunal fall under the scope of a Rule 65 petition for *certiorari*.

Jurisprudence has defined grave abuse of discretion amounting to lack or excess of jurisdiction in this wise:

> Grave abuse of discretion is defined as capricious or whimsical exercise of judgment as is equivalent to lack of jurisdiction. The abuse of discretion must be patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.[24]

After a careful consideration of the evidence presented and Florie having sufficiently complied with the jurisdictional requirements, judgment was rendered by the lower court recognizing the decree of foreign divorce. It likewise declared Florie legally capacitated to remarry citing the second paragraph of Article 26 of the Family Code. Thus, the CA is correct in denying the Rule 65 petition for *certiorari*, notwithstanding the RTC's dismissal of petitioner's appeaL The dismissal, albeit erroneous, is not tainted with grave abuse of discretion.

The Court finds no indication from the records that the RTC acted arbitrarily, capriciously and whimsically in arriving at its decision. A petition for *certiorari* will prosper only if grave abuse of discretion is alleged and proved to exist. The burden is on the part of the petitioner to prove not merely reversible error on the part of private respondent, but grave abuse of discretion amounting to lack or excess of jurisdiction.

WHEREFORE, premises considered, the petition is hereby **DENIED**. The Decision dated January 21, 2014 and Resolution dated June 11, 2014 of the Court of Appeals in CA-G.R. SP No. 122313 are hereby **AFFIRMED**.

SO ORDERED.

Carpio,[*] *(Chairperson), Peralta, Perlas-Bernabe*, and *Caguioa, JJ.*, concur.

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[*] Designated as Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] *Rollo*, pp. 65-72.

[2] Id. at 73.

[3] Id. at 65.

[4] Id.

[5] Id.

[6] Id.

[7] Id. at 115.

[8] Id. at 65.

[9] Id. at 65-72.

[10] Id. at 13-15.

[11] Id. at 36-37.

[12] Rule on Declaration of Absolute Nullity of Void Mariages and Annulment of Voidable Marriages.

[13] 509 Phil. 108 (2005).

[14] Id. at 115.

[15] *Corpuz v. Sto. Tomas, et al.*, 642 Phil. 420, 432-433 (2010).

[16] 642 Phil. 420 (2010).

[17] Id. at 436-437.

[18] *Rollo*, pp. 65-72.

[19] The void marriages are those enumerated under Articles 35, 36, 37, 38, 40, 41, 44, and 53 in relation to Article 52 of the Family Code.

[20] The voidable marriages are those enumerated under Article 45 of the Family Code.

[21] **Section 3.** *Period of ordinary appeal*. - The appeal shall be taken within fifteen (15) days from notice of the judgment or final order appealed from. Where a record on appeal is required, the appellant shall file a notice of appeal and a record on appeal within thirty (30) days from notice of the judgment or final order.

The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.

[22] *Rollo*, p. 116.

[23] *Republic of the Phils. (rep. by the Phil. Orthopedic Center) v. Spouses Luriz*, 542 Phil. 137, 137 (2007).

[24] *Ganaden, et al. v. The Hon. CA, et al.*, 665 Phil. 261, 267 (2011).
