

THIRD DIVISION

[G.R. No. 149617, September 03, 2003]

JUDGE MARIANO JOAQUIN S. MACIAS, PETITIONER, VS. MARGIE CORPUS MACIAS, RESPONDENT.

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Due process is the very essence of justice itself. Where the rule of law is the bedrock of our free society, justice is its very lifeblood. Denial of due process is thus no less than a denial of justice.^[1]

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision^[2] dated July 13, 2001 and the Resolution^[3] dated August 30, 2001, both rendered by the Court of Appeals in CA-G.R. SP No. 64733, "Margie Corpus Macias vs. Hon. Wilfredo G. Ochotorena and Hon. Judge Mariano Joaquin S. Macias."

The factual antecedents as borne by the records are:

On February 6, 2001, Judge Mariano Joaquin S. Macias (herein petitioner) filed with the Regional Trial Court, Branch 11, Sindangan, Zamboanga del Norte, a petition for declaration of nullity of marriage against Margie Corpus Macias (herein respondent), docketed as Civil Case No. S-695.

The sheriff exerted earnest efforts to personally serve copies of the summons and complaint upon the respondent, but to no avail. Hence, the trial court, upon petitioner's motion, issued an Order dated March 7, 2001 directing that summons be effected by publication in a newspaper of general circulation in the province of Zamboanga del Norte and the twin cities of Dapitan and Dipolog and thereafter requiring the respondent to file her answer within a period of thirty (30) days from notice.

Subsequently, the summons and complaint were published in the March 11 to 17, 2001 issues of the Dipolog-based newspaper "Tingog Peninsula."

Instead of filing an answer, respondent, through counsel, on April 10, 2001, filed a motion to dismiss the petition on the following grounds: (1) the cause of action is barred by the statute of limitations; (2) the trial court has no jurisdiction because it is not among those designated to act as a family court under Resolution A.M. No. 99-11-07-SC; and (3) the parties failed to resort to barangay conciliation prior to the filing of the petition.

On April 19, 2001, the trial court issued an Order denying respondent's motion to dismiss. Incidentally, in the same Order, the trial court granted respondent's request

(via long distance telephone call) to set the hearing on April 30, 2001.

The hearing set on April 30, 2001 was cancelled for failure of respondent and counsel as well as the expert witness to appear. On the same day, the trial court issued an Order setting the hearing anew on May 2 and 3, 2001. Respondent received a copy of this Order only on May 8, 2001. Thus, when the case was called for hearing as scheduled, respondent and counsel, not being duly notified, did not appear. Surprisingly, the trial court allowed the petitioner to present his evidence *ex parte*.

After the petitioner rested his case, the trial court issued an Order dated May 3, 2001 (1) directing the public prosecutor to submit a Certification containing his assent or opposition to the petition; (2) directing the petitioner and the public prosecutor to submit their respective memoranda within a non-extendible period of ten (10) days; and (3) declaring the case submitted for decision.

On May 5, 2001, respondent still unaware that the case had been submitted for decision, filed a motion for reconsideration of the Order dated April 19, 2001 denying her motion to dismiss. The trial court merely noted the motion for reconsideration in his Order dated May 16, 2001.

Consequently, on May 18, 2001, respondent filed with the Court of Appeals a petition for certiorari with prayer for issuance of a temporary restraining order and/or a writ of preliminary injunction challenging the trial court's Order dated April 19, 2001 which denied her motion to dismiss; and Order dated April 30, 2001 cancelling the April 30, 2001 hearing and resetting it on May 2 and 3, 2001.

Acting thereon, the Court of Appeals, in a Resolution dated May 23, 2001, enjoined the trial court from conducting further proceedings in Civil Case No. S-695.

Meanwhile, on May 15, 2001 or barely twelve (12) days from submission of the case for decision, the trial court rendered its Decision declaring the nullity of the marriage between the parties on the ground of psychological incapacity on the part of herein respondent. Thereupon, she filed a motion for reconsideration. This motion has not been acted upon.

Meantime, on July 13, 2001, the Court of Appeals rendered a Decision granting respondent's petition for certiorari, thus:

"The issue that now comes to fore is whether or not the Petitioner was deprived, by the Respondent Court, of her right to due process enshrined in Article III, Section 1 of the 1987 Constitution, *via* its Orders, Annexes 'L' and 'O' of the Petition, and its Decision.

x x x

x x x

x x x

"In the present recourse, the hearings of the complaint of the Private Respondent, on its merits, before the issues were joined was a farce, a blatant transgression by the Respondents of the fundamental right of the Petitioner to due process. Taking stock of the antecedental milieu in the present recourse, We are convinced, beyond cavil, that either the Respondent Court was ignorant of the basic rudiments of Civil Procedure

or if he was aware of said Rules as he should, he simply ignored the same, ran roughshod over the rights of the Petitioner, railroaded the hearing of the case and rendered judgment even before the Petitioner had the opportunity to defend herself and adduce her evidence.

x x x

x x x

x x x

"There is no evidence on record when the Petitioner was served with the complaint and summons by registered mail. However, the Petitioner learned of the complaint and summons about the first week of April, 2001 on the basis of the March 11-17, 2001 issue of the 'Tingog Peninsula.' Even if the thirty-day period fixed by the Respondent Court was reckoned from the March 11-17, 2001 issue of the 'Tingog Peninsula,' the Petitioner had until April 16, 2001 within which to file a 'Motion to Dismiss' under Section 1, Rule 16 of the 1997 Rules of Civil Procedure or file an Answer to the complaint. However, she opted to file, on April 10, 2001, a 'Motion to Dismiss,' instead of filing an Answer to the complaint. The filing of said motion suspended the period for her to file her Answer to the complaint. Until said motion is resolved by the Respondent Court with finality, it behooved the Respondent Court to suspend the hearings of the case on the merits. The Respondent Court, on April 19, 2001, issued its Order denying the 'Motion to Dismiss' of the Petitioner. Under Section 6, Rule 16 of the 1997 Rules of Civil Procedure, the Petitioner had the balance of the period provided for in Rule 11 of the said Rules but in no case less than five (5) days computed from service on her of the aforesaid Order of the Respondent Court within which to file her Answer to the complaint:

x x x

x x x

x x x

"The Petitioner may file a 'Motion for Reconsideration' of said Order conformably with Section 5, Rule 135 of the Rules of Court.

"Until then, a hearing of the case on its merits is impermissible and a travesty. However, even before the Petitioner could be served with a copy of the order of the Respondent Court (Annex 'L' of the Petition) denying her 'Motion to Dismiss,' the Respondent Court proceeded with the hearing of the case on its merits and received the evidence of the Private Respondent on May 2 and 3, 2001. As it was, Petitioner, through counsel, received only on May 3, 2001 the Order of the Respondent Court (Annex 'L' of the Petition) denying her 'Motion to Dismiss' and, on May 5, 2001, the Petitioner filed a 'Motion for Reconsideration' of the Order of the Respondent Court, dated April 19, 2001.

"What is so trite is that the Respondent Court violated its own Order dated February 27, 2001, declaring that the hearing of the case on its merits will ensue only after the Petitioner shall have filed her 'Answer' to the complaint.

"Equally worrisome is the fact that the Petitioner reminded the Respondent Court, in her 'Manifestation and Motion,' dated April 18, 2001, that the case was not ripe for hearing on its merits and prayed that