

FIRST DIVISION

[CA-G.R. CV No. 98298, June 02, 2014]

**LOLITA DE ERIT, PETITIONER-APPELLEE, VS. GEORGE DE ERIT,
RESPONDENT-APPELLEE. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

D E C I S I O N

BARRIOS, M. M., J.:

This is an appeal from the Decision dated 02 May 2011 of the Regional Trial Court, Branch 20, Imus, Cavite, the dispositive portion of which reads:

"x x x

WHEREFORE, judgment is hereby rendered declaring the marriage of Lolita Garcia-De Erit and George De. (sic) Erit as void ab initio. As a necessary consequence of this pronouncement, petitioner shall cease using the surname of her husband having lost the right over the same and so as to avoid a misimpression that she is still the legal wife of respondent.

Furnish a copy of this decision the Office of the Solicitor-General, the National Statistics Office and the Local Civil Registrar of Dasmarinas, Cavite so that the appropriate amendment and/or cancellation of the parties' marriage can be effected in its registry. Furnish, likewise, the parties and counsel.

SO ORDERED."

THE ANTECEDENT FACTS

Private parties were both nineteen (19) years of age when they met in 1984. Petitioner-appellee had just graduated high school at the time, while respondent-appellee was a high school drop-out who was then serving in church as a "sakristan." After a short courtship of about three (3) or four (4) months, respondent-appellee started living with petitioner-appellee at the home of the latter's mother. Petitioner-appellee eventually became pregnant and later gave birth to Ma. Etchiel de Erit on 01 November 1985. Pressured by petitioner-appellee's family and worried about what other people would say about their arrangement, the couple contracted their marriage on 27 April 1986 when they were just twenty-one (21) years of age. They then had two (2) more children, George de Erit who was born on 09 September 1987 and Ezekiel de Erit, born on 01 July 1989.

During the early years of their marriage, both private parties did not have jobs and depended on petitioner-appellee's mother and brothers for support. Petitioner-appellee knew about respondent-appellee's family background: they had a bad vice of gambling. She thought, however, that respondent-appellee was different because

he was a sakristan in church. Unfortunately, respondent-appellee did not want to look for work and spent time with friends, even when they were already married. When respondent-appellee did find a job, he would usually gamble away his earnings. He also had trouble maintaining his job as he usually got fired for being unable to report for work on time due to his late-night gambling activities. Even the money petitioner-appellee earned and left at home for the sustenance of the children was also utilized by respondent-appellee for gambling.

When petitioner-appellee would berate respondent-appellee, the latter would slap and hit petitioner-appellee that caused bruises on her face and body. At one time, their eldest daughter even witnessed respondent-appellee banging petitioner-appellee's head on the wall. Oftentimes, respondent-appellee would also hit the children when he was irritated or drunk. Petitioner-appellee endured the misery she suffered in the hands of her husband. She grew up without a father; and she did not want her children to suffer the same fate. But then, after a serious fight in 2002, they separated. In 2006, petitioner-appellee found out that respondent-appellee already had a new family.

On 27 September 2010, petitioner-appellee filed a petition before the court *a quo* to declare her marriage to respondent-appellee as null and void grounded on Article 36 of the Family Code of the Philippines. Petitioner presented the Psychological Evaluation Report accomplished by Julian Montano, Ph.D. which stated that petitioner-appellee was afflicted with a Dependent Personality Disorder while respondent-appellee had an Antisocial Personality Disorder. He thus found both of them to be psychologically incapacitated to perform the essential obligations of marriage.

Meanwhile, oppositor-appellant authorized the Office of the Provincial Prosecutor in Imus, Cavite to represent the State. In this connection, Provincial Prosecutor Rosa Villarin made a report to the court *a quo* that she cannot conclusively determine whether collusion existed because the private parties failed to appear before her during the scheduled investigation. She was present during the presentation of petitioner-appellee and Dr. Julian Montano, and was able to cross-examine both witnesses.

After trial, the court *a quo* declared the marriage as null and void *ab initio* in its assailed Decision dated 02 May 2011. Oppositor-appellant filed a Motion for Reconsideration, which was denied by the court *a quo* in an Order dated 15 August 2011. Oppositor-appellant thus filed the instant appeal, raising the following as errors:

I.

THIS (sic) COURT A QUO ERRED IN DECLARING THE MARRIAGE OF THE PARTIES NULL AND VOID EVEN IF THERE IS NO CONCLUSIVE PROOF OF NON-COLLUSION BETWEEN THE PARTIES.

II.

THIS (sic) HONORABLE COURT ERRED IN DECLARING THE MARRIAGE OF THE PARTIES NULL AND VOID EVEN IF THE TOTALITY OF THE EVIDENCE PRESENTED FAILED TO ESTABLISH