

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**DIANA M. BARCELONA,**  
*Petitioner,*

*-versus-*

**G.R. No. 130087  
September 24, 2003**

**COURT OF APPEALS and TADEO R.  
BENGZON,**  
*Respondents.*

X-----X

**DECISION**

**CARPIO, J.:**

**The Case**

The Petition for Review before us assails the 30 May 1997 Decision,<sup>[1]</sup> as well as the 7 August 1997 Resolution of the Court of Appeals in CA-G.R. SP No. 43393. The Court of Appeals affirmed the Order<sup>[2]</sup> dated 21 January 1997 of the Regional Trial Court of Quezon City, Branch 106, in Civil Case No. Q-95-24471. The Regional Trial Court refused to dismiss private respondent's Petition for Annulment of Marriage for failure to state a cause of action and for violation of Supreme Court Administrative Circular No. 04-94. The assailed Resolution denied petitioner's motion for reconsideration.

## **The Facts**

On 29 March 1995, private respondent Tadeo R. Bengzon (“Respondent Tadeo”) filed a Petition for Annulment of Marriage against petitioner Diana M. Barcelona (“petitioner Diana”). The case was docketed as Civil Case No. Q-95-23445 (“first petition”) before the Regional Trial Court of Quezon City, Branch 87.<sup>[3]</sup> On 9 May 1995, respondent Tadeo filed a Motion to Withdraw Petition which the trial court granted in its Order dated 7 June 1995.

On 21 July 1995, respondent Tadeo filed anew a Petition for Annulment of Marriage against petitioner Diana. This time, the case was docketed as Civil Case No. Q-95-24471 (“second petition”) before the Regional Trial Court of Quezon City, Branch 106 (“trial court”).

Petitioner Diana filed a Motion to Dismiss the second petition on two grounds. First, the second petition fails to state a cause of action. Second, it violates Supreme Court Administrative Circular No. 04-94 (“Circular No. 04-94”) on forum shopping. Respondent Tadeo opposed the Motion to which petitioner Diana filed Additional Arguments in Support of the Motion.

The trial court, through Judge Julieta P. Tabiolo, issued on 18 September 1996 an Order (“first order”) deferring resolution of the Motion until the parties ventilate their arguments in a hearing. Petitioner Diana filed a motion for reconsideration. However, the trial court, through Pairing Judge Rosalina L. Luna Pison, issued on 21 January 1997 an Order (“second order”) denying the motion. In denying the motion for reconsideration, Judge Pison explained that when the ground for dismissal is the complaint’s failure to state a cause of action, the trial court determines such fact solely from the petition itself. Judge Pison held that contrary to petitioner Diana’s claim, a perusal of the allegations in the petition shows that petitioner Diana has violated respondent Tadeo’s right, thus giving rise to a cause of action. Judge Pison also rejected petitioner Diana’s claim that respondent Tadeo is guilty of forum shopping in filing the second petition. Judge Pison explained that when respondent Tadeo filed the second petition, the first petition (Civil Case No. Q-95-23445) was no longer pending as it had been earlier dismissed without prejudice.

Petitioner Diana filed a Petition for Certiorari, Prohibition and Mandamus before the Court of Appeals assailing the trial court's first order deferring action on the Motion and the second order denying the motion for reconsideration on 14 February 1997. The Court of Appeals dismissed the petition and denied the motion for reconsideration.

Hence, this petition.

### **Ruling of the Court of Appeals**

The Court of Appeals agreed with petitioner Diana that the trial court in its first order erred in deferring action on the Motion until after a hearing on whether the complaint states a cause of action. Nevertheless, the Court of Appeals pointed out that the trial court's second order corrected the situation since in denying the motion for reconsideration, the trial court in effect denied the Motion. The appellate court agreed with the trial court that the allegations in the second petition state a cause of action sufficient to sustain a valid judgment if proven to be true.

The Court of Appeals also held that there was no violation of Circular No. 04-94. To determine the existence of forum shopping, the elements of *litis pendentia* must exist or a final judgment in one case must amount to *res judicata* in the other. In this case, there is no *litis pendentia* because respondent Tadeo had caused the dismissal without prejudice of the first petition before filing the second petition. Neither is there *res judicata* because there is no final decision on the merits.

### **Issues**

In her Memorandum, petitioner Diana raises the following issues:

- I. WHETHER THE ALLEGATIONS OF THE SECOND PETITION FOR ANNULMENT OF MARRIAGE SUFFICIENTLY STATE A CAUSE OF ACTION;
- II. WHETHER RESPONDENT TADEO VIOLATED SUPREME COURT ADMINISTRATIVE CIRCULAR NO. 04-94 IN

FAILING TO STATE THE FILING OF A PREVIOUS PETITION FOR ANNULMENT OF MARRIAGE, ITS TERMINATION AND STATUS.<sup>[4]</sup>

**The Court's Ruling**

The petition has no merit.

