

SECOND DIVISION

[G.R. No. 131286, March 18, 2004]

JOSE LAM, PETITIONER, VS. ADRIANA CHUA, RESPONDENT.

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a petition for review on *certiorari* assailing the Decision^[1] dated June 11, 1997 and the Resolution dated October 27, 1997 of the Court of Appeals in CA—G.R. CV. No. 51107, entitled, "*Adriana Chua, Petitioner—Appellee vs. Jose Lam, Respondent—Appellant.*"

The case commenced on March 11, 1994 upon the filing of a petition for declaration of nullity of marriage by Adriana Chua against Jose Lam in the Regional Trial Court of Pasay City (Branch 109). Adriana alleged in the petition that: she and Jose were married on January 13, 1984; out of said marriage, they begot one son, John Paul Chua Lam; Jose was psychologically incapacitated to comply with the essential marital obligations of marriage but said incapacity was not then apparent; such psychological incapacity of Jose became manifest only after the celebration of the marriage when he frequently failed to go home, indulged in womanizing and irresponsible activities, such as, mismanaging the conjugal partnership of gains; in order to save what was left of the conjugal properties, she was forced to agree with Jose on the dissolution of their conjugal partnership of gains and the separation of present and future properties; said agreement was approved by the Regional Trial Court of Makati City (Branch 149) in a Decision dated February 28, 1994; they had long been separated in bed and board; they have agreed that the custody of their child will be with her, subject to visitation rights of Jose. Adriana prayed that the marriage between her and Jose be declared null and void but she failed to claim and pray for the support of their child, John Paul.

Summons was duly served on Jose Lam on March 22, 1994. Despite the lapse of fifteen days after service of summons, no responsive pleading was filed by him. Hence, the trial court issued an Order dated April 13, 1994, directing Asst. City Prosecutor Bonifacio Barrera to conduct an investigation for determination whether or not there was collusion between the parties and to submit his report thereon. On April 28, 1994, Asst. City Prosecutor Barrera filed his Report stating that "there seems to be no collusion between the parties".^[2]

The trial court then set the case for hearing. The lone witness was Adriana herself. She testified that her marriage with Jose was arranged by her parents in the traditional Chinese way; that her married life was abnormal because Jose very seldom came home, never worked for a living and instead kept asking for money from her to buy his sports cars; that she was also the one spending for all the

expenses of their only child, John Paul.^[3] After her testimony, counsel for Adriana formally offered the documentary evidence. No evidence was presented regarding the amount of support needed by John Paul or the capacity of Jose to give support.

On June 23, 1994, Adriana filed an Urgent Motion to Re—Open^[4] on the ground that she was able to secure additional new evidence which were significant, material and indispensable. On July 6, 1994, the trial court granted the motion to re—open the case and held a hearing for the reception of additional evidence. The Pasay RTC admitted into evidence the Marriage Contract dated May 25, 1977 between Jose and one Celia Santiago, and another Marriage Contract dated May 6, 1982 between Jose and one Evan Lock,^[5] showing that Jose had been married twice before he married Adriana in 1984.

On August 4, 1994, the Pasay RTC rendered its Decision^[6] the dispositive portion of which reads as follows:

IN VIEW OF ALL THE FOREGOING, the Court hereby declares the marriage between petitioner Adriana Chua and respondent Jose Lam null and void for being bigamous by nature. The Local Civil Registrar of Quezon City and the Office of the Civil Registrar General are hereby ordered to cancel the marriage between Adriana Chua and Jose Lam celebrated on January 13, 1984 by Hon. Guillermo L. Loja of the Metropolitan Trial Court, Quezon City.

Likewise, respondent Jose Lam is hereby ordered to give a monthly support to his son John Paul Chua Lam in the amount of P20,000.00.

SO ORDERED.^[7]

On November 3, 1994, Jose filed a Motion for Reconsideration^[8] thereof but only insofar as the decision awarded monthly support to his son in the amount of P20,000.00. He argued that there was already a provision for support of the child as embodied in the decision^[9] dated February 28, 1994 of the Makati RTC wherein he and Adriana agreed to contribute P250,000.00 each to a common fund for the benefit of the child, to wit:

8. Nothing herein shall diminish the rights and obligations of both parties with respect to their son. In the best interest of the child, the Second Party shall retain care and custody, subject to visitation rights by the First Party to be exercised through mutual arrangements.
9. It is hereby agreed by the First Party and the Second Party that the First Party and the Second Party shall initially contribute P250,000.00 each to a common fund, to be increased as required, to be used solely and exclusively for the benefit of their son. Said common fund shall be managed and administered by the Second Party, subject to periodic accounting, until the son reaches majority age.^[10]

Jose further alleged in his motion that his contribution to the common fund had even amounted to P500,000.00.

