

SECOND DIVISION

G.R. No. 267998 – ELOISA MALIWAT-MELAD, Petitioner, v.
AMANCIO REYES MELAD and REPUBLIC OF THE PHILIPPINES,
Respondents.

Promulgated:

APR 23 2025

X-----X

DISSENTING OPINION

LEONEN, J.:

I dissent.

The marriage between petitioner Eloisa Maliwat-Melad and private respondent Amancio Reyes Melad should be declared void *ab initio* for lacking the formal requisites¹ of authority of the solemnizing officer and a proper marriage ceremony.²

While the solemnizing officer's lack of authority here falls under the exception in Article 35(2) of the Family Code,³ the absence of the required personal declaration in their marriage ceremony still renders the marriage void *ab initio*.

¹ FAMILY CODE, art. 3 reads:

“Art. 3. The formal requisites of marriage are:

(1) Authority of the solemnizing officer;
(2) A valid marriage license except in the cases provided for in Chapter 2 of this Title; and
(3) A marriage ceremony which takes place with the appearance of the contracting parties before the solemnizing officer and their personal declaration that they take each other as husband and wife in the presence of not less than two witnesses of legal age. (53a, 55a)”

² FAMILY CODE, art. 4 reads:

“Art. 4. The absence of any of the essential or formal requisites shall render the marriage void *ab initio*, except as stated in Article 35(2).

A defect in any of the essential requisites shall render the marriage voidable as provided in Article 45. An irregularity in the formal requisites shall not affect the validity of the marriage but the party or parties responsible for the irregularity shall be civilly, criminally and administratively liable. (n)”

³ FAMILY CODE, art. 35(2) reads:

“Art. 35. The following marriages shall be void from the beginning:

(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;
(3) Those solemnized without license, except those covered the preceding Chapter;
(4) Those bigamous or polygamous marriages not falling under Article 41;
(5) Those contracted through mistake of one contracting party as to the identity of the other; and
(6) Those subsequent marriages that are void under Article 53.” (Emphasis supplied)

The Family Code prescribes the elements of a marriage ceremony:

Art. 6. No prescribed form or religious rite for the solemnization of the marriage is required. *It shall be necessary, however, for the contracting parties to appear personally before the solemnizing officer and declare in the presence of not less than two witnesses of legal age that they take each other as husband and wife.* This declaration shall be contained in the marriage certificate which shall be signed by the contracting parties and their witnesses and *attested by the solemnizing officer.* (Emphasis supplied)

The evidence on record did not establish petitioner and private respondent's personal declaration that they take each other as husband and wife before the solemnizing officer and the witnesses.

Petitioner testified that the solemnizing officer "officiated" the marriage, and that she did not witness him sign the marriage contract:⁴

The ceremony was attended by their godparents, Estela Reyes, the wife of one Mateo Briones, Quilana, and other witnesses. *Eloisa explained that the solemnizing officer gave them marriage advice before officiating the marriage. Afterwards, the solemnizing officer used his right hand to join the hands of Eloisa and Amancio and used his left hand to "bless" the couple and declare them husband and wife.* Eloisa also claimed that the solemnizing officer was still present at the time Eloisa and Amancio signed the marriage certificate, but that *the couple was told to just leave the marriage contract at the table. Afterwards, the newly married couple and their guests proceeded to Antigua restaurant for the reception.*⁵ (Emphasis supplied)

Roland Atiburcio Quilana (Quilana), a witness of the ceremony, also did not witness petitioner and private respondent perform the required personal declarations.⁶

Jurisprudence declares marriages lacking proper marriage ceremonies as void *ab initio*. In the following cases, the accused were acquitted of bigamy because one of the marriages they supposedly entered into was declared void *ab initio* for lacking proper marriage ceremonies.

In *Morigo v. People*,⁷ the accused's first marriage was declared void *ab initio* because no actual marriage ceremony took place:

The trial court found that there was no actual marriage ceremony performed between Lucio and Lucia by a solemnizing officer. Instead, what transpired was a mere signing of the marriage contract by the two, without

⁴ Ponencia, p. 2.

