

## THIRD DIVISION

[ G.R. No. 179922, December 16, 2008 ]

**JUAN DE DIOS CARLOS, PETITIONER, VS. FELICIDAD SANDOVAL, ALSO KNOWN AS FELICIDAD S. VDA. DE CARLOS OR FELICIDAD SANDOVAL CARLOS OR FELICIDAD SANDOVAL VDA. DE CARLOS, AND TEOFILO CARLOS II, RESPONDENTS.**

### DECISION

**REYES, R.T., J.:**

ONLY a spouse can initiate an action to sever the marital bond for marriages solemnized during the effectivity of the Family Code, except cases commenced prior to March 15, 2003. The nullity and annulment of a marriage cannot be declared in a judgment on the pleadings, summary judgment, or confession of judgment.

We pronounce these principles as We review on *certiorari* the Decision<sup>[1]</sup> of the Court of Appeals (CA) which reversed and set aside the summary judgment<sup>[2]</sup> of the Regional Trial Court (RTC) in an action for declaration of nullity of marriage, status of a child, recovery of property, reconveyance, sum of money, and damages.

### The Facts

The events that led to the institution of the instant suit are unveiled as follows:

Spouses Felix B. Carlos and Felipa Elemia died intestate. They left six parcels of land to their compulsory heirs, Teofilo Carlos and petitioner Juan De Dios Carlos. The lots are particularly described as follows:

#### Parcel No. 1

Lot No. 162 of the MUNTINLUPA ESTATE SUBDIVISION, Case No. 6137 of the Court of Land Registration.

Exemption from the provisions of Article 567 of the Civil Code is specifically reserved.

Area: 1 hectare, 06 ares, 07 centares.

#### Parcel No. 2

A parcel of land (Lot No. 159-B), being a portion of Lot 159, situated in the Bo. of Alabang, Municipality of Muntinlupa, Province of Rizal, x x x containing an area of Thirteen Thousand Four Hundred Forty One (13,441) square meters.

Parcel No. 3

A parcel of land (Lot 159-B-2 of the subd. plan [LRC] Psd-325903, approved as a non-subd. project), being a portion of Lot 159-B [LRC] Psd- Alabang, Mun. of Muntinlupa, Metro Manila, Island of Luzon. Bounded on the NE, points 2 to 4 by Lot 155, Muntinlupa Estate; on the SE, point 4 to 5 by Lot 159-B-5; on the S, points 5 to 1 by Lot 159-B-3; on the W, points 1 to 2 by Lot 159-B-1 (Road widening) all of the subd. plan, containing an area of ONE HUNDRED THIRTY (130) SQ. METERS, more or less.

PARCEL No. 4

A parcel of land (Lot 28-C of the subd. plan Psd-13-007090, being a portion of Lot 28, Muntinlupa Estate, L.R.C. Rec. No. 6137), situated in the Bo. of Alabang, Mun. of Muntinlupa, Metro Manila. Bounded on the NE, along lines 1-2 by Lot 27, Muntinlupa Estate; on the East & SE, along lines 2 to 6 by Mangangata River; and on the West., along line 6-1, by Lot 28-B of the subd. plan x x x containing an area of ONE THUSAND AND SEVENTY-SIX (1,076) SQUARE METERS.

PARCEL No. 5

PARCELA DE TERRENO No. 50, Manzana No. 18, de la subd. de Solocan. Linda por el NW, con la parcela 49; por el NE, con la parcela 36; por el SE, con la parcela 51; y por el SW, con la calle Dos Castillas. Partiendo de un punto marcado 1 en el plano, el cual se halla a S. gds. 01'W, 72.50 mts. Desde el punto 1 de esta manzana, que es un mojon de concreto de la Ciudad de Manila, situado on el esquina E. que forman las Calles Laong Laan y Dos. Castillas, continiendo un extension superficial de CIENTO CINCUENTA (150) METROS CUADRADOS.