On August 22, 1995, the Pasay RTC issued an Order denying Jose Lam's motion for reconsideration ruling that the compromise agreement entered into by the parties

and approved by the Makati RTC before the marriage was declared null and void *ab initio* by the Pasay RTC, is of no moment and cannot limit and/or affect the support ordered by the latter court.

Jose then appealed the Pasay RTC's decision to the Court of Appeals, assigning only a single error of the trial court:

THE LOWER COURT SERIOUSLY ERRED IN ORDERING APPELLANT TO GIVE A MONTHLY SUPPORT OF P20,000.00 TO HIS SON BECAUSE THIS WOULD, IN EFFECT, REQUIRE APPELLANT TO PAY TWICE THE MONTHLY SUPPORT FOR HIS CHILD. BESIDES, THE LOWER COURT HAS DULY ADMITTED THE FACT THAT THERE WAS A DECISION ISSUED BY ANOTHER COURT REQUIRING APPELLANT TO CONTRIBUTE THE AMOUNT OF P250,000.00 AS THE LATTER'S SHARE IN THE COMMON FUND FOR SUPPORT OF THE CHILD, SUBJECT TO PERIODIC ACCOUNTING AND TO BE MANAGED BY APPELLEE.^[11]

On June 11, 1997, the Court of Appeals promulgated its decision affirming the Pasay RTC's decision in all respects. Jose filed a motion for reconsideration of the Decision but in a Resolution dated October 27, 1997, the Court of Appeals denied the same.

Hence, Jose filed the present petition for review on certiorari under Rule 45 of the Rules of Court, likewise raising a single error of the appellate court, to wit:

THE HONORABLE COURT OF APPEALS ERRED IN DECIDING LEGAL QUESTIONS OF SUBSTANCE NOT IN ACCORDANCE WITH LAW AND JURISPRUDENCE IN FINDING THAT THE TRIAL COURT'S RULING THAT THE COMPROMISE AGREEMENT BETWEEN PETITIONER AND RESPONDENT WHERE THEY BOUND THEMSELVES TO CONTRIBUTE THE AMOUNT OF TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00) TO A COMMON FUND FOR THE BENEFIT OF THEIR CHILD DOES NOT BAR THE TRIAL COURT IN ANNULMENT CASE TO AGAIN AWARD SUPPORT IN FAVOR OF THE CHILD.

The Pasay RTC and the Court of Appeals are both correct insofar as they ruled that the amount of support is by no means permanent. In *Advincula vs. Advincula*,^[12] we held that another action for support could be filed again by the same plaintiff notwithstanding the fact that the previous case for support filed against the same defendant was dismissed. We further held in said case that:

. . . Judgment for support does not become final. The right to support is of such nature that its allowance is essentially provisional; for during the entire period that a needy party is entitled to support, his or her alimony may be modified or altered, in accordance with his increased or decreased needs, and with the means of the giver. It cannot be regarded as subject to final determination.^[1]

Thus, there is no merit to the claim of Jose that the compromise agreement between him and Adriana, as approved by the Makati RTC and embodied in its decision dated February 28, 1994 in the case for voluntary dissolution of conjugal partnership of gains, is a bar to any further award of support in favor of their child John Paul. The provision for a common fund for the benefit of their child John Paul, as embodied in the compromise agreement between herein parties which had been

approved by the Makati RTC, cannot be considered final and *res judicata* since any judgment for support is always subject to modification, depending upon the needs of the child and the capabilities of the parents to give support.

Having settled the issue on the authority of the trial court to award support for the child in an action for declaration of nullity of marriage of the child's parents, this Court will now discuss the propriety of the proceedings conducted by the Pasay RTC and the decision it rendered, as affirmed by the Court of Appeals.

The Court notes four circumstances that taint the regularity of the proceedings and the decision rendered by the trial court.

First, the only ground alleged in the petition for declaration of nullity of marriage filed by Adriana with the Pasay RTC is the psychological incapacity of Jose without any prayer for the support of her child. Adriana presented, formally offered her evidence in support of the petition and submitted the case for decision as of May 12, 1994.^[14] But on a motion to re—open filed by her on June 23, 1994, the trial court set the case for reception of evidence on July 6, 1994 and subsequently allowed Adriana to present evidence of two previous marriages contracted by Jose with other women to prove that the marriage between Adriana and Jose was null and void for being bigamous. It is only at the July 6, 1994 hearing that respondent Adriana first claimed support for John Paul when she testified in open court.