⁵ *Id.*

⁶ *Id.*

⁷ 466 Phil. 1013 (2004) [Per J. Quisumbing, Second Division].

*the presence of a solemnizing officer. The trial court thus held that the marriage is void ab initio, in accordance with Articles 3 and 4 of the Family Code. As the dissenting opinion in CA-G.R. CR No. 20700, correctly puts it, "This simply means that there was no marriage to begin with; and that such declaration of nullity retroacts to the date of the first marriage. In other words, for all intents and purposes, reckoned from the date of the declaration of the first marriage as void *ab initio* to the date of the celebration of the first marriage, the accused was, under the eyes of the law, never married."* The records show that no appeal was taken from the decision of the trial court in Civil Case No. 6020, hence, the decision had long become final and executory.

....

In the instant case, however, no marriage ceremony at all was performed by a duly authorized solemnizing officer. Petitioner and Lucia Barrete merely signed a marriage contract on their own. The mere private act of signing a marriage contract bears no semblance to a valid marriage and thus, needs no judicial declaration of nullity. Such act alone, without more, cannot be deemed to constitute an ostensibly valid marriage for which petitioner might be held liable for bigamy unless he first secures a judicial declaration of nullity before he contracts a subsequent marriage.⁸ (Emphasis supplied, citations omitted)

The second marriage in *Genio v. People*⁹ was also deemed void *ab initio* because it lacked the requisites of a marriage ceremony and a duly authorized solemnizing officer. The testimonies of the witnesses to the marriage ceremony were deemed sufficient bases to dispute the marriage certificate as *prima facie* evidence of the facts stated therein:

Verily, Rommel offered the testimonies of Maricar, Myra, and Gloria who uniformly testified that the Municipal Mayor of Guimba, Nueva Ecija never appeared on September 7, 2013, to solemnize the marriage between Rommel and Maricar, and that the two did not take each other as husband and wife before a duly authorized solemnizing officer.

Significantly, it has been held that no other witness is more competent to testify on the fact of marriage, including the solemnities observed therefor, than the parties to the marriage contract themselves - the husband and wife. A witness who was present during the marriage ceremony is likewise competent to testify on the same subject matter. Given that Maricar is the counter[]party to Rommel's second marriage, while Myra and Gloria were both present when the two were married on September 7, 2013, then they are competent to testify on what actually transpired on the day of that marriage. Their testimonies are sufficient to produce reasonable doubt if the Marriage Certificate may stand as proof that the solemnities required for marriages were, in fact, observed by Rommel and Maricar.

....

⁸ *Id.* at 1022–1024.

⁹ G.R. No. 261666, January 24, 2024 [Per J. Inting, Third Division] at 24–27. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

In the Court's assessment the testimonies of Maricar, Myra, and Gloria are sufficient to produce reasonable doubt, such that the presumed regularity and accuracy of the Marriage Certificate is deemed rebutted. Surely, even if they are not disinterested witnesses, the fact remains that they took the witness stand; hence, their credibility was tested, not just through the requirement of an oath and pain of perjury, but also through cross-examination. Thus, it may be reasonably expected that their statements have at least a ring of truth to them, and cannot be wholly ignored by the Court, especially considering that the prosecution did not present any evidence to refute their testimonies.

In fine, the testimonies of the defense witnesses produce reasonable doubt because based on their unrefuted testimonies, *it is not wholly improbable that the solemnities required for marriages were not observed by Rommel and Maricar, notwithstanding the entries in the Marriage Certificate.*¹⁰ (Emphasis supplied, citations omitted)

Genio is analogous and applicable to the facts here. Petitioner and private respondent's marriage was officiated by an unauthorized solemnizing officer and lacked the required personal declaration that they accept each other as husband and wife. The only difference is that petitioner believed in good faith that the solemnizing officer was a certain Judge Conrado De Gracia (Judge De Gracia), who had authority to officiate her marriage. In *Genio*, the parties to the marriage knew that the solemnizing officer was the local civil registrar, not the mayor, and that the registrar did not have authority to officiate their marriage.