PARCEL No. 6

PARCELA DE TERRENO No. 51, Manzana No. 18, de la subd. De Solocon. Linda por el NW, con la parcela 50; por el NE, con la parcela 37; por el SE, con la parcela 52; por el SW, con la Calle Dos Castillas. Partiendo de un punto Marcado 1 en el plano, el cual se halla at S. 43 gds. 01'E, 82.50 mts. Desde el punto 1 de esta manzana, que es un mojon de concreto de la Ciudad de Manila, situado on el esquina E. que forman las Calles Laong Laan y Dos. Castillas, continiendo una extension superficial de CIENTO CINCUENTA (150) METROS CUADRADOS.<sup>[3]</sup>

During the lifetime of Felix Carlos, he agreed to transfer his estate to Teofilo. The agreement was made in order to avoid the payment of inheritance taxes. Teofilo, in turn, undertook to deliver and turn over the share of the other legal heir, petitioner Juan De Dios Carlos.

Eventually, the first three (3) parcels of land were transferred and registered in the name of Teofilo. These three (3) lots are now covered by Transfer Certificate of Title (TCT) No. 234824 issued by the Registry of Deeds of Makati City; TCT No. 139061 issued by the Registry of Deeds of Makati City; and TCT No. 139058 issued by the

Registry of Deeds of Makati City.

Parcel No. 4 was registered in the name of petitioner. The lot is now covered by TCT No. 160401 issued by the Registry of Deeds of Makati City.

On May 13, 1992, Teofilo died intestate. He was survived by respondents Felicidad and their son, Teofilo Carlos II (Teofilo II). Upon Teofilo's death, Parcel Nos. 5 & 6 were registered in the name of respondent Felicidad and co-respondent, Teofilo II. The said two (2) parcels of land are covered by TCT Nos. 219877 and 210878, respectively, issued by the Registry of Deeds of Manila.

In 1994, petitioner instituted a suit against respondents before the RTC in Muntinlupa City, docketed as Civil Case No. 94-1964. In the said case, the parties submitted and caused the approval of a partial compromise agreement. Under the compromise, the parties acknowledged their respective shares in the proceeds from the sale of a portion of the first parcel of land. This includes the remaining 6,691-square-meter portion of said land.

On September 17, 1994, the parties executed a deed of extrajudicial partition, dividing the remaining land of the first parcel between them.

Meanwhile, in a separate case entitled *Rillo v. Carlos*,<sup>[4]</sup> 2,331 square meters of the second parcel of land were adjudicated in favor of plaintiffs *Rillo*. The remaining 10,000-square meter portion was later divided between petitioner and respondents.

The division was incorporated in a supplemental compromise agreement executed on August 17, 1994, with respect to Civil Case No. 94-1964. The parties submitted the supplemental compromise agreement, which was approved accordingly.

Petitioner and respondents entered into two more contracts in August 1994. Under the contracts, the parties equally divided between them the third and fourth parcels of land.

In August 1995, petitioner commenced an action, docketed as Civil Case No. 95-135, against respondents before the court *a quo* with the following causes of action: (a) declaration of nullity of marriage; (b) status of a child; (c) recovery of property; (d) reconveyance; and (e) sum of money and damages. The complaint was raffled to Branch 256 of the RTC in Muntinlupa.

In his complaint, petitioner asserted that the marriage between his late brother Teofilo and respondent Felicidad was a nullity in view of the absence of the required marriage license. He likewise maintained that his deceased brother was neither the natural nor the adoptive father of respondent Teofilo Carlos II.

Petitioner likewise sought the avoidance of the contracts he entered into with respondent Felicidad with respect to the subject real properties. He also prayed for the cancellation of the certificates of title issued in the name of respondents. He argued that the properties covered by such certificates of title, including the sums received by respondents as proceeds, should be reconveyed to him.

Finally, petitioner claimed indemnification as and by way of moral and exemplary damages, attorney's fees, litigation expenses, and costs of suit.

On October 16, 1995, respondents submitted their answer. They denied the material averments of petitioner's complaint. Respondents contended that the dearth of details regarding the requisite marriage license did not invalidate Felicidad's marriage to Teofilo. Respondents declared that Teofilo II was the illegitimate child of the deceased Teofilo Carlos with another woman.

On the grounds of lack of cause of action and lack of jurisdiction over the subject matter, respondents prayed for the dismissal of the case before the trial court. They also asked that their counterclaims for moral and exemplary damages, as well as attorney's fees, be granted.

