

## TWELFTH DIVISION

[ CA-G.R. CV No. 92902, May 07, 2014 ]

**EDDIE M. CRUZ, PETITIONER-APPELLANT, VS. LOLITA L. DELA CUESTA, RESPONDENT-APPELLEE.**

### DECISION

**PARDO, J.:**

#### THE CASE

THIS IS ON THE APPEAL filed by petitioner-*appellant* Eddie M. Cruz (*appellant*) from the Decision<sup>[1]</sup> dated July 25, 2008 of the Regional Trial Court of Palawan and Puerto Princesa (RTC), Branch 50, in Spl. Proc. No. 1258 for Declaration of Nullity of Marriage, the dispositive portion of which reads, as follows:

IN VIEW OF THE FOREGOING, judgment is hereby rendered dismissing the instant case for lack of merit.

Let a copy of this Decision be furnished the Office of the Solicitor General as well as the Government Prosecutor who have participated in this proceeding. Furnish copies likewise to the Office of the Civil Registrar General, Manila, the Local Civil Registrar of Puerto Princesa City and the National Statistics Office, Quezon City for their information and guidance.

SO ORDERED.

#### THE ANTECEDENTS

On October 21, 1999, *appellant* filed a Complaint for Declaration of Nullity of Marriage against defendant-*appellee* Lolita L. Dela Cuesta (*appellee*) alleging that:

3. On the basis of certain documents on file at the office of the Civil Registry of Caloocan City, plaintiff (*herein appellant*) and defendant (*herein appellee*) were supposed to be married to each other; x x x
4. However, *appellant* vigorously asserts that his supposed marriage to *appellee* was a sham and fictitious one as there was no ceremony to speak of in the first place, and it was all done at the instance and initiative of *appellee* for the sole purpose of allowing her to comply with certain substantive requirements for her housing loan purposes as shown elsewhere in this complaint;
5. The nullity of the supposed marriage between *appellant* and *appellee* is clearly shown by the following facts and circumstances:
  - 5.1 At the time of the alleged solemnization of the marriage at Barangay Silang, Caloocan City on 15 June 1995, *appellant* was in Puerto Princesa City

as shown by the certification of the Philippine Marines in Palawan, xxx

5.2 Appellant and *appellee* had no marriage license as they never applied for one. All what (sic) was submitted, in lieu of a marriage license was a supposed joint affidavit of *appellant* and *appellee* to the effect that they have lived together as husband and wife for at least 5 year prior to 15 June 1995, thereby dispensing with marriage license under Article 34 of the Family Code. However, the joint affidavit, which is Annex B of the complaint as signed by them in Caloocan City and notarized in Manila on 15 June 1995 was also a sham since *appellant* at that time was in Puerto Princesa City as shown above;

5.3 *Appellant* never cohabited with *appellee* as his wife prior to, during and even after their supposed wedding on 15 June 1995. They never established their conjugal home nor did they acquire conjugal assets;

5.4 *Appellant* never met nor appeared on 15 June 1995 or on any other date before the alleged solemnizing officer Rev. Juanito D. Carlos of the Iglesia Uno Corinto church, which nevertheless is not and has not been existing in Bagong Silang, Caloocan City;

5.5 Appellant also never met the alleged witnesses for (sic) their wedding;

5.6 The manufactured marital documents of their supposed marriage was presented for registration in the Civil Registry of Caloocan City only in December 1998, more than 3 years after the wedding.

6. The sole and only reason why the documents of their supposed marriage came out of existence was because of *appellee's* entreaties and pleadings to *appellant*, who was at one time or another when he is off-duty in Metro Manila, boarding in *appellee's* house, to have this marriage so *appellee* as stated above could avail of a housing loan from Camella Homes in Metro Manila;

7. In fact, all of the said documents including the housing loan papers were brought in early September, 1995 by *appellee* to *appellant* at Puerto Princesa City where he was then stationed as a member of Philippine Marines and when presented to him for his signature were all blank; after she made *appellant* sign all the said documents in Puerto Princesa City, *appellee* brought the same back to Metro Manila;

8. Against his better judgment but nevertheless taking pity on an old woman, who happened to be his landlady who desperately needed to obtain such loan, *appellant* allowed himself to be drawn into this sham marital arrangement with *appellee*; xxx<sup>[2]</sup>.

On January 5, 2001, *appellee* filed her Answer<sup>[3]</sup> denying *appellant's* allegation that they were not properly married to each other, the truth being that *appellant* filed this Complaint because he had found another woman whom he had civilly married prior to the institution of the Complaint. Thereafter, the case was set for pre-trial and on December 15, 2000, the RTC issued a Pre-Trial Order.<sup>[4]</sup> On the same date, the Prosecutor submitted a Report<sup>[5]</sup> that there was no collusion between the parties.

