

FIRST DIVISION

[G.R. NO. 153206, October 23, 2006]

ONG ENG KIAM A.K.A. WILLIAM ONG, PETITIONER, VS. LUCITA G. ONG, RESPONDENT.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before this Court is a Petition for Review seeking the reversal of the Decision^[1] of the Court of Appeals (CA) in CA G.R. CV No. 59400 which affirmed *in toto* the Decision of the Regional Trial Court (RTC) Branch 41, Dagupan City granting the petition for legal separation filed by herein respondent, as well as the Resolution^[2] of the CA dated April 26, 2002 which denied petitioner's motion for reconsideration.

Ong Eng Kiam, also known as William Ong (William) and Lucita G. Ong (Lucita) were married on July 13, 1975 at the San Agustin Church in Manila. They have three children: Kingston, Charleston, and Princeton who are now all of the age of majority.^[3]

On March 21, 1996, Lucita filed a Complaint for Legal Separation under Article 55 par. (1) of the Family Code^[4] before the Regional Trial Court (RTC) of Dagupan City, Branch 41 alleging that her life with William was marked by physical violence, threats, intimidation and grossly abusive conduct.^[5]

Lucita claimed that: soon after three years of marriage, she and William quarreled almost every day, with physical violence being inflicted upon her; William would shout invectives at her like "*putang ina mo*", "*gago*", "*tanga*", and he would slap her, kick her, pull her hair, bang her head against concrete wall and throw at her whatever he could reach with his hand; the causes of these fights were petty things regarding their children or their business; William would also scold and beat the children at different parts of their bodies using the buckle of his belt; whenever she tried to stop William from hitting the children, he would turn his ire on her and box her; on December 9, 1995, after she protested with William's decision to allow their eldest son Kingston to go to Bacolod, William slapped her and said, "it is none of your business"; on December 14, 1995, she asked William to bring Kingston back from Bacolod; a violent quarrel ensued and William hit her on her head, left cheek, eye, stomach, and arms; when William hit her on the stomach and she bent down because of the pain, he hit her on the head then pointed a gun at her and asked her to leave the house; she then went to her sister's house in Binondo where she was fetched by her other siblings and brought to their parents house in Dagupan; the following day, she went to her parent's doctor, Dr. Vicente Elinzano for treatment of her injuries.^[6]

William for his part denied that he ever inflicted physical harm on his wife, used

insulting language against her, or whipped the children with the buckle of his belt. While he admits that he and Lucita quarreled on December 9, 1995, at their house in Jose Abad Santos Avenue, Tondo, Manila, he claimed that he left the same, stayed in their Greenhills condominium and only went back to their Tondo house to work in their office below. In the afternoon of December 14, 1995, their laundrywoman told him that Lucita left the house.^[7]

On January 5, 1998, the RTC rendered its Decision decreeing legal separation, thus:

WHEREFORE, premises considered, judgment is hereby rendered decreeing the legal separation of plaintiff and defendant, with all the legal effects attendant thereto, particularly the dissolution and liquidation of the conjugal partnership properties, for which purpose the parties are hereby ordered to submit a complete inventory of said properties so that the Court can make a just and proper division, such division to be embodied in a supplemental decision.

SO ORDERED.^[8]

The RTC found that:

It is indubitable that plaintiff (Lucita) and defendant (William) had their frequent quarrels and misunderstanding which made both of their lives miserable and hellish. This is even admitted by the defendant when he said that there was no day that he did not quarrel with his wife. Defendant had regarded the plaintiff negligent in the performance of her wifely duties and had blamed her for not reporting to him about the wrongdoings of their children. (citations omitted)

These quarrels were always punctuated by acts of physical violence, threats and intimidation by the defendant against the plaintiff and on the children. In the process, insulting words and language were heaped upon her. The plaintiff suffered and endured the mental and physical anguish of these marital fights until December 14, 1995 when she had reached the limits of her endurance. The more than twenty years of her marriage could not have been put to waste by the plaintiff if the same had been lived in an atmosphere of love, harmony and peace. Worst, their children are also suffering. As very well stated in plaintiff's memorandum, "it would be unthinkable for her to throw away this twenty years of relationship, abandon the comforts of her home and be separated from her children, whom she loves, if there exists no cause, which is already beyond her endurance."^[9]

William appealed to the CA which affirmed *in toto* the RTC decision. In its Decision dated October 8, 2001, the CA found that the testimonies for Lucita were straightforward and credible and the ground for legal separation under Art. 55, par. 1 of the Family Code, *i.e.*, physical violence and grossly abusive conduct directed against Lucita, were adequately proven.^[10]

As the CA explained:

The straightforward and candid testimonies of the witnesses were uncontroverted and credible. Dr. Elinzano's testimony was able to show that the [Lucita] suffered several injuries inflicted by [William]. It is clear that on December 14, 1995, she sustained redness in her cheek, black eye on her left eye, fist blow on the stomach, blood clot and a blackish discoloration on both shoulders and a "bump" or "*buko*" on her head. The presence of these injuries was established by the testimonies of [Lucita] herself and her sister, Linda Lim. The Memorandum/Medical Certificate also confirmed the evidence presented and does not deviate from the doctor's main testimony --- that [Lucita] suffered physical violence on [sic] the hands of her husband, caused by physical trauma, slapping of the cheek, boxing and fist blows. The effect of the so-called alterations in the Memorandum/Medical Certificate questioned by [William] does not depart from the main thrust of the testimony of the said doctor.

Also, the testimony of [Lucita] herself consistently and constantly established that [William] inflicted repeated physical violence upon her during their marriage and that she had been subjected to grossly abusive conduct when he constantly hurled invectives at her even in front of their customers and employees, shouting words like, "*gaga*", "*putang ina mo*," "*tanga*," and "you don't know anything."