**Sufficiency of Cause of Action**

Petitioner Diana's contention that the second petition fails to state a cause of action is untenable. A cause of action is an act or omission of the defendant in violation of the legal right of the plaintiff.<sup>[5]</sup> A complaint states a cause of action when it contains three essential elements: (1) a right in favor of the plaintiff by whatever means and under whatever law it arises; (2) an obligation of the defendant to respect such right; and (3) the act or omission of the defendant violates the right of the plaintiff.<sup>[6]</sup>

We find the second petition sufficiently alleges a cause of action. The petition sought the declaration of nullity of the marriage based on Article 36 of the Family Code.<sup>[7]</sup> The petition alleged that respondent Tadeo and petitioner Diana were legally married at the Holy Cross Parish after a whirlwind courtship as shown by the marriage contract attached to the petition. The couple established their residence in Quezon City. The union begot five children, Ana Maria, born on<sup>[8]</sup> November 1964; Isabel, born on 28 October 1968; Ernesto Tadeo, born on 31 March 1970; Regina Rachelle born on 7 March 1974; and Cristina Maria born in February 1978. The petition further alleged that petitioner Diana was psychologically incapacitated at the time of the celebration of their marriage to comply with the essential obligations of marriage and such incapacity subsists up to the present time. The petition alleged the non-complied marital obligations in this manner:

X X X

5. During their marriage, they had frequent quarrels due to their varied upbringing. Respondent, coming from a rich family, was a disorganized housekeeper and was frequently

out of the house. She would go to her sister's house or would play tennis the whole day.

6. When the family had crisis due to several miscarriages suffered by respondent and the sickness of a child, respondent withdrew to herself and eventually refused to speak to her husband.
7. On November 1977, the respondent, who was five months pregnant with Cristina Maria and on the pretext of re-evaluating her feelings with petitioner, requested the latter to temporarily leave their conjugal dwelling. She further insisted that she wanted to feel a little freedom from petitioner's marital authority and influences. The petitioner argued that he could occupy another room in their conjugal dwelling to accommodate respondent's desire, but no amount of plea and explanation could dissuade her from demanding that the petitioner leave their conjugal dwelling.
8. In his desire to keep peace in the family and to safeguard the respondent's pregnancy, the petitioner was compelled to leave their conjugal dwelling and reside in a condominium located in Greenhills.
9. This separation resulted in complete estrangement between the petitioner and the respondent. The petitioner waived his right to the conjugal dwelling in respondent's favor through an extrajudicial dissolution of their conjugal partnership of gains. The separation in fact between the petitioner and the respondent still subsists to the present time.
10. The parties likewise agreed on the custody and support of the children. The extrajudicial dissolution of conjugal partnership of gains is hereto attached as Annex "C" and taken as an integral part hereof.
11. The respondent at the time of the celebration of their marriage was psychologically incapacitated to comply with the essential obligation of marriage and such incapacity subsisted up to and until the present time. Such incapacity

was conclusively found in the psychological examination conducted on the relationship between the petitioner and the respondent.

12. Under Article 36 of the Family Code, the marriage between the petitioner and the respondent is void ab initio and needs to be annulled. This petition is in accordance with Article 39 thereof.

X X X.<sup>[8]</sup>

The second petition states the ultimate facts on which respondent bases his claim in accordance with Section 1, Rule 8 of the old Rules of Court.<sup>[9]</sup> Ultimate facts refer to the principal, determinative, constitutive facts upon the existence of which the cause of action rests. The term does not refer to details of probative matter or particulars of evidence which establish the material elements.<sup>[10]</sup>

Petitioner Diana relies mainly<sup>[11]</sup> on the rulings in Santos vs. Court of Appeals<sup>[12]</sup> as well as in Republic vs. Court of Appeals and Molina.<sup>[13]</sup> Santos gave life to the phrase “psychological incapacity,” a novel provision in the Family Code, by defining the term in this wise:

“psychological incapacity” should refer to no less than mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been to confine the meaning of “psychological incapacity” to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage is celebrated.

Molina additionally provided procedural guidelines to assist the courts and the parties in cases for annulment of marriages grounded on psychological incapacity.<sup>[14]</sup>

Petitioner Diana argues that the second petition falls short of the guidelines set forth in Santos and Molina. Specifically, she contends that the second petition is defective because it fails to allege the root cause of the alleged psychological incapacity. The second petition also fails to state that the alleged psychological incapacity existed from the celebration of the marriage and that it is permanent or incurable. Further, the second petition is devoid of any reference of the grave nature of the illness to bring about the disability of the petitioner to assume the essential obligations of marriage. Lastly, the second petition did not even state the marital obligations which petitioner Diana allegedly failed to comply due to psychological incapacity.

Subsequent to Santos and Molina, the Court adopted the new Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (“new Rules”).<sup>[15]</sup> Specifically, Section 2, paragraph (d) of the new Rules provides:

SEC. 2. Petition for declaration of absolute nullity of void marriages —

X x x.

(d) What to allege. —A petition under Article 36 of the Family Code shall specifically allege the complete facts showing that either or both parties were psychologically incapacitated from complying with the essential marital obligations of marriage at the time of the celebration of marriage even if such incapacity becomes manifest only after its celebration.

The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged. (Emphasis supplied)

Procedural rules apply to actions pending and unresolved at the time of their passage.<sup>[16]</sup> The obvious effect of the new Rules providing that “expert opinion need not be alleged” in the petition is that there is also no need to allege the root cause of the psychological incapacity. Only experts in the fields of neurological and behavioral sciences are

competent to determine the root cause of psychological incapacity. Since the new Rules do not require the petition to allege expert opinion on the psychological incapacity, it follows that there is also no need to allege in the petition the root cause of the psychological incapacity.

Science continues to explore, examine and explain how our brains work, respond to and control the human body. Scientists still do not understand everything there is to know about the root causes of psychological disorders. The root causes of many psychological disorders are still unknown to science even as their outward, physical manifestations are evident. Hence, what the new Rules require the petition to allege are the physical manifestations indicative of psychological incapacity. Respondent Tadeo's second petition complies with this requirement.

The second petition states a cause of action since it states the legal right of respondent Tadeo, the correlative obligation of petitioner Diana, and the act or omission of petitioner Diana in violation of the legal right. In *Dulay vs. Court of Appeals*,<sup>[17]</sup> the Court held:

In determining whether the allegations of a complaint are sufficient to support a cause of action, it must be borne in mind that the complaint does not have to establish or allege the facts proving the existence of a cause of action at the outset; this will have to be done at the trial on the merits of the case (*Del Bros Hotel Corporation vs. CA, supra*). If the allegations in a complaint can furnish a sufficient basis by which the complaint can be maintained, the same should not be dismissed regardless of the defenses that may be assessed by the defendants (*Rava Dev't Corp. vs. CA, 211 SCRA 152 [1992]* citing *Consolidated Bank & Trust Corporation vs. Court of Appeals, 197 SCRA 663 [1991]*). To sustain a motion to dismiss for lack of cause of action, the complaint must show that the claim for relief does not exist rather than that a claim has been defectively stated or is ambiguous, indefinite or uncertain (*Azur vs. Provincial Board, 27 SCRA 50 [1969]*). (Emphasis supplied)

A defendant moving to dismiss a complaint on the ground of lack of cause of action hypothetically admits all the factual averments in the

complaint. 18 Given the hypothetically admitted facts in the second petition, the trial court could render judgment over the case.

### **Forum Shopping**

Similarly untenable is petitioner Diana's contention that the second petition's certificate of non-forum shopping which does not mention the filing of the first petition and its dismissal without prejudice violates Circular No. 04-94.<sup>[19]</sup> Petitioner Diana refers to this portion of Circular No. 04-94 —

1. The plaintiff, petitioner, applicant or principal party seeking relief in the complaint, petition, application or other initiatory pleading shall certify under oath in such original pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertakings: (a) he has not theretofore commenced any other action or proceeding involving the same issues in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (b) to the best of his knowledge, no action or proceeding is pending in the Supreme Court, the Court of Appeals, or any other tribunal or agency; (c) if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and (d) if he should thereafter learn that a similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or agency, he undertakes to report that fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed.<sup>[20]</sup>

Petitioner Diana points out that respondent Tadeo did not disclose in his certificate of non-forum shopping that he had previously commenced a similar action based on the same grounds with the same prayer for relief. The certificate of non-forum shopping should have stated the fact of termination of the first petition or its status.

The Court has consistently held that a certificate of non-forum shopping not attached to the petition or one belatedly filed or one

signed by counsel and not the party himself constitutes a violation of the requirement. Such violation can result in the dismissal of the complaint or petition. However, the Court has also previously held that the rule of substantial compliance applies to the contents of the certification.<sup>[21]</sup>

In *Roxas vs. Court of Appeals*,<sup>[22]</sup> the Court squarely addressed the issue of whether the omission of a statement on the prior filing and dismissal of a case involving the same parties and issues merits dismissal of the petition. In *Roxas*, the Court ruled:

An omission in the certificate of non-forum shopping about any event that would not constitute *res judicata* and *litis pendentia* as in the case at bar, is not fatal as to merit the dismissal and nullification of the entire proceedings considering that the evils sought to be prevented by the said certificate are not present. It is in this light that we ruled in *Maricalum Mining Corp. vs. National Labor Relations Commission* that a liberal interpretation of Supreme Court Circular No. 04-94 on non-forum shopping would be more in keeping with the objectives of procedural rules which is to “secure a just, speedy and inexpensive disposition of every action and proceeding.”

The dismissal of the first petition precluded the eventuality of *litis pendentia*. The first petition’s dismissal did not also amount to *res judicata*. Thus, there is no need to state in the certificate of non-forum shopping in the second petition (Civil Case No. Q-95-24471) about the prior filing and dismissal of the first petition (Civil Case No. Q-95-23445).

The first petition was dismissed without prejudice at the instance of respondent Tadeo to keep the peace between him and his grown up children. The dismissal happened before service of answer or any responsive pleading. Clearly, there is no *litis pendentia* since respondent Tadeo had already withdrawn and caused the dismissal of the first petition when he subsequently filed the second petition. Neither is there *res judicata* because the dismissal order was not a decision on the merits but a dismissal “without prejudice.”

Circular No. 04-94,<sup>[23]</sup> now Section 5, Rule 7 of the 1997 Rules of Civil Procedure, must be interpreted and applied to achieve its purpose. The Supreme Court promulgated the Circular to promote and facilitate the orderly administration of justice. The Circular should not be interpreted with such absolute literalness as to subvert its own ultimate and legitimate objective or the goal of all rules of procedure — which is to achieve substantial justice as expeditiously as possible.<sup>[24]</sup>

A final word. We are ever mindful of the principle that marriage is an inviolable social institution and the foundation of the family that the state cherishes and protects.<sup>[25]</sup> In rendering this Decision, this Court is not prejudging the main issue of whether the marriage is void based on Article 36 of the Family Code. The trial court must resolve this issue after trial on the merits where each party can present evidence to prove their respective allegations and defenses. We are merely holding that, based on the allegations in the second petition, the petition sufficiently alleges a cause of action and does not violate the rule on forum shopping. Thus, the second petition is not subject to attack by a motion to dismiss on these grounds.

**WHEREFORE**, we **DENY** the petition. The assailed Decision dated 30 May 1997 as well as the Resolution dated 7 August 1997 of the Court of Appeals in CA-G.R. SP No. 43393 is **AFFIRMED**. Costs against petitioner.

**SO ORDERED.**

**Davide, Jr., C.J., Vitug and Ynares-Santiago, JJ., concur.**  
**Azcuna, J., is on leave.**

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[1] Penned by Associate Justice Delilah Vidallon-Magtolis, with Associate Justices Cancio C. Garcia, and Artemio G. Tuquero concurring.

[2] Penned by Pairing Judge Rosalina L. Luna Pison.

[3] Presided by Judge Elsie Ligot-Telan.

[4] Rollo, pp. 243–244.

[5] Far East Bank and Trust Co. vs. Court of Appeals, G.R. No. 135548, 29 September 2000, 341 SCRA 486.

[6] Relucio vs. Lopez, G.R. No. 138497, 16 January 2002, 373 SCRA 578.

- [7] Article 36 of the Family Code provides: “A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.”
- [8] Rollo, pp. 54–55.
- [9] Section 1. In general. — Every pleading shall contain in a methodical and logical form, a plain, concise and direct statement of the ultimate facts on which the party pleading relies for his claim or defense, as the case may be, omitting the statement of mere evidentiary facts.
- [10] OSCAR M. HERRERA, Remedial Law 1, 1999 Ed.
- [11] Petitioner Diana relied on Santos for her motion to dismiss in the trial court and her certiorari petition in the appellate court. In her motion to reconsider the decision of the Court of Appeals, she cited Molina.
- [12] 310 Phil. 21 (1995).
- [13] G.R. No. 108763, 13 February 1997, 268 SCRA 198.
- [14] Pesca vs. Pesca, G.R. No. 136921, 17 April 2001, 356 SCRA 588.
- [15] Effective 15 March 2003.
- [16] Zulueta vs. Asia Brewery, G.R. No. 138137, 8 March 2001, 354 SCRA 100; Presidential Commission on Good Government vs. Desierto, G.R. No. 140358, 8 December 2000, 347 SCRA 561.
- [17] 313 Phil. 8 (1995).
- [18] Sta. Clara Homeowners’ Association vs. Gaston, G.R. No. 141961, 23 January 2002, 374 SCRA 396.
- [19] Now Section 5, Rule 7 of the 1997 Rules of Civil Procedure.
- [20] Emphasis supplied by petitioner.
- [21] MC Engineering, Inc. vs. NLRC, 412 Phil. 614 (2001).
- [22] 415 Phil. 430 (2001).
- [23] Preceded by Circular No. 28-91.
- [24] See note 22.
- [25] See Section 2, Article XV, 1987 Constitution.