

THIRD DIVISION

[G.R. No. 198780, October 16, 2013]

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LIBERTY D. ALBIOS, RESPONDENT.

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the September 29, 2011 Decision^[1] of the Court of Appeals (CA). in CA-G.R. CV No. 95414, which affirmed the April 25, 2008 Decision^[2] of the Regional Trial Court, Imus, Cavite (RTC), declaring the marriage of Daniel Lee Fringer (*Fringer*) and respondent Liberty Albios (Albios) as void from the beginning.

The Facts

On October 22, 2004, Fringer, an American citizen, and Albios were married before Judge Ofelia I. Calo of the Metropolitan Trial Court, Branch 59, Mandaluyong City (MeTC), as evidenced by a Certificate of Marriage with Register No. 2004-1588.^[3]

On December 6, 2006, Albios filed with the RTC a petition for declaration of nullity^[4] of her marriage with Fringer. She alleged that immediately after their marriage, they separated and never lived as husband and wife because they never really had any intention of entering into a married state or complying with any of their essential marital obligations. She described their marriage as one made in jest and, therefore, null and void *ab initio*.

Summons was served on Fringer but he did not file his answer. On September 13, 2007, Albios filed a motion to set case for pre-trial and to admit her pre-trial brief. The RTC ordered the Assistant Provincial Prosecutor to conduct an investigation and determine the existence of a collusion. On October 2, 2007, the Assistant Prosecutor complied and reported that she could not make a determination for failure of both parties to appear at the scheduled investigation.

At the pre-trial, only Albios, her counsel and the prosecutor appeared. Fringer did not attend the hearing despite being duly notified of the schedule. After the pre-trial, hearing on the merits ensued.

Ruling of the RTC

In its April 25, 2008 Decision,^[5] the RTC declared the marriage void *ab initio*, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the marriage of Liberty Albios and Daniel Lee Fringer as void

from the very beginning. As a necessary consequence of this pronouncement, petitioner shall cease using the surname of respondent as she never acquired any right over it and so as to avoid a misimpression that she remains the wife of respondent.

x x x x

SO ORDERED.^[6]

The RTC was of the view that the parties married each other for convenience only. Giving credence to the testimony of Albios, it stated that she contracted Fringer to enter into a marriage to enable her to acquire American citizenship; that in consideration thereof, she agreed to pay him the sum of \$2,000.00; that after the ceremony, the parties went their separate ways; that Fringer returned to the United States and never again communicated with her; and that, in turn, she did not pay him the \$2,000.00 because he never processed her petition for citizenship. The RTC, thus, ruled that when marriage was entered into for a purpose other than the establishment of a conjugal and family life, such was a farce and should not be recognized from its inception.

Petitioner Republic of the Philippines, represented by the Office of the Solicitor General (OSG), filed a motion for reconsideration. The RTC issued the Order,^[7] dated February 5, 2009, denying the motion for want of merit. It explained that the marriage was declared void because the parties failed to freely give their consent to the marriage as they had no intention to be legally bound by it and used it only as a means to acquire American citizenship in consideration of \$2,000.00.

Not in conformity, the OSG filed an appeal before the CA.

Ruling of the CA

In its assailed decision, dated September 29, 2011, the CA affirmed the RTC ruling which found that the essential requisite of consent was lacking. The CA stated that the parties clearly did not understand the nature and consequence of getting married and that their case was similar to a marriage in jest. It further explained that the parties never intended to enter into the marriage contract and never intended to live as husband and wife or build a family. It concluded that their purpose was primarily for personal gain, that is, for Albios to obtain foreign citizenship, and for Fringer, the consideration of \$2,000.00.

Hence, this petition.

Assignment of Error

THE COURT OF APPEALS ERRED ON A QUESTION OF LAW WHEN IT HELD THAT A MARRIAGE CONTRACTED FOR THE PURPOSE OF OBTAINING FOREIGN CITIZENSHIP WAS DONE IN JEST, HENCE, LACKING IN THE ESSENTIAL ELEMENT OF CONSENT.^[8]

The OSG argues that albeit the intention was for Albios to acquire American citizenship and for Fringer to be paid \$2,000.00, both parties freely gave their consent to the marriage, as they knowingly and willingly entered into that marriage

and knew the benefits and consequences of being bound by it. According to the OSG, consent should be distinguished from motive, the latter being inconsequential to the validity of marriage.