These were further corroborated by several incidents narrated by Linda Lim who lived in their conjugal home from 1989 to 1991. She saw her sister after the December 14, 1995 incident when she (Lucita) was fetched by the latter on the same date. She was a witness to the kind of relationship her sister and [William] had during the three years she lived with them. She observed that [William] has an "explosive temper, easily gets angry and becomes very violent." She cited several instances which proved that William Ong indeed treated her wife shabbily and despicably, in words and deeds.

x x x

That the physical violence and grossly abusive conduct were brought to bear upon [Lucita] by [William] have been duly established by [Lucita] and her witnesses. These incidents were not explained nor controverted by [William], except by making a general denial thereof. Consequently, as between an affirmative assertion and a general denial, weight must be accorded to the affirmative assertion.

The grossly abusive conduct is also apparent in the instances testified to by [Lucita] and her sister. The injurious invectives hurled at [Lucita] and his treatment of her, in its entirety, in front of their employees and friends, are enough to constitute grossly abusive conduct. The aggregate behavior of [William] warrants legal separation under grossly abusive conduct. x x x^[11]

William filed a motion for reconsideration which was denied by the CA on April 26, 2002.^[12]

Hence the present petition where William claims that:

I

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN DISREGARDING CLEAR EVIDENCE THAT THE PETITION FOR LEGAL SEPARATION WAS INSTITUTED BY THE PRIVATE RESPONDENT FOR THE SOLE PURPOSE OF REMOVING FROM PETITIONER THE CONTROL AND OWNERSHIP OF THEIR CONJUGAL PROPERTIES AND TO TRANSFER THE SAME TO PRIVATE RESPONDENT'S FAMILY.

II

THE COURT OF APPEALS COMMITTED AN ERROR OF LAW IN DISREGARDING CLEAR EVIDENCE REPUDIATING PRIVATE RESPONDENT'S CLAIM OF REPEATED PHYSICAL VIOLENCE AND GROSSLY ABUSIVE CONDUCT ON THE PART OF PETITIONER.^[13]

William argues that: the real motive of Lucita and her family in filing the case is to wrest control and ownership of properties belonging to the conjugal partnership; these properties, which include real properties in Hong Kong, Metro Manila, Baguio and Dagupan, were acquired during the marriage through his (William's) sole efforts; the only parties who will benefit from a decree of legal separation are Lucita's parents and siblings while such decree would condemn him as a violent and cruel person, a wife-beater and child abuser, and will taint his reputation, especially among the Filipino-Chinese community; substantial facts and circumstances have been overlooked which warrant an exception to the general rule that factual findings of the trial court will not be disturbed on appeal; the findings of the trial court that he committed acts of repeated physical violence against Lucita and their children were not sufficiently established; what took place were disagreements regarding the manner of raising and disciplining the children particularly Charleston, Lucita's favorite son; marriage being a social contract cannot be impaired by mere verbal disagreements and the complaining party must adduce clear and convincing evidence to justify legal separation; the CA erred in relying on the testimonies of Lucita and her witnesses, her sister Linda Lim, and their parent's doctor, Dr. Vicente Elinzanzo, whose testimonies are tainted with relationship and fraud; in the 20 years of their marriage, Lucita has not complained of any cruel behavior on the part of William in relation to their marital and family life; William expressed his willingness to receive respondent unconditionally however, it is Lucita who abandoned the conjugal dwelling on December 14, 1995 and instituted the complaint below in order to appropriate for herself and her relatives the conjugal properties; the Constitution provides that marriage is an inviolable social institution and shall be protected by the State, thus the rule is the preservation of the marital union and not its infringement; only for grounds enumerated in Art. 55 of the Family Code, which grounds should be clearly and convincingly proven, can the courts decree a legal separation among the spouses.^[14]

Respondent Lucita in her Comment, meanwhile, asserts that: the issues raised in the present petition are factual; the findings of both lower courts rest on strong and clear evidence borne by the records; this Court is not a trier of facts and factual findings of the RTC when confirmed by the CA are final and conclusive and may not

be reviewed on appeal; the contention of William that Lucita filed the case for legal separation in order to remove from William the control and ownership of their conjugal properties and to transfer the same to Lucita's family is absurd; Lucita will not just throw her marriage of 20 years and forego the companionship of William and her children just to serve the interest of her family; Lucita left the conjugal home because of the repeated physical violence and grossly abusive conduct of petitioner.^[15]

Petitioner filed a Reply, reasserting his claims in his petition,^[16] as well as a Memorandum where he averred for the first time that since respondent is guilty of abandonment, the petition for legal separation should be denied following Art. 56, par. (4) of the Family Code.^[17] Petitioner argues that since respondent herself has given ground for legal separation by abandoning the family simply because of a quarrel and refusing to return thereto unless the conjugal properties were placed in the administration of petitioner's in-laws, no decree of legal separation should be issued in her favor.^[18]

Respondent likewise filed a Memorandum reiterating her earlier assertions.^[19]

We resolve to deny the petition.

It is settled that questions of fact cannot be the subject of a petition for review under Rule 45 of the Rules of Court. The rule finds more stringent application where the CA upholds the findings of fact of the trial court. In such instance, this Court is generally bound to adopt the facts as determined by the lower courts.^[20]

The only instances when this Court reviews findings of fact are:

(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

^[21]

As petitioner failed to show that the instant case falls under any of the exceptional circumstances, the general rule applies.

Indeed, this Court cannot review factual findings on appeal, especially when they are borne out by the records or are based on substantial evidence.^[22] In this case, the findings of the RTC were affirmed by the CA and are adequately supported by