Trial of the case ensued with *appellant*<sup>[6]</sup> as the first witness. He testified that he is a serviceman and a member of the Philippine Marines based in Puerto Princesa, and residing at BM Road, Brgy. San Miguel, Puerto Princesa. He added that he met *appellee* in 1989 at Fort Bonifacio when she was soliciting insurance contracts from his classmates who were undergoing training.

Appellant claimed that their certificate of marriage<sup>[7]</sup> was manufactured because *appellee* let him sign the same in blank and told him that it will be used for a housing loan, adding that on the date of their supposed marriage on June 15, 1995, at about 11:30 in the morning, at Iglesia Uno Corinto, he was at Kalomanguing, Gumaca, Quezon, awaiting deployment to Puerto Princesa City. The adjutant of the headquarters of the First Marine Brigade, Philippine Marine Corps, Tiniguiban, Puerto Princesa City issued a certification<sup>[8]</sup> on the matter. Appellant denied having known the witnesses in their marriage, the Iglesia ng Diyos Uno Corinto, and the reverend who married them; and denied the authenticity and due execution of the Affidavit of Cohabitation<sup>[9]</sup>, alleging that when he signed the same it was in blank. Though *appellant* admitted having a relationship with *appellee*, he adds that he did not truly love <sup>[10]</sup>. During their relationship from 1989 to 1995 he had no other girlfriend.

Henidine Calanog, niece of *appellee*, testified<sup>[11]</sup> that *appellee* introduced *appellant* to them, her relatives, in 1993, as her boyfriend. Appellee applied for a housing loan with her, as an agent of Camella Homes, but her salary was not enough so she needed a co-maker. However, she told *appellee* that a co-maker should be the spouse. The next day, *appellee* brought a copy of their marriage certificate. The marriage certificate was filled-in. She did not believe that *appellant* and *appellee* were married.

Appellant also presented the testimony of Father Levy Malagueña who testified about the procedure of marriage in the Catholic Church<sup>[12]</sup>. Gregorio Faraon, administrative officer at the Office of the Clerk of Court, RTC-Manila, testified<sup>[13]</sup> that Atty. Socrates Maranan who notarized the Affidavit of Cohabitation executed by *appellant* and *appellee*, was not commissioned as a notary public from 1994 to 1995, for Manila.

The case was originally heard by RTC-Branch 47, but because of the pendency of another case in RTC-Branch 50, the case was transferred to the latter court<sup>[14]</sup>.

Appellant submitted his formal offer of exhibits<sup>[15]</sup> on October 11, 2007.

Appellee was not able to present evidence because her attempt to introduce in evidence her testimony in Criminal Case No. 15754 did not materialize<sup>[16]</sup>. The RTC issued the assailed Decision, the dispositive portion is as quoted elsewhere herein.

Appellant moved for the reconsideration of the Decision but the Motion was denied<sup>17</sup> on January 5, 2009; hence, the instant appeal, raising two issues as follows:

#### I.

WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT OF PALAWAN AND PUERTO PRINCESA CITY BRANCH 50 GRAVELY ERRED IN CONSIDERING THE AFFIDAVIT OF COHABITATION AND THE MARRIAGE

CERTIFICATE BETWEEN APPELLANT AND APPELLEE AS NOT FALSIFIED OR SHAM; AND

II.

WHETHER OR NOT THE HONORABLE REGIONAL TRIAL COURT OF PALAWAN AND PUERTO PRINCESA CITY BRANCH 50 GRAVELY ERRED IN UPHOLDING APPELLANT'S MARRIAGE CERTIFICATE WITH THE APPELLEE ON THE BASIS OF THE HIGHLY QUESTIONABLE AND ANOMALOUS CERTIFICATE OF MARRIAGE, RECORDS AND DOCUMENTS AS TESTIFIED TO BY APPELLANT'S WITNESSES.

**THE ISSUE**

The issue in this case is whether or not the subject marriage between *appellant* and *appellee* may be declared a nullity.

**THE COURT'S RULING**

***The appeal is without merit.***

Appellant grounded his complaint for Declaration of Nullity of Marriage on the allegation that his marriage to *appellee* is a sham and fictitious because it was physically impossible for him to be present during the celebration of the marriage; that he signed the affidavit of cohabitation for five (5) years, in lieu of a marriage license, in blank; that the parties did not cohabit as husband and wife for five years, and their supposed marriage was registered in the Civil Registry of Caloocan three years after the celebration of the marriage.

The RTC summed up *appellant's* Complaint into two issues, to wit: (1) lack of marriage ceremony; and (2) lack of a valid marriage license.

The relevant provisions of the Family Code in this case are *Articles 3, 4, and 35*, which provide as follows:

Art. 3. The formal requisites of marriage are:

- (1) Authority of the solemnizing officer;
- (2) A valid marriage license except in the cases provided for in Chapter 2 of this Title;<sup>[18]</sup> and
- (3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age.

Art. 4. The absence of any of the essential or formal requisites shall render the marriage void ab initio, except as stated in Article 35 (2).

-and-

Art. 35. The following marriages shall be void from the beginning: