

THIRD DIVISION

[G.R. No. 189538, February 10, 2014]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. MERLINDA L. OLAYBAR, RESPONDENT.

D E C I S I O N

PERALTA, J.:

Assailed in this Petition for Review on *certiorari* under Rule 45 of the Rules of Court are the Regional Trial Court^[1] (RTC) Decision^[2] dated May 5, 2009 and Order^[3] dated August 25, 2009 in SP. Proc. No. 16519-CEB. The assailed Decision granted respondent Merlinda L. Olaybar's petition for cancellation of entries in the latter's marriage contract; while the assailed Order denied the motion for reconsideration filed by petitioner Republic of the Philippines through the Office of the Solicitor General (OSG).

The facts of the case are as follows:

Respondent requested from the National Statistics Office (NSO) a Certificate of No Marriage (CENOMAR) as one of the requirements for her marriage with her boyfriend of five years. Upon receipt thereof, she discovered that she was already married to a certain Ye Son Sune, a Korean National, on June 24, 2002, at the Office of the Municipal Trial Court in Cities (MTCC), Palace of Justice. She denied having contracted said marriage and claimed that she did not know the alleged husband; she did not appear before the solemnizing officer; and, that the signature appearing in the marriage certificate is not hers.^[4] She, thus, filed a *Petition for Cancellation of Entries in the Marriage Contract*, especially the entries in the wife portion thereof.^[5] Respondent impleaded the Local Civil Registrar of Cebu City, as well as her alleged husband, as parties to the case.

During trial, respondent testified on her behalf and explained that she could not have appeared before Judge Mamerto Califlores, the supposed solemnizing officer, at the time the marriage was allegedly celebrated, because she was then in Makati working as a medical distributor in Hansao Pharma. She completely denied having known the supposed husband, but she revealed that she recognized the named witnesses to the marriage as she had met them while she was working as a receptionist in Tadels Pension House. She believed that her name was used by a certain Johnny Singh, who owned a travel agency, whom she gave her personal circumstances in order for her to obtain a passport.^[6] Respondent also presented as witness a certain Eufrocina Natinga, an employee of MTCC, Branch 1, who confirmed that the marriage of Ye Son Sune was indeed celebrated in their office, but claimed that the alleged wife who appeared was definitely not respondent.^[7] Lastly, a document examiner testified that the signature appearing in the marriage contract was forged.^[8]

On May 5, 2009, the RTC rendered the assailed Decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered, the petition is granted in favor of the petitioner, Merlinda L. Olaybar. The Local Civil Registrar of Cebu City is directed to cancel all the entries in the WIFE portion of the alleged marriage contract of the petitioner and respondent Ye Son Sune.

SO ORDERED.^[9]

Finding that the signature appearing in the subject marriage contract was not that of respondent, the court found basis in granting the latter's prayer to straighten her record and rectify the terrible mistake.^[10]

Petitioner, however, moved for the reconsideration of the assailed Decision on the grounds that: (1) there was no clerical spelling, typographical and other innocuous errors in the marriage contract for it to fall within the provisions of Rule 108 of the Rules of Court; and (2) granting the cancellation of all the entries in the wife portion of the alleged marriage contract is, in effect, declaring the marriage void *ab initio*.^[11]

In an Order dated August 25, 2009, the RTC denied petitioner's motion for reconsideration couched in this wise:

WHEREFORE, the court hereby denies the Motion for Reconsideration filed by the Republic of the Philippines. Furnish copies of this order to the Office of the Solicitor General, the petitioner's counsel, and all concerned government agencies.

SO ORDERED.^[12]

Contrary to petitioner's stand, the RTC held that it had jurisdiction to take cognizance of cases for correction of entries even on substantial errors under Rule 108 of the Rules of Court being the appropriate adversary proceeding required. Considering that respondent's identity was used by an unknown person to contract marriage with a Korean national, it would not be feasible for respondent to institute an action for declaration of nullity of marriage since it is not one of the void marriages under Articles 35 and 36 of the Family Code.^[13]

Petitioner now comes before the Court in this Petition for Review on *certiorari* under Rule 45 of the Rules of Court seeking the reversal of the assailed RTC Decision and Order based on the following grounds:

I.

RULE 108 OF THE REVISED RULES OF COURT APPLIES ONLY WHEN THERE ARE ERRORS IN THE ENTRIES SOUGHT TO BE CANCELLED OR CORRECTED.

II.

GRANTING THE CANCELLATION OF "ALL THE ENTRIES IN THE WIFE PORTION OF THE ALLEGED MARRIAGE CONTRACT," IS IN EFFECT DECLARING THE MARRIAGE VOID *AB INITIO*.^[14]

Petitioner claims that there are no errors in the entries sought to be cancelled or corrected, because the entries made in the certificate of marriage are the ones provided by the person who appeared and represented herself as Merlinda L. Olaybar and are, in fact, the latter's personal circumstances.^[15] In directing the cancellation of the entries in the wife portion of the certificate of marriage, the RTC, in effect, declared the marriage null and void *ab initio*.^[16] Thus, the petition instituted by respondent is actually a petition for declaration of nullity of marriage in the guise of a Rule 108 proceeding.^[17]

We deny the petition.

At the outset, it is necessary to stress that a direct recourse to this Court from the decisions and final orders of the RTC may be taken where only questions of law are raised or involved. There is a question of law when the doubt arises as to what the law is on a certain state of facts, which does not call for the examination of the probative value of the evidence of the parties.^[18] Here, the issue raised by petitioner is whether or not the cancellation of entries in the marriage contract which, in effect, nullifies the marriage may be undertaken in a Rule 108 proceeding. Verily, petitioner raised a pure question of law.

Rule 108 of the Rules of Court sets forth the rules on cancellation or correction of entries in the civil registry, to wit:

SEC. 1. *Who may file petition.* – Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the Regional Trial Court of the province where the corresponding civil registry is located.

SEC. 2. *Entries subject to cancellation or correction.* – Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected: (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

SEC. 3. *Parties.* – When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

SEC. 4. *Notice and Publication.* – Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.