Similar to the witnesses in *Genio*, petitioner and Quilana—as counterparty and witness to the marriage, respectively—are also competent to testify on what transpired during the ceremony.

Petitioner submitted photos of her marriage ceremony. She also testified that she did not see the solemnizing officer sign the marriage contract, and that she and private respondent were instructed to leave the marriage contract at the table.¹¹

She and Quilana identified the solemnizing officer in the pictures, who they believed to be Judge De Gracia. While they admitted not knowing what he looked like, the evidence on record clearly established the solemnizing officer's acts: he gave marriage advice to private respondent and petitioner, joined their hands, blessed them, and declared them as husband and wife.

Conversely, Atty. Eduardo Cunanan (Atty. Cunanan) positively identified the solemnizing officer in petitioner's pictures as Rosalio Florendo (Florendo), a Rotary Club member.¹²

¹⁰ *Id.*

¹¹ *Ponencia*, p. 2.

¹² *Id.* at 2–3.

Without proof of authority to officiate marriages, Florendo is not expected to be well-versed in the formalities of marriage ceremonies. This may explain why he only gave marriage advice to the couple and thereafter declared them as husband and wife, instead of having them personally declare, before him and the witnesses, that they take each other as husband and wife.

II

Atty. Cunanan cannot competently testify based on the pictures petitioner submitted because he was not present at her marriage ceremony.¹³ However, he is competent to testify on Judge De Gracia and Florendo's identities because he personally knows them.

Rule 130 of the 2019 Rules on Evidence provides:

Section 22. Testimony confined to personal knowledge. — *A witness can testify only to those facts which he or she knows of his or her personal knowledge; that is, which are derived from his or her own perception.*¹⁴ (Emphasis supplied)

*Angeles, Jr. v. Court of Appeals*¹⁵ reiterates the Court's stance on the sufficiency of the credible testimony of a single witness, even if uncorroborated:

We have consistently ruled that the testimony of a single witness, free from any sign of impropriety or falsehood, is sufficient for conviction, even if uncorroborated. *Indeed, the testimony of a single witness is sufficient and needs no corroboration, save only in offenses where the law expressly prescribes a minimum number of witnesses. Otherwise, corroborative evidence is deemed necessary only when there are reasons to warrant the suspicion that the witness falsified the truth or that [their] observation had been inaccurate.*¹⁶ (Emphasis supplied, citations omitted)

¹³ *Id.* at 2–3, 6.

¹⁴ A relevant discussion on the retroactive application of the 2019 Rules on Evidence is also found in *Genio*:

“Notably, the 2019 Amendments to the Revised Rules on Evidence took effect on May 1, 2020. Although the rule embodied in [Rule 131,] Section 6 of the Rules of Court was already effective when the [Court of Appeals] rendered its Decision, it was not yet in force when the [Regional Trial Court] rendered its judgment against Rommel. Nevertheless, it must be applied *retroactively* to the present case, given that (1) it is a rule of procedure that merely confirms the burden of the prosecution to prove, beyond reasonable doubt, each element of the crime charged and the guilt of the accused; (2) there are no vested rights in procedural rules; and (3) rules of criminal procedure are given retroactive application insofar as they benefit the accused.” *See Genio v. People*, G.R. No. 261666, January 24, 2024 [Per J. Inting, Third Division] at 12. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁵ 407 Phil. 826 (2001) [Per J. Ynares-Santiago, First Division].

¹⁶ *Id.* at 833–834.

Contrary to the accusation that it was self-serving, Atty. Cunanan's testimony was based on his personal knowledge, made under oath, and was even subjected to cross-examination. He stated having personally known Judge De Gracia from his practice and in their religious group, Marriage Encounter 3; and Florendo in their