But before the parties could even proceed to pre-trial, respondents moved for summary judgment. Attached to the motion was the affidavit of the justice of the peace who solemnized the marriage. Respondents also submitted the Certificate of Live Birth of respondent Teofilo II. In the certificate, the late Teofilo Carlos and respondent Felicidad were designated as parents.

On January 5, 1996, petitioner opposed the motion for summary judgment on the ground of irregularity of the contract evidencing the marriage. In the same breath, petitioner lodged his own motion for summary judgment. Petitioner presented a certification from the Local Civil Registrar of Calumpit, Bulacan, certifying that there is no record of birth of respondent Teofilo II.

Petitioner also incorporated in the counter-motion for summary judgment the testimony of respondent Felicidad in another case. Said testimony was made in Civil Case No. 89-2384, entitled *Carlos v. Gorospe*, before the RTC Branch 255, Las Piñas. In her testimony, respondent Felicidad narrated that co-respondent Teofilo II is her child with Teofilo.<sup>[5]</sup>

Subsequently, the Office of the City Prosecutor of Muntinlupa submitted to the trial court its report and manifestation, discounting the possibility of collusion between the parties.

### **RTC and CA Dispositions**

On April 8, 1996, the RTC rendered judgment, disposing as follows:

**WHEREFORE**, premises considered, defendant's (respondent's) Motion for Summary Judgment is hereby denied. Plaintiff's (petitioner's) Counter-Motion for Summary Judgment is hereby granted and summary judgment is hereby rendered in favor of plaintiff as follows:

1. Declaring the marriage between defendant Felicidad Sandoval and Teofilo Carlos solemnized at Silang, Cavite on May 14, 1962, evidenced by the Marriage Certificate submitted in this case, null and void *ab initio* for lack of the requisite marriage license;
2. Declaring that the defendant minor, Teofilo S. Carlos II, is not the natural, illegitimate, or legally adopted child of the late Teofilo E. Carlos;

3. Ordering defendant Sandoval to pay and retribute to plaintiff the sum of P18,924,800.00 together with the interest thereon at the legal rate from date of filing of the instant complaint until fully paid;
4. Declaring plaintiff as the sole and exclusive owner of the parcel of land, less the portion adjudicated to plaintiffs in Civil Case No. 11975, covered by TCT No. 139061 of the Register of Deeds of Makati City, and ordering said Register of Deeds to cancel said title and to issue another title in the sole name of plaintiff herein;
5. Declaring the Contract, Annex "K" of complaint, between plaintiff and defendant Sandoval null and void, and ordering the Register of Deeds of Makati City to cancel TCT No. 139058 in the name of Teofilo Carlos, and to issue another title in the sole name of plaintiff herein;
6. Declaring the Contract, Annex M of the complaint, between plaintiff and defendant Sandoval null and void;
7. Ordering the cancellation of TCT No. 210877 in the names of defendant Sandoval and defendant minor Teofilo S. Carlos II and ordering the Register of Deeds of Manila to issue another title in the exclusive name of plaintiff herein;
8. Ordering the cancellation of TCT No. 210878 in the name of defendant Sandoval and defendant Minor Teofilo S. Carlos II and ordering the Register of Deeds of Manila to issue another title in the sole name of plaintiff herein.

Let this case be set for hearing for the reception of plaintiff's evidence on his claim for moral damages, exemplary damages, attorney's fees, appearance fees, and litigation expenses on June 7, 1996 at 1:30 o'clock in the afternoon.

SO ORDERED.<sup>[6]</sup>

Dissatisfied, respondents appealed to the CA. In the appeal, respondents argued, *inter alia*, that the trial court acted without or in excess of jurisdiction in rendering summary judgment annulling the marriage of Teofilo, Sr. and Felicidad and in declaring Teofilo II as not an illegitimate child of Teofilo, Sr.

On October 15, 2002, the CA reversed and set aside the RTC ruling, disposing as follows:

WHEREFORE, the summary judgment appealed from is REVERSED and SET ASIDE and in lieu thereof, a new one is entered REMANDING the case to the court of origin for further proceedings.

SO ORDERED.<sup>[7]</sup>

The CA opined: