



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

Republic of the Philippines
Supreme Court
Manila



EN BANC

**LUCILA DAVID and THE HEIRS
OF RENE F. AGUAS, namely:
PRINCESS LUREN D. AGUAS,
DANICA LANE D. AGUAS, SEAN
PATRICK D. AGUAS, SEAN
MICHAEL D. AGUAS and
SAMANTHA* D. AGUAS,**

Petitioners,

G.R. No. 241036

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,**
CAGUIOA,
GISMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
ROSARIO, JJ.

- versus -

CHERRY S. CALILUNG,

Respondent.

Promulgated:

January 26, 2021

X-----X

DECISION

DELOS SANTOS, J.:

This is a direct recourse to the Court, *via* a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, from the Orders dated November 24, 2017² and June 13, 2018³ of the Regional Trial Court (RTC)

* Also referred to as "Samantha Mari" in some parts of the *rollo*.

** On official business.

¹ *Rollo*, pp. 17-33.

² *Id.* at 34-36.

³ *Id.* at 37-39.

of Angeles City, Branch 60, in Civil Case No. R-ANG-17-03316-CV, dismissing for lack of jurisdiction the Petition for Declaration of Nullity of Marriage of Rene F. Aguas (Rene) and Cherry S. Calilung (Cherry) filed by petitioners Lucila David (Lucila) and her children, namely: Princess Luren D. Aguas, Danica Lane D. Aguas, Sean Patrick D. Aguas, Sean Michael D. Aguas, and Samantha D. Aguas (collectively, the Aguas heirs).

The Facts

Lucila married Rene on November 24, 1981 in Mabalacat, Pampanga. They begot five children, the Aguas heirs.

On December 10, 2003, Rene filed a petition to declare his marriage with Lucila null and void on the ground of the latter's psychological incapacity.⁴ In the said petition, Rene declared as conjugal properties a parcel of land located in Sunset Valley Estate, Angeles City, consisting of 500 square meters (sq m) and covered by Transfer Certificate of Title (TCT) No. 90811 in the names of Rene and Lucila,⁵ and the merchandise inventory in Rene's pawnshop and ready-to-wear sales business.⁶

In a Decision⁷ dated December 22, 2005 in Civil Case No. 11284, Rene and Lucila's marriage was judicially declared null and void on the ground of psychological incapacity (2005 Nullity Decision). The same Decision also ordered for the division of the conjugal properties consisting of the lot covered by TCT No. 90811 and the house standing thereon (Sunset Valley Estate), as well as for the support and delivery of presumptive legitimes of their common children. However, the 2005 Nullity Decision, as well as its certificate of finality was not registered with the Office of the Registry of Deeds of Angeles City, thus, no annotation of the said Decision on TCT No. 90811 was ever made. Also, actual partition of the Sunset Valley Estate had not been undertaken and the presumptive legitimes of the Aguas heirs were not delivered.

On October 7, 2006, Rene contracted a second marriage with Cherry.⁸

On November 17, 2015, Rene died intestate.

On May 24, 2017, Cherry filed a petition for the settlement of the intestate estate of Rene docketed as Special Proceeding Case No. R-ANG-17-01449-SP entitled, "*In the Matter of the Petition for Letters of*

⁴ Id. at 91.

⁵ Id. at 103-108.

⁶ Id. at 93.

⁷ Id. at 95-102.

⁸ Id. at 110.

Administration and Settlement of Intestate Estate of Rene F. Aguas, Cherry Calilung-Aguas, Petitioner” (Settlement Proceeding). The Settlement Proceeding was raffled to RTC-Angeles City, Branch 56 (Branch 56).⁹ On the other hand, the Aguas heirs filed a Comment/Opposition¹⁰ dated October 2, 2017 in the Settlement Proceeding, alleging, among others, that they are the legitimate children of the late Rene with Lucila; that the marriage of Rene and Lucila was dissolved, but there was no liquidation or separation of the properties acquired during their marriage in accordance with Article 102 of the Family Code; that Article 52 of the Family Code requires that the judgment of absolute nullity of marriage, the partition and distribution of the properties of the spouses and the delivery of the children’s presumptive legitimes shall be recorded in the appropriate civil registry and registries of properties; that the failure to comply with the requirements of Article 52 of the Family Code would have the effect of nullifying the subsequent marriage between Rene and Cherry pursuant to Article 53 of the same Code; and that when Rene married Cherry, the properties of Rene acquired during the previous marriage should not have been included in their property regime pursuant to Article 92 of the Family Code.¹¹

On November 3, 2017, Lucila and the Aguas heirs (petitioners) filed with the RTC of Angeles City a petition for Declaration of Nullity of Marriage¹² of Rene and Cherry (RTC petition) on the ground that the said subsequent marriage was entered into without complying the provisions in Articles 52 and 53 of the Family Code on the partition and distribution of the properties of the previous marriage and the delivery of the presumptive legitimes.

The RTC petition was raffled to RTC-Angeles City, Branch 59 (Branch 59), the designated Family Court.

On November 10, 2017, Branch 59 issued an Order¹³ (Transmittal Order) directing the transmittal of the case record to the Office of the Clerk of Court for re-raffle among courts of general jurisdiction. Branch 59 held that the RTC petition involves a collateral attack on the validity of marriage of Rene and Cherry which does not fall within the jurisdiction of a Family Court, to wit:

Considering that the instant Petition involves a collateral attack on the validity of marriage of [Cherry] and [Rene], it does not fall within the jurisdiction of a [F]amily [C]ourt.

⁹ Respondent’s Comment to the Petition, id. at 245.

¹⁰ Id. at 52-59.

¹¹ See Aguas heirs’ Comment/Opposition to the petition for the settlement of the intestate estate of Rene, id. at 52-53.

¹² Id. at 70-75.

¹³ Id. at 113.

As per deliberations of the Supreme Court Committee on Revision of Rules:

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of nullity of void marriages. Such petition cannot be filed by compulsory heirs of the spouse or the State. The Committee is of the belief that they do not have a legal right to file the petition. **Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of the deceased spouse filed in the regular courts.** On the other hand, the concern of the State is to preserve marriage and not to seek dissolution.

IN LIGHT OF THE FOREGOING, the Branch Clerk of Court is hereby directed to transmit the record of this case to the Office of the Clerk of Court, Regional Trial Court of Angeles City for re-raffle among courts of general jurisdiction.¹⁴ (Citations omitted; italics, emphasis and underscoring in the original)

In view of the Transmittal Order of Branch 59, the RTC petition was re-raffled to RTC-Angeles City, Branch 60 (Branch 60).

On November 24, 2017, Branch 60 issued the first assailed Order which dismissed the re-raffled RTC petition on the ground of lack of jurisdiction.


Branch 60 held that the RTC petition is hinged upon the issue of validity of marriage emanating from Articles 52 and 53 of the Family Code. Pursuant to Section 5 of Republic Act (R.A.) No. 8369, otherwise known as the Family Courts Act of 1997, it is the Family Court which has jurisdiction over the case and not Branch 60 which is no longer a Family Court. In addition, citing A.M. No. 02-11-10-SC¹⁵ and the ruling in *Enrico v. Heirs of Spouses Medinaceli*,¹⁶ Branch 60 ruled that the petitioners have no cause of action to file the petition for declaration of nullity of marriage since it is the sole right of the husband or the wife to file the said petition involving marriages under the Family Code of the Philippines. Nonetheless, the compulsory or intestate heirs can still question the validity of the marriage of the spouses, not in a proceeding for declaration of nullity, but upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. In the end, Branch 60 decreed as follows:

In view of the foregoing, the petition filed by the petitioners Lucila David and the Heirs of Rene Aguas namely: Princess Luren D. Aguas, Danica Lane D. Aguas, Sean Patrick D. Aguas, Sean Michael D. Aguas

¹⁴ Id.

¹⁵ Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, dated March 4, 2003.

¹⁶ 560 Phil. 673 (2007).



and Samantha Mari S. Aguas against Cherry Calilung, is hereby dismissed for lack of jurisdiction.

SO ORDERED.¹⁷

On December 5, 2017, petitioners received both the Transmittal Order of Branch 59 and the first assailed Order of Branch 60.

Thereafter, petitioners filed a motion for reconsideration of the first assailed Order of Branch 60, praying, in the main, that the case be referred back to the Family Court instead of dismissing the same.

On June 13, 2018, Branch 60 issued the second assailed Order¹⁸ denying the petitioners' motion for reconsideration. It explained that the Transmittal Order of Branch 59 has already become final after the petitioners failed to file a motion for reconsideration thereto and that to refer back the case to the said Family Court would effectively disregard the aforesaid Order of a co-equal branch which is already final and executory. Branch 60 also maintained its position that, according to the rules, only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriage.

Aggrieved, petitioners seek direct recourse with the Court through the present Petition for Review on *Certiorari* under Rule 45 of the Rules of Court on pure questions of law.

The petitioners raised the following grounds to support their petition:

- I. THE ABRUPT DISMISSAL BY THE LOWER COURT (RTC BRANCH 60) OF THE PETITION FOR DECLARATION OF NULLITY [OF MARRIAGE] WITHOUT WAITING FOR THE PETITIONERS TO EXERCISE THEIR RIGHT TO FILE A MOTION FOR RECONSIDERATION ON THE ORDER OF TRANSMITTAL ISSUED BY RTC BRANCH 59 TO HAVE ELAPSED IS UNPROCEDURAL.
- II. RTC BRANCH 60 ERRED IN HOLDING THAT THE REFERRAL OF THE CASE BACK TO THE FAMILY COURT IS AN IMPOSITION UPON A CO-EQUAL BRANCH.
- III. THE LOWER COURT COMMITTED MANIFEST ERROR OF LAW AND ACTED IN A MANNER CONTRARY TO LAW AND ESTABLISHED JURISPRUDENCE IN DISMISSING THE PETITION FOR NULLITY ON THE GROUND OF LACK OF JURISDICTION.¹⁹

¹⁷ *Rollo*, p. 36.

¹⁸ *Supra* note 3.

¹⁹ *Rollo*, p. 142.

The Issues

The issues which confront the Court in the instant case may be summarized as follows:

1. Whether it is Branch 59 or Branch 60 which has jurisdiction over the RTC petition for declaration of nullity of marriage;
2. Whether or not Branch 60 erred in dismissing the RTC petition for nullity of marriage; and
3. Whether or not the petitioners are the real parties-in-interest to file the subject RTC petition for nullity of marriage.

The Court's Ruling

The Court denies the petition.

The issues involved in the instant petition, being interrelated, are discussed jointly.

The petition for declaration of nullity of marriage is under the jurisdiction of the RTC branch designated as Family Court pursuant to R.A. No. 8369 when there is one in the area.

It is a well-entrenched doctrine that the jurisdiction of a tribunal over the subject matter of an action is conferred by law²⁰ and that the same is determined by the statute in force at the time of the commencement of the action.²¹

Pertinent to the instant case is R.A. No. 8369, otherwise known as the Family Courts Act of 1997,²² which took effect on November 23, 1997.²³ The said law, particularly Sections 3 and 5 thereof, created Family Courts and grant unto them exclusive jurisdiction over complaints for declaration of nullity of marriage, among others, to wit:

SEC. 3. *Establishment of Family Courts.* – There shall be established a Family Court in every province and city in the country. In

²⁰ *Municipality of Pateros v. Court of Appeals*, 607 Phil. 104, 116 (2009).

²¹ *Taglay v. Judge Daray*, 693 Phil. 45, 54 (2012).

²² Approved on October 28, 1997.

²³ *People v. Clores, Jr.*, 475 Phil. 99, 112 (2004).

case where the city is the capital of the province, the Family Court shall be established in the municipality which has the highest population.

x x x x

SEC. 5. *Jurisdiction of Family Courts.* – The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

a) Criminal cases where one or more of the accused is below eighteen (18) years of age but not less than nine (9) years of age or where one or more of the victims is a minor at the time of the commission of the offense: *Provided*, That if the minor is found guilty, the court shall promulgate sentence and ascertain any civil liability which the accused may have incurred.

The sentence, however, shall be suspended without need of application pursuant to Presidential Decree No. 603, otherwise known as the “Child and Youth Welfare Code;”

b) Petitions for guardianship, custody of children, [*habeas corpus*] in relation to the latter;

c) Petitions for adoption of children and the revocation thereof;

d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains;

e) Petitions for support and/or acknowledgment;

f) Summary judicial proceedings brought under the provisions of Executive Order No. 209, otherwise known as the “*Family Code of the Philippines*;”

g) Petitions for declaration of status of children as abandoned, dependent or neglected children, petitions for voluntary or involuntary commitment of children; the suspension, termination, or restoration of parental authority and other cases cognizable under Presidential Decree No. 603, Executive Order No. 56, (Series of 1986), and other related laws;

h) Petitions for the constitution of the family home;

i) Cases against minors cognizable under the Dangerous Drugs Act, as amended;

j) Violations of Republic Act No. 7610, otherwise known as the “*Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act*,” as amended by Republic Act No. 7658; and

k) Cases of domestic violence against:

1) Women – which are acts of [gender-based] violence that results, or are likely to result in physical, sexual

or psychological harm or suffering to women; and other forms of physical abuse such as battering or threats and coercion which violate a woman's personhood, integrity and freedom movement; and

- 2) Children – which include the commission of all forms of abuse, neglect, cruelty, exploitation, violence, and discrimination and all other conditions prejudicial to their development.

If an act constitutes a criminal offense, the accused or batterer shall be subject to criminal proceedings and the corresponding penalties.

If any question involving any of the above matters should arise as an incident in any case pending in the regular courts, said incident shall be determined in that court. (Emphasis supplied)


Equally important to note is Section 17 (Transitory Provisions) of R.A. No. 8369, which provides:

SEC. 17. *Transitory Provisions.* – Pending the establishment of such Family Courts, the Supreme Court shall designate from among the branches of the Regional Trial Court at least one Family Court in each of the cities of Manila, Quezon, Pasay, Caloocan, Makati, Pasig, Mandaluyong, Muntinlupa, Laoag, Baguio, Santiago, Dagupan, Olongapo, Cabanatuan, San Jose, Angeles, Cavite, Batangas, Lucena, Naga, Iriga, Legazpi, Roxas, Iloilo, Bacolod, Dumaguete, Tacloban, Cebu, Mandaue, Tagbilaran, Surigao, Butuan, Cagayan de Oro, Davao, General Santos, Oroquieta, Ozamis, Dipolog, Zamboanga, Pagadian, Iligan, and in such other places as the Supreme Court may deem necessary.

Additional cases other than those provided in Sec. 5 may be assigned to the Family Courts when their dockets permit: *Provided*, That such additional cases shall not be heard on the same day family cases are heard.

In areas where there are no Family Courts, the cases referred to in Section 5 of this Act shall be adjudicated by the Regional Trial Court. (Emphasis supplied)

As can be observed in the Transitory Provisions, the law mandated the Court to designate from among the branches of the RTC, in the cities mentioned therein, at least one Family Court “pending the establishment of Family Courts.” It may also be underscored that under the second paragraph of the Transitory Provisions, the RTC branches to be designated by the Court are referred to as *Family Courts*, and by that, it means that they exercise exclusive jurisdiction over family cases enumerated in Section 5 of R.A. No. 8369 (family cases). Accordingly, though temporary in nature, these specific branches exercise exclusive jurisdiction over complaints for declaration of nullity of marriage, among other family cases, to the exclusion of other RTC branches and courts.



It might not be amiss to stress that the Congress was unquestionably authorized to confer jurisdiction over family cases to RTC branches to be designated by the Court as Family Courts pending the establishment of the regular Family Courts, independent and distinct from the RTCs. This is pursuant to the Congress' constitutionally-established power "to define, prescribe, and apportion the jurisdiction of various courts" under Article VIII, Section 2²⁴ of the 1987 Constitution subject only to the limitations that: first, the Congress cannot diminish the jurisdiction of the Court enumerated in Section 5, Article VIII of the 1987 Constitution;²⁵ and second, the Congress cannot increase the appellate jurisdiction of the Court without its advice and concurrence.²⁶

A distinction must be made, though, between areas with designated Family Courts and those where there are none. As provided in the third paragraph of Transitory Provisions, R.A. No. 8369 grants exclusive jurisdiction over family cases to the RTC in general in areas where there are no Family Courts.

Branch 59 was designated as Family Court to exercise exclusive jurisdiction over family cases.

²⁴ CONSTITUTION, Art. VIII, Sec. 2, provides:

SEC. 2. The Congress shall have the power to define, prescribe, and apportion the jurisdiction of various courts but may not deprive the Supreme Court of its jurisdiction over cases enumerated in Section 5 hereof.

No law shall be passed reorganizing the Judiciary when it undermines the security of tenure of its Members.

²⁵ Id. at Sec. 5, provides:

SEC. 5. The Supreme Court shall have the following powers:

- (1) Exercise original jurisdiction over cases affecting ambassadors, other public ministers and consuls, and over petitions for *certiorari*, prohibition, *mandamus*, *quo warranto*, and *habeas corpus*.
- (2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:
 - (a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decree, proclamation, order, instruction, ordinance, or regulation is in question.
 - (b) All cases involving the legality of any tax, impost, assessment, or toll, or any penalty imposed in relation thereto.
 - (c) All cases in which the jurisdiction of any lower court is in issue.
 - (d) All criminal cases in which the penalty imposed is *reclusion perpetua* or higher.
 - (e) All cases in which only an error or question of law is involved.
- (3) Assign temporarily judges of lower courts to other stations as public interest may require. Such temporary assignment shall not exceed six months without the consent of the judge concerned.
- (4) Order a change of venue or place of trial to avoid a miscarriage of justice.
- (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.
- (6) Appoint all officials and employees of the Judiciary in accordance with the Civil Service Law.

²⁶ Id. at Art. VI, Sec. 30, provides:

SEC. 30. No law shall be passed increasing the appellate jurisdiction of the Supreme Court as provided in this Constitution without its advice and concurrence.

In an *En Banc* Resolution in A.M. No. 99-11-07-SC dated February 1, 2000 (Re: Designation of Certain Branches of the RTC as Family Courts), the Court designated specific RTC branches as Family Courts to try and hear family cases to the exclusion of other courts or tribunals. Among these RTC branches is Branch 60 of RTC-Angeles City. Thus:

The Court Resolved to APPROVE the draft resolution designating certain branches of the Regional Trial Court as Family Courts, to wit:

DESIGNATION OF CERTAIN BRANCHES OF THE
REGIONAL TRIAL COURTS AS FAMILY COURTS

To implement the provisions of Section 17 of Republic Act No. 8369, otherwise known as the Family Courts Act of 1997," and in the interest of the expeditious, effective and efficient administration of justice, and subject to the guidelines herein set forth, the following branches of the Regional Trial Courts are hereby designated as Family Courts which shall exclusively try and decide the cases subject of Section 5 of said Act:

X X X X

THIRD JUDICIAL REGION

X X X X

Angeles City

(31) Br. 60, Judge Ofelia T. Pinto

On September 10, 2008, however, the Court issued a Resolution in A.M. No. 08-8-460-RTC revoking the designation of Branch 60 as special court for family court cases and designated Branch 59 as special court to try and decide family court cases in lieu of Branch 60, to wit:

A.M. No. 08-8-460-RTC (*Re: Partial Report on the Judicial Audit of Pending Cases and Special Audit of Family Court Cases in the Regional Trial Court, Branch 60, Angeles City*). - The Court resolves:

- (1) To NOTE the aforesaid partial report;
- (2) To REVOKE the designation of the Regional Trial Court, Branch 60, Angeles City, Pampanga presided over by Judge Ofelia Tuazon Pinto as special court for family court cases, effective immediately from receipt of notice;

X X X X

- (4) To PREVENTIVELY SUSPEND Judge Ofelia Tuazon Pinto, Regional Trial Court, Branch 60, Angeles City, and Officer-In-Charge Raquel L.D. Clarin, the same court, from office effective immediately from receipt of notice;

(5) To DESIGNATE the Regional Trial Court, Branch 59, Angeles City, presided over by Executive Judge Angelita T. Paras-Quiambao, as special court to try and decide family court cases in lieu of Branch 60, same court[.]

Accordingly, when the Court **designated** Branch 59 **in lieu** of Branch 60 as special Family Court, no other meaning can be had, but that Branch 59 **replaces** Branch 60 as a designated Family Court in implementation of the Transitory Provisions of R.A. No. 8369, which shall exercise exclusive jurisdiction over family cases.

Branch 59 has jurisdiction over the subject matter of the RTC petition.

Jurisdiction is defined as the power and authority of the courts to hear, try, and decide cases. What determines the jurisdiction of the court is the nature of the action pleaded as appearing from the allegations in the complaint. The averments and the character of the relief sought are the ones to be consulted.²⁷ Once vested by the allegations in the complaint, jurisdiction also remains vested, irrespective of whether or not the plaintiff is entitled to recover upon all or some of the claims asserted therein.²⁸

In the instant case, the RTC petition was captioned as Petition for Declaration of Nullity of Marriage under Article 53 in relation to Article 52 of the Family Code of the Philippines. More importantly, in their allegations, the petitioners mainly and directly sought for the declaration of nullity of marriage of Rene and Cherry, to wit:

4. Lucila and [Rene] entered into a marital union on November 24, 1981 in Mabacat, Pampanga.

x x x x

5. Out of their marital union, Lucila and Rene begotten five children – Princess, Danica, Patrick, Michael and Samantha x x x.
6. On [December 10, 2003], Rene filed a Petition for Nullity of Marriage against Lucila before the [RTC], Branch 60 of Angeles City x x x. In the said Petition for Nullity, therein Petitioner Rene declared conjugal properties as follows:

That the parties have amassed between them a parcel of land located at Sunset [Valley] Estate, Angeles City consisting of five hundred square meters, more or less. This is aside from the assets in business consisting mainly of merchandise inventory in [Rene's] pawnshop and RTW sales business.

²⁷ *Anama v. Citibank, N.A.*, 822 Phil. 630, 639 (2017).

²⁸ *Ku v. RCBC Securities, Inc.*, G.R. No. 219491, October 17, 2018.

x x x x

7. The subject property is covered by [TCT] No. 045-90811 x x x and was indeed registered in the names of Spouses Rene F. Aguas and Lucila Aguas.
8. Without receiving any notice from the Court regarding the Petition for Nullity, Lucila learned sometime in the year 2007 that a Decision dated [December 22, 2005] has already been rendered by the RTC granting the said [Petition for Nullity] filed by Rene. x x x

x x x x

9. The Decision above-mentioned, as well as its Certificate of Finality, was not registered with the Office of Registry of Deeds of Angeles City where the subject property is located. Thus, no annotation of said Decision on the title covering the subject property has ever been made.

x x x x

10. On [October 7, 2006], Rene and Cherry entered into a marital union without the partition and liquidation of the subject property, and proper delivery of the prospective legitimes of Princess, Danica, Michael, Patrick and Samantha, who are children of the first marriage.

x x x x

11. On [November 17, 2015], Rene died intestate.

x x x x

12. Due to the failure of Rene and Cherry to comply with the express provision of the law, the subsequent marriage contracted by the deceased Rene with Cherry is null and void pursuant to Article 53 in relation to Article 52 of the Family Code[.]²⁹

As can be observed from the allegations in the RTC petition, the same was precisely filed to annul or nullify the marriage of Rene and Cherry. Otherwise stated, the petition is filed in a direct proceeding impugning the validity of a marriage of the aforesaid spouses. Obviously, the subject petition is a complaint for declaration of nullity of marriage referred to in Section 5(d)³⁰ of R.A. No. 8369, which, pursuant to Section 17 of R.A. No. 8369 in relation to A.M. No. 99-11-07-SC and A.M. No. 08-08-460-RTC, falls under the jurisdiction of Branch 59.

²⁹ Supra note 12, at 71-73.

³⁰ SEC. 5. *Jurisdiction of Family Courts.* – The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

x x x x

d) Complaints for annulment of marriage, declaration of nullity of marriage and those relating to marital status and property relations of husband and wife or those living together under different status and agreements, and petitions for dissolution of conjugal partnership of gains[.]

Branch 59 improperly ordered for the re-raffle of the RTC petition to the regular courts.

Branch 59 ruled in its Transmittal Order that it has no jurisdiction over the RTC petition because the same was not filed by an aggrieved or injured spouse, who are the only parties who can file a petition for declaration of nullity of void marriages pursuant to A.M. No. 02-11-10-SC. It added that the petition was filed by the heirs of Rene which constitutes a collateral attack on the validity of his marriage with Cherry.

The above reasoning is misplaced.

If, on its face, the RTC petition was not filed by real party-in-interest, as Branch 59 wanted to point out, the proper ground for dismissal should be failure to state a cause of action and not lack of jurisdiction. One having no material interest to protect cannot invoke the jurisdiction of the court as plaintiff in an action. When the plaintiff is not the real party-in-interest, the case is dismissible on the ground of lack of cause of action³¹ or of failure to state a cause of action, as the case may be.³² Otherwise stated, Branch 59 certainly has jurisdiction over the subject matter of the action filed by the petitioners, but it could dismiss the same for failure to state a cause of action, though only upon proper motion by the party.³³

Moreover, there is no collateral attack on the validity of marriage of Rene and Cherry to speak of in this case. A collateral attack is defined as an attack, made as an incident in another action, whose purpose is to obtain a different relief.³⁴ Accordingly, there is a collateral attack on the validity of marriage when, as an incident in a pending action not precisely brought to nullify the marriage, an attack is made impugning the validity of marriage to obtain a different affirmative relief or by way of defense, even though there is no final judgment yet in a direct proceeding declaring the marriage annulled or nullified. That is not the case here. Petitioners did not assail the validity of marriage of Rene and Cherry as an incident to an action to obtain a relief other than the declaration of nullity of marriage. The RTC petition was precisely filed by the petitioners to nullify the marriage of Rene and Cherry, hence, a direct action impugning the validity of marriage.

³¹ *Goco v. Court of Appeals*, 631 Phil. 394, 403 (2010).

³² See *Pacaña-Contreras v. Rovila Water Supply, Inc.*, 722 Phil. 460, 477-478 (2013), on the difference between dismissal on the ground of failure to state cause of action and lack of cause of action.

³³ RULES OF COURT, Rule 9, Sec. 1, provides for only four instances when the court may *motu proprio* dismiss the claim, namely: (a) lack of jurisdiction over the subject matter; (b) *litis pendentia*; (c) *res judicata*; and (d) prescription of action.

³⁴ *Pacasum, Sr. v. Atty. Zamoranos*, 807 Phil. 783, 790 (2017).

The foregoing considered, it was improper for Branch 59 to order for the re-raffle of the RTC petition to the other branches of Angeles RTC. Nonetheless, the erroneous Transmittal Order of Branch 59 is binding upon the petitioners as the same has long attained finality, there being no motion for reconsideration, appeal, or *certiorari* petition filed.

Branch 60 properly dismissed the RTC petition on the ground of lack of jurisdiction.

As explained in the preceding discussions, jurisdiction over complaints for declaration of nullity of marriage and other family cases fall under the exclusive jurisdiction of Family Courts when there is one in the area. Considering that Branch 59, a designated Family Court, exists in Angeles City, Branch 60, therefore, does not have jurisdiction over the subject RTC petition. Accordingly, without jurisdiction over the subject matter, Branch 60 has no other recourse, but to dismiss the RTC petition. It is worthy to note that **when a court has no jurisdiction over the subject matter, the only power it has is to dismiss the action, as any act it performs without jurisdiction is null and void, and without any binding legal effects.**³⁵ Consequently, Branch 60 cannot order the transfer of the RTC petition to Branch 59 as it lacks authority to act on the re-raffled RTC petition nor on the motion for reconsideration filed by petitioners subsequent to the dismissal thereof. On this score, the Court affirms the dismissal order of Branch 60.

The petitioners are allowed to file anew a petition for declaration of nullity of marriage without violating rules on res judicata. The same, however, is not warranted in the present case.

In the ordinary course of law and procedure, the petitioners' sensible action to pursue their case is to file anew a complaint for declaration of nullity of marriage before a designated Family Court, without violating the rules on *res judicata*.

There is *res judicata* where the following four essential conditions concur, viz.: (1) there must be a final judgment or order; (2) the court rendering it must have jurisdiction over the subject matter and the parties; (3) it must be a judgment or order on the merits; and (4) there must be,

³⁵ *Bilag v. Ay-Ay*, 809 Phil. 236, 243 (2017).

between the two cases, identity of parties, subject matter and causes of action.³⁶

Anent the third element, **a judgment may be considered as one rendered on the merits when it determines the rights and liabilities of the parties based on the disclosed facts**, irrespective of formal, technical or dilatory objections; or when the judgment is rendered after a **determination of which party is right, as distinguished from a judgment rendered upon some preliminary or formal or merely technical point**. It is not required that a trial, actual hearing, or argument on the facts of the case ensued, for as long as the parties had the full legal opportunity to be heard on their respective claims and contentions.³⁷

In this case, the Orders of Branch 59 and Branch 60 do not constitute *res judicata* as the same are not rendered on the merits of the RTC petition. It did not contain legal declaration of the parties' rights and liabilities nor was there a determination on whether or not the petitioners were right in asking for the nullity of Rene and Cherry's marriage. In other words, the final order did not resolve substantial issues. Moreover, in certain cases, the Court has disregarded *res judicata* in the broader interest of justice, as well as when the circumstances of the case justify the relaxation of the said rule and declared that a party is not barred from filing a subsequent case of similar nature.³⁸

The foregoing notwithstanding, the Court is of the opinion that to simply uphold the dismissal orders of Branch 60 and let the petitioners to file anew a complaint for nullity of marriage before the designated Family Court would not serve any compelling purpose, is impractical, and counterproductive to the cause of justice. With both parties having extensively discussed in their pleadings filed before the trial court and before the Court their respective positions on the issue on whether the petitioners have legal standing to file the RTC petition, the Court finds it imperative to properly evaluate the arguments of the parties and decide on that particular issue. To rule otherwise would only invite redundancy of bringing the same purely legal issue to the Court as the parties would just file the needed pleadings and raise the aforesaid issue in the trial court, and then elevate the same to the Court *via* a Rule 45 petition. This would not be conducive to the speedy administration of justice, and it becomes unnecessary where the Court is in a position to resolve the issue based on the records before it.³⁹ *Apropos* thereto, it is well-settled that the Court can take cognizance of and immediately resolve cases either when the parties deserve speedy, but legally warranted relief, or when remanding the cases would be counterproductive

³⁶ *Cebu State College of Science and Technology v. Misterio*, 760 Phil. 672, 684 (2015).

³⁷ *Aledro-Ruña v. Lead Export and Agro-Development Corporation*, G.R. No. 225896, July 23, 2018.

³⁸ *Id.*

³⁹ *Medline Management, Inc. v. Roslinda*, 645 Phil. 34, 50 (2010).

to the cause of justice.⁴⁰ Likewise, it is an accepted precept of procedural law that the Court may resolve the dispute in a single proceeding, instead of remanding the case to the lower court for further proceedings if, based on the records, pleadings, and other evidence, the matter can readily be ruled upon.⁴¹

Hence, the Court will now rule on the issue of whether or not the petitioners are the real parties-in-interest to file subject petition for nullity of marriage.

The petitioners are not the real party-in-interest to file the RTC petition.

The Court issued A.M. No. 02-11-10-SC which took effect on March 15, 2003, in order to govern direct actions for declaration of nullity or annulment of marriage. As ruled in *Enrico*, Section 2(a) of A.M. No. 02-11-10-SC makes it the **sole right of the husband or the wife to file a petition for declaration of absolute nullity of void marriage**, to wit:

SEC. 2. *Petition for declaration of absolute nullity of void marriages.* –

- (a) *Who may file.* – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.⁴²
(Underscoring in the original)

In explaining why A.M. No. 02-11-10-SC only allows the spouses to file the petition to the exclusion of compulsory or intestate heirs, the Court held:

The Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders explicates on Section 2(a) in the following manner, viz.:

1. Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate

⁴⁰ *Rizal Commercial Banking Corporation v. F. Franco Transport, Inc.*, G.R. No. 191202, November 21, 2018.

⁴¹ *Medline Management, Inc. v. Roslinda*, supra.

⁴² *Enrico v. Heirs of Spouses Medinaceli*, supra note 16, at 682.

heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution.⁴³ (Emphasis and underscoring in the original)

Like in *Enrico*, the Aguas heirs are the children of the deceased spouse whose marriage is sought to be annulled. And as ruled in the aforesaid case, they have no legal personality to file the petition for declaration of nullity of marriage of their father with Cherry. They can only question the validity of the marriage of the said spouses in a proceeding for the settlement of the estate of their deceased father filed in the regular courts.

Lucila, on the other hand, is not the wife in the marriage that she and her children sought to annul. Be it noted that she is not a spouse of Rene, their marriage having been declared null and void from the very beginning on the ground of psychological incapacity in the 2005 Nullity Decision.⁴⁴ Accordingly, Lucila, could not be the aggrieved or injured spouse referred to by A.M. No. 02-11-10-SC who has the legal standing to file the complaint for nullity of marriage of the spouses Rene and Cherry.

The Court is aware that in *Juliano-Llave v. Republic*,⁴⁵ it was held that A.M. No. 02-11-10-SC, which limits to only the husband or the wife the filing of a petition for nullity, does not shut out the prior spouse from filing a suit if the ground is a **bigamous subsequent marriage**, thus:

Note that the Rationale makes it clear that Section 2(a) of A.M. No. 02-11-10-SC refers to the “aggrieved or injured spouse.” If Estrellita’s interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.

The subsequent spouse may only be expected to take action if he or she had only discovered during the connubial period that the marriage was bigamous, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, the “injured spouse” who should be given a legal remedy is the one in a subsisting previous marriage. The latter is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden

⁴³ Id. at 682-683, citing Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders.

⁴⁴ See Comment to the Petition, *rollo*, p. 250; see also the 2005 Nullity Decision, *supra* note 7.

⁴⁵ 662 Phil. 203 (2011).

to the prior spouse. The subsequent marriage will always be a reminder of the infidelity of the spouse and the disregard of the prior marriage which sanctity is protected by the Constitution.⁴⁶

In this case, however, the RTC petition was **not anchored on the ground of bigamy**, but on non-compliance with the provisions in Articles 52 and 53 of the Family Code on the partition and distribution of the properties of the previous marriage and delivery of the presumptive legitimes. It is also noteworthy that Rene and Cherry's marriage is not bigamous. Rene and Lucila's marriage was already declared null and void, hence, there is no existing marriage to speak of so as to constitute Rene and Cherry's marriage to be bigamous. As such, Lucila could not be considered as an injured spouse in a bigamous marriage that entitles her to file a petition for nullity of the subsequent marriage.

Niñal v. Bayadog is not applicable in this case.

The petitioners insist on the application of *Niñal v. Bayadog*⁴⁷ where the Court allowed the children by a previous marriage to file a direct action to declare a subsequent marriage void after the death of their father. The Court cannot agree with the petitioners. The ruling in *Niñal* is not applicable in the instant case as it involves a marriage under the Civil Code while the instant case, like in *Enrico*, concerns a marriage celebrated during the effectivity of the Family Code and of A.M. No. 02-11-10-SC. Thus, as held in *Enrico*:

While it is true that *Niñal* in no uncertain terms allowed therein petitioners to file a petition for the declaration of nullity of their father's marriage to therein respondent after the death of their father, we cannot, however, apply its ruling for the reason that the impugned marriage therein was solemnized prior to the effectivity of the Family Code. The Court in *Niñal* recognized that the applicable law to determine the validity of the two marriages involved therein is the Civil Code, which was the law in effect at the time of their celebration. What we have before us belongs to a different milieu, *i.e.*, the marriage sought to be declared void was entered into during the effectivity of the Family Code. As can be gleaned from the facts, petitioner's marriage to Eulogio was celebrated in 2004.⁴⁸ (Citation omitted)

As it stands now, Section 2, paragraph (a) of A.M. No. 02-11-10-SC explicitly provides the limitation that a petition for declaration of absolute nullity of void marriage may be filed solely by the husband or wife. Such limitation demarcates a line to distinguish between marriages covered by the

⁴⁶ Id. at 223-224.

⁴⁷ 384 Phil. 661 (2000).

⁴⁸ *Enrico v. Heirs of Spouses Medinaceli*, supra note 16, at 681.

Family Code and those solemnized under the regime of the Civil Code. Specifically, A.M. No. 02-11-10-SC extends only to marriages covered by the Family Code, which took effect on August 3, 1988, but, being a procedural rule that is prospective in application, it is confined only to proceedings commenced after March 15, 2003.⁴⁹ **Considering that the marriage between Rene and Cherry was contracted on October 7, 2006 and that the RTC petition was filed on November 3, 2017, A.M. No. 02-11-10-SC is absolutely applicable to the petitioners.**

Aguas heirs can collaterally attack the validity of Rene and Cherry's marriage in the proceedings for the settlement of the estate of Rene.

Lucila can file a separate civil action for partition against the administrator of Rene's estate.

It is necessary to stress, as insightfully pointed out and discussed by Justice Caguioa in his Concurring Opinion, that upon the finality of the 2005 Nullity Decision, Rene, Lucila, or the Aguas heirs could have already moved for its execution by motion within five years from the entry of the 2005 Nullity Decision in accordance with Section 6,⁵⁰ Rule 39 of the Rules of Court. Thereafter, said parties had 10 years from entry of the 2005 Nullity Decision to file an independent action for its revival pursuant to Article 1152⁵¹ of the Civil Code.⁵² With that, partition and delivery of the corresponding portion of the subject property to the respective parties could have been had, as well as the delivery of the presumptive legitimes of the Aguas heirs.

As it happened, however, neither Rene nor petitioners herein moved for the execution of the 2005 Nullity Decision. Also, neither Rene nor petitioners attempted to execute the 2005 Nullity Decision by instituting an independent action for its revival. Hence, the subject property remained

⁴⁹ See *Ablaza v. Republic*, 642 Phil. 183, 190-191 (2010).

⁵⁰ RULES OF COURT, Rule 39, Sec. 6:

SEC. 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

⁵¹ CIVIL CODE, Art. 1144. The following actions must be brought within ten years from the time the right of action accrues:

- (1) Upon a written contract;
- (2) Upon an obligation created by law; [and]
- (3) Upon a judgment.

x x x x

ART. 1152. The period for prescription of actions to demand the fulfillment of obligation declared by a judgment commences from the time the judgment became final.

⁵² See *Diaz, Jr. v. Valenciano, Jr.*, 822 Phil. 291, 311 (2017).

under the state of co-ownership among Rene, Lucila and the Aguas heirs. Moreover, Rene's death supervened the enforcement of the 2005 Nullity Decision and the partition of the Sunset Valley Estate. Thus, succession set in and triggered the application of the Civil Code provisions governing succession and the procedural rules governing the settlement of deceased persons. Consequently, the Aguas heirs' right to the delivery of their presumptive legitimes had been superseded by their statutory right to succeed Rene as compulsory heirs.⁵³

Now, the Aguas heirs filed the RTC petition under the assumption that the validity or invalidity of Rene and Cherry's marriage would affect their successional rights and share in Rene's estate, which allegedly included the entire subject property. As earlier explained, however, they do not have the legal standing to file the RTC petition.

Nevertheless, all is not lost for them.

As explained in *Enrico*, while A.M. No. 02-11-10-SC declares that a petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife, it does not mean that the **compulsory or intestate heirs** are already without any recourse under the law. They can still protect their successional right, for, as stated in the *Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders (Rationale of the Rules)*, compulsory or intestate heirs can still question the validity of the marriage of the spouses, not in a proceeding for declaration of nullity, but upon the death of a spouse **in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts**.

The Court notes that there is a pending intestate proceedings of the estate of Rene, SP Case No. R-ANG-17-01449-SP entitled, "*In the Matter of the Petition for Letters of Administration and Settlement of Intestate Estate of Rene F. Aguas, Cherry Calilung-Aguas, Petitioner.*" The Aguas heirs can certainly amply protect their successional rights by collaterally raising the issue on the validity of Rene and Cherry's marriage in the aforesaid proceedings which they did when they filed a Comment/Opposition to the Petition in SP Case No. R-ANG-17-01449-SP⁵⁴ together with Lucila and raised the argument that Rene's marriage with Cherry is null and void.

In fact, as correctly pointed out by Justice Caguioa in his Concurring Opinion, the Aguas heirs' successional rights and share in Rene's estate should be properly determined in the Settlement Proceeding, which was already pending with Branch 56 upon the filing of the RTC petition, to the

⁵³ See Concurring Opinion, Associate Justice Alfredo Benjamin S. Caguioa.

⁵⁴ Supra note 11.

exclusion of all other courts of concurrent jurisdiction. This is pursuant to Section 1, Rule 73 of the Rules of Court in relation to the principle of priority or the rule of exclusive concurrent jurisdiction.

The rule is that *the court which first takes cognizance of an action over which it has jurisdiction and power to afford complete relief has the exclusive right to dispose of the controversy without interference from other courts of concurrent jurisdiction in which similar actions are subsequently instituted between the same parties seeking similar remedies and involving the same questions.*⁵⁵ Such rule is referred to as the principle of priority or the rule of exclusive concurrent jurisdiction. Although comity is sometimes a motive for the courts to abide by the priority principle, *it is a legal duty of a court to abide by such principle to reduce the possibility of the conflicting exercise of concurrent jurisdiction, especially to reduce the possibility that a case involving the same subject matter and the same parties is simultaneously acted on in more than one court.*⁵⁶


Section 1, Rule 73 of the Rules of Court states:

SEC. 1. *Where estate of deceased persons settled.* — If the decedent is an inhabitant of the Philippines at the time of his death, whether a citizen or an alien, his will shall be proved, or letters of administration granted, and his estate settled, in the Court of First Instance in the province in which he resides at the time of his death, and if he is an inhabitant of a foreign country, the Court of First Instance of any province in which he had estate. **The court first taking cognizance of the settlement of the estate of a decedent, shall exercise jurisdiction to the exclusion of all other courts.** The jurisdiction assumed by a court, so far as it depends on the place of residence of the decedent, or of the location of his estate, shall not be contested in a suit or proceeding, except in an appeal from that court, in the original case, or when the want of jurisdiction appears on the record. (Emphasis supplied)

As stated, Section 1, Rule 73 grants to the court first taking cognizance of the settlement of the decedent's estate the exclusive jurisdiction to hear and **decide all matters relating to the settlement and liquidation of the decedent's estate to the exclusion of all other courts of concurrent jurisdiction.** The main function of settlement of estate proceedings is to settle and liquidate the estates of deceased persons. Integral to this process is the determination of the assets that form part of the decedent's estate, the heirs who shall participate in said estate, and the amount or proportion of these heirs' respective shares therein. Certainly, Branch 56, which is handling the Settlement Proceeding, has primary and exclusive subject matter jurisdiction over the Aguas heirs' successional rights and share in Rene's estate where they can collaterally attack the

⁵⁵ *Unduran v. Aberasturi*, 808 Phil. 795, 813 (2017).

⁵⁶ *Id.* at 814.



validity of Rene and Cherry's marriage.

Relatedly, it may not be amiss to stress that the Aguas heirs may collaterally attack the validity of Rene and Cherry's marriage in the Settlement Proceeding since the same is for purposes of succession and not of remarriage.

In *Domingo v. Court of Appeals*,⁵⁷ the Court already clarified that a collateral attack against a void marriage may be permitted for purposes other than remarriage. Same ruling was made in *De Castro v. Assidao-De Castro*,⁵⁸ where collateral attack was allowed by a spouse to a void marriage in an action for support.

In *De Castro*, petitioner Reinel Anthony De Castro and respondent Annabelle Assidao-De Castro got married in 1995 without a marriage license, but with affidavit stating that they had been living together as husband and wife for at least five years. On June 4, 1998, Annabelle filed a complaint for support against Reinel alleging that the latter has reneged on his responsibility/obligation to financially support her as his wife and Reinna Tricia as his child. Reinel Anthony denied that he is married to Annabelle, claiming that their marriage is *void ab initio* since the marriage was facilitated by a fake affidavit and that they never lived together as husband and wife. The trial court ruled that the marriage between Reinel Anthony and Annabelle is not valid because it was solemnized without a marriage license. However, it declared petitioner as the natural father of the child, and, thus, obliged to give her support. On appeal, the CA ruled that since the case is an action for support, it was improper for the trial court to declare the marriage of Reinel Anthony and Annabelle as null and void in the very same case. When the case was elevated to the Court, it ruled that a void marriage can be the subject of a collateral attack in a suit not directly instituted to question the validity of said marriage. Thus:

Anent the first issue, the Court holds that the trial court had jurisdiction to determine the validity of the marriage between petitioner and respondent. The validity of a void marriage may be collaterally attacked. Thus, in *Niñal v. Bayadog*, we held:

However, other than for purposes of remarriage, no judicial action is necessary to declare a marriage an absolute nullity. For other purposes, such as but not limited to determination of heirship, legitimacy or illegitimacy of a child, settlement of estate, dissolution of property regime, or a criminal case for that matter, the court may pass upon the validity of marriage even in a suit not directly instituted to question the same so long

⁵⁷ 297 Phil. 642 (1993), cited and discussed by Justice Caguioa in his Concurring Opinion.

⁵⁸ 568 Phil. 724 (2008).

as it is essential to the determination of the case. This is without prejudice to any issue that may arise in the case. When such need arises, a final judgment of declaration of nullity is necessary even if the purpose is other than to remarry. The clause “on the basis of a final judgment declaring such previous marriage void” in Article 40 of the Family Code connotes that such final judgment need not be obtained only for purpose of remarriage.

Likewise, in *Nicdao Cariño v. Yee Cariño*, the Court ruled that it is clothed with sufficient authority to pass upon the validity of two marriages despite the main case being a claim for death benefits. Reiterating *Niñal*, we held that the Court may pass upon the validity of a marriage even **in a suit not directly instituted to question the validity of said marriage, so long as it is essential to the determination of the case.** However, evidence must be adduced, testimonial or documentary, to prove the existence of grounds rendering such a marriage an absolute nullity.⁵⁹ (Citations omitted; emphases supplied)

Moreover, that the Aguas heirs may collaterally attack the validity of Rene and Cherry’s marriage in the Settlement Proceeding is very clear from the *Rationale of the Rules*, which states:

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence **can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts.** On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution.⁶⁰ (Emphasis and underscoring supplied)

As appropriately observed by Justice Caguioa, the *Rationale of the Rules* draws a distinction between a “petition for annulment of voidable marriages or declaration of absolute nullity” on the one hand, and an action assailing the validity of a predecessor’s marriage for the purpose of determining successional rights, on the other. The former is a direct action assailing the validity of marriage that is governed by A.M. No. 02-11-10-SC and pertains *exclusively* to the aggrieved or injured spouse. The latter pertains to a collateral attack against the validity of a predecessor’s marriage brought in a proceeding for the settlement of the latter’s estate in accordance with the procedure set forth in the Rules of Court.

With regard to Lucila, it is interesting to note that *Enrico* and the *Rationale of the Rules* only mentioned **compulsory or intestate heirs** as the

⁵⁹ *De Castro v. Assidao-De Castro*, id. at 731-732.

⁶⁰ *Enrico v. Heirs of Spouses Medinaceli*, supra note 16, at 683, citing the *Rationale of the Rules*.

ones who could collaterally assail the validity of a marriage in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts in order to protect their successional rights. This would mean then that the said remedy or recourse under the law is not available to Lucila since she is not an heir of Rene, her marriage with the deceased having been declared null and void from the very beginning on the ground of psychological incapacity in the 2005 Nullity Decision. Lucila is, therefore, considered as a stranger in the estate proceedings with no right to succeed as an heir of Rene, thus, she has no standing to participate in the Settlement Proceeding.

Concomitantly, Lucila's claim cannot be filed in the Settlement Proceeding. It is well-settled that a probate or intestate court cannot adjudicate or determine title to properties claimed to be a part of the estate and which are claimed to belong to outside parties. This is clearly elucidated in the case of *Agtarap v. Agtarap*.⁶¹ Thus:


The general rule is that the jurisdiction of the trial court, either as a probate or an intestate court, relates only to matters having to do with the probate of the will and/or settlement of the estate of deceased persons, but does not extend to the determination of questions of ownership that arise during the proceedings. The patent rationale for this rule is that such court merely exercises special and limited jurisdiction. As held in several cases, a probate court or one in charge of estate proceedings, whether testate or intestate, cannot adjudicate or determine title to properties claimed to be a part of the estate and which are claimed to belong to outside parties, not by virtue of any right of inheritance from the deceased but by title adverse to that of the deceased and his estate. All that the said court could do as regards said properties is to determine whether or not they should be included in the inventory of properties to be administered by the administrator. If there is no dispute, there poses no problem, but if there is, then the parties, the administrator, and the opposing parties have to resort to an ordinary action before a court exercising general jurisdiction for a final determination of the conflicting claims of title. (Emphases supplied)

It must be noted, though, that the above rule is subject to exceptions, as likewise explained in *Agtarap*, to wit:

[T]his general rule is subject to exceptions as justified by expediency and convenience.

First, the probate [or intestate] court may provisionally pass upon in an intestate or a testate proceeding the question of inclusion in, or exclusion from, the inventory of a piece of property without prejudice to the final determination of ownership in a separate action. Second, if the interested parties are all heirs to the estate, or the question is

⁶¹ 666 Phil. 452, 468-469 (2011).



one of collation or advancement, or the parties consent to the assumption of jurisdiction by the probate court and the rights of third parties are not impaired, then the probate court is competent to resolve issues on ownership. Verily, its jurisdiction extends to matters incidental or collateral to the settlement and distribution of the estate, such as the determination of the status of each heir and whether the property in the inventory is conjugal or exclusive property of the deceased spouse.⁶² (Emphasis supplied)

Of the exceptions referred to above, the Court notes that the intestate court in the Settlement Proceeding may provisionally pass upon the question of inclusion in, or exclusion from, the inventory of the subject properties in this case. The same, however, would not give Lucila full and complete relief as the said inclusion or exclusion is still subject to the final determination of ownership in a separate action. How would Lucila amply and finally protect then her right and interest over Sunset Valley Estate or recover her share in the aforesaid co-owned property?

The Court holds that Lucila, being a stranger to the Settlement Proceeding, should file a separate civil action for partition before the regular courts **against the administrator** of Rene's estate. This course of action is not only consistent with the aforesaid jurisprudential pronouncements, but is likewise in accord with Section 1, Rule 87 of the Rules of Court, which provides that an action to recover real property or **an interest therein** from the estate may be commenced against administrator, to wit:

SEC. 1. *Actions which may and which may not be brought against executor or administrator.* — No action upon a claim for the recovery of money or debt or interest thereon shall be commenced against the executor or administrator; but to recover real or personal property, or an interest therein, from the estate, or to enforce a lien thereon, and actions to recover damages for an injury to person or property, real or personal, may be commenced against him.

WHEREFORE, premises considered, the Petition is **DENIED**. The Petition for Declaration of Nullity of Marriage in Civil Case No. R-ANG-17-03316-CV filed before the Regional Trial Court of Angeles City, Branch 59, and re-raffled to Branch 60 of the same station, is **ORDERED DISMISSED** without prejudice to petitioners Princess Luren D. Aguas, Danica Lane D. Aguas, Sean Patrick D. Aguas, Sean Michael D. Aguas, and Samantha D. Aguas in challenging the validity of the marriage of Cherry S. Calilung to the late Rene F. Aguas in a proceeding for the settlement of the estate of the latter and to petitioner Lucila David in filing a separate action for partition of the Sunset Valley Estate against the administrator of Rene's estate.

⁶² Id. at 469; see also *Pacioles, Jr. v. Chuatoco-Ching*, 503 Phil. 707, 715 (2005).




No costs.


SO ORDERED.

A handwritten signature in black ink, appearing to be 'Edgardo L. Delos Santos', written in a cursive style.

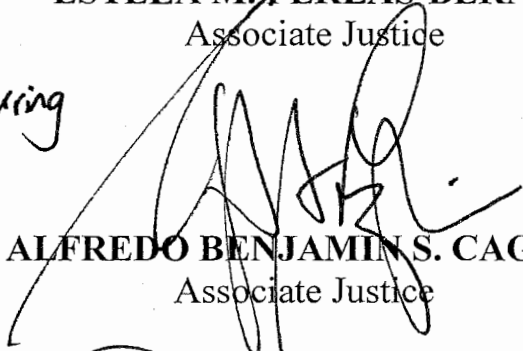
EDGARDO L. DELOS SANTOS
Associate Justice

WE CONCUR:

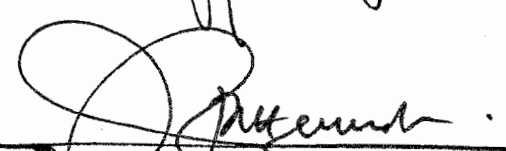

DIOSDADO M. PERALTA
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

(On Official Business)
MARVIC M.V.F. LEONEN
Associate Justice

See Concurring Opinion

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

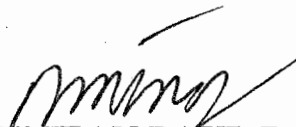

ALEXANDER G. GESMUNDO
Associate Justice

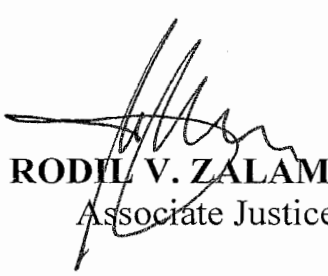

RAMON PAUL L. HERNANDO
Associate Justice

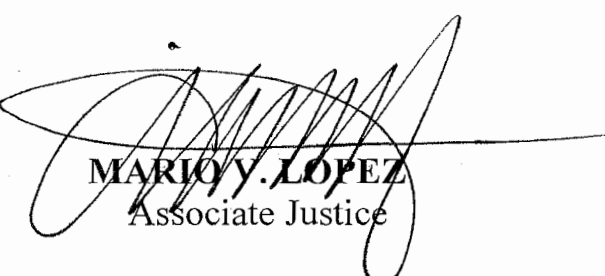

ROSMARI D. CARANDANG
Associate Justice


Pls. see Separate Opinion

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

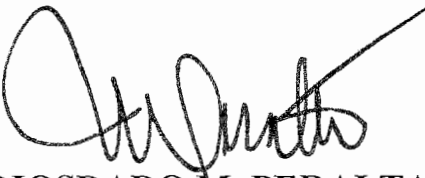

MARIO Y. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



DIOSDADO M. PERALTA
Chief Justice