The petition of Adriana was, in effect, substantially changed by the admission of the additional evidence. The ground relied on for nullity of the marriage was changed from the psychological incapacity of Jose to that of existence of previous marriages of Jose with two different women with an additional claim for support of the child. Such substantial changes were not reflected in the petition filed with the trial court, as no formal amendment was ever made by Adriana except the insertion of the handwritten phrase "*And for respondent to support the child of petitioner in an amount this Honorable Court may deem just and reasonable*"^[15] found at the ultimate paragraph of the petition, as allowed by the Pasay RTC. There is nothing on record to show that petitioner Jose was notified of the substantial changes in the petition of Adriana.

Second, the Pasay RTC did not give Jose an opportunity to be present on July 6, 1994 for the presentation of evidence by Adriana and to refute the same. Although copy of the motion filed on June 23, 1994 with a notice of hearing on June 27, 1994 was sent to Jose, the record does not show that he received the notice in due time; neither does the record show that he was notified of the subsequent hearing held on July 6, 1994 where Adriana presented the marriage certificates and claimed for the support of their child sans the presence of Jose.

Third, the records do not show that petitioner was sent a copy of the Order dated July 6, 1994 wherein the trial court granted the Urgent Motion to Re—Open of respondent Adriana and forthwith allowed her to present her evidence to prove that petitioner herein contracted previous marriages with different women.

Fourth, the evidence presented by respondent regarding her claim for support for John Paul is glaringly insufficient and cannot be made a valid basis upon which the Pasay RTC could have determined the monthly amount of P20,000.00 for the support to be given to John Paul by petitioner Jose.

A party who has been declared in default is entitled to service of substantially amended or supplemental pleadings. [16] Considering that in cases of declaration of nullity of marriage or annulment of marriage, there can be no default pursuant to Section 6, Rule 18 of the Revised Rules of Court [17] in relation to Article 48 of the Family Code, [18] it is with more reason that petitioner should likewise be entitled to notice of all proceedings.

Furthermore, the lower courts are reminded of the ruling of the Court in *Asian Transmission Corporation vs. Canlubang Sugar Estates*, [19] to wit:

It is also a general principle of law that a court cannot set itself in motion, nor has it power to decide questions except as presented by the parties in their pleadings. Anything that is decided beyond them is coram non—judice and void. *Therefore where a court enters a judgment or awards relief beyond the prayer of the complaint or the scope of its allegations the excessive relief is not merely irregular but is void for want of jurisdiction, and is open to collateral attack.*

The appellate court also ruled that a judgment of a court upon a subject within its general jurisdiction, but which is not brought before it by any statement or claim of the parties, and is foreign to the issues submitted for its determination, is a nullity. (Emphasis supplied)

Pursuant to the foregoing principle, it is a serious error for the trial court to have rendered judgment on issues not presented in the pleadings as it was beyond its jurisdiction to do so. The amendment of the petition to reflect the new issues and claims against Jose was, therefore, indispensable so as to authorize the court to act on the issue of whether the marriage of Jose and Adriana was bigamous and the determination of the amount that should have been awarded for the support of John Paul. When the trial court rendered judgment beyond the allegations contained in the copy of the petition served upon Jose, the Pasay RTC had acted in excess of its jurisdiction and deprived petitioner Lam of due process.

Insofar as the declaration of nullity of the marriage between Adriana and Jose for being bigamous is concerned, the decision rendered by the Pasay RTC could be declared as invalid for having been issued beyond its jurisdiction. Nonetheless, considering that Jose, did not assail the declaration of nullity of his marriage with Adriana in his motion for reconsideration which he filed with the Pasay RTC. In the petitions he filed in the Court of Appeals and with us, he likewise did not raise the issue of jurisdiction of the Pasay RTC to receive evidence and render judgment on his previous marriages with other woman which were not alleged in the petition filed by Adriana. Petitioner Jose is estopped from questioning the declaration of nullity of his marriage with Adriana and therefore, the Court will not undo the judgment of the Pasay RTC declaring the marriage of Adriana and Jose null and void for being bigamous. It is an axiomatic rule that while a jurisdictional question may be raised at any time, this, however, admits of an exception where estoppel has supervened. [20]

Consequently, the Court will only resolve the lone issue raised by Jose in the present petition for review on *certiorari* which is the award of support for his child, John Paul.