The OSG also argues that the present case does not fall within the concept of a marriage in jest. The parties here intentionally consented to enter into a real and valid marriage, for if it were otherwise, the purpose of Albios to acquire American citizenship would be rendered futile.

On October 29, 2012, Albios filed her Comment^[9] to the petition, reiterating her stand that her marriage was similar to a marriage by way of jest and, therefore, void from the beginning.

On March 22, 2013, the OSG filed its Reply^[10] reiterating its arguments in its petition for review on certiorari.

Ruling of the Court

The resolution of this case hinges on this sole question of law: Is a marriage, contracted for the sole purpose of acquiring American citizenship in consideration of \$2,000.00, void *ab initio* on the ground of lack of consent?

The Court resolves in the negative.

Before the Court delves into its ruling, It shall first examine the phenomenon of marriage fraud for the purposes of immigration.

Marriage Fraud in Immigration

The institution of marriage carries with it concomitant benefits. This has led to the development of marriage fraud for the sole purpose of availing of particular benefits. In the United States, marriages where a couple marries only to achieve a particular purpose or acquire specific benefits, have been referred to as "limited purpose" marriages.^[11] A common limited purpose marriage is one entered into solely for the legitimization of a child.^[12] Another, which is the subject of the present case, is for immigration purposes. Immigration law is usually concerned with the intention of the couple at the time of their marriage,^[13] and it attempts to filter out those who use marriage solely to achieve immigration status.^[14]

In 1975, the seminal case of *Bark v. Immigration and Naturalization Service*,^[15] established the principal test for determining the presence of marriage fraud in immigration cases. It ruled that a "marriage is a sham if the bride and groom did not intend to establish a life together at the time they were married." This standard was modified with the passage of the Immigration Marriage Fraud Amendment of 1986 (IMFA), which now requires the couple to instead demonstrate that the marriage was *not* "entered into for the purpose of evading the immigration laws of the United States." The focus, thus, shifted from determining the intention to establish a life together, to determining the intention of evading immigration laws.^[16] It must be noted, however, that this standard is used purely for immigration purposes and, therefore, does not purport to rule on the legal validity or existence

of a marriage.

The question that then arises is whether a marriage declared as a sham or fraudulent for the limited purpose of immigration is also legally void and inexistent. The early cases on limited purpose marriages in the United States made no definitive ruling. In 1946, the notable case of *United States v. Rubenstein*^[17] was promulgated, wherein in order to allow an alien to stay in the country, the parties had agreed to marry but not to live together and to obtain a divorce within six months. The Court, through Judge Learned Hand, ruled that a marriage to convert temporary into permanent permission to stay in the country was not a marriage, there being no consent, to wit:

x x x But, that aside, Spitz and Sandler *were never married at all*. Mutual consent is necessary to every contract; and no matter what forms or ceremonies the parties may go through indicating the contrary, they do not contract if they do not in fact assent, which may always be proved. x x x Marriage is no exception to this rule: *a marriage in jest is not a marriage at all*. x x x It is quite true that a marriage without subsequent consummation will be valid; but *if the spouses agree to a marriage only for the sake of representing it as such to the outside world and with the understanding that they will put an end to it as soon as it has served its purpose to deceive, they have never really agreed to be married at all. They must assent to enter into the relation as it is ordinarily understood, and it is not ordinarily understood as merely a pretence, or cover, to deceive others.*^[18]

(Italics supplied)

On the other end of the spectrum is the 1969 case of *Mpiliris v. Hellenic Lines*,^[19] which declared as valid a marriage entered into solely for the husband to gain entry to the United States, stating that a valid marriage could not be avoided “merely because the marriage was entered into for a limited purpose.”^[20] The 1980 immigration case of *Matter of McKee*,^[21] further recognized that a fraudulent or sham marriage was intrinsically different from a nonsubsisting one.

Nullifying these limited purpose marriages for lack of consent has, therefore, been recognized as problematic. The problem being that in order to obtain an immigration benefit, a legal marriage is first necessary.^[22] At present, United States courts have generally denied annulments involving “limited purpose” marriages where a couple married only to achieve a particular purpose, and have upheld such marriages as *valid*.^[23]

The Court now turns to the case at hand.

Respondent's marriage not void

In declaring the respondent's marriage void, the RTC ruled that when a marriage was entered into for a purpose other than the establishment of a conjugal and family life, such was a farce and should not be recognized from its inception. In its resolution denying the OSG's motion for reconsideration, the RTC went on to explain that the marriage was declared void because the parties failed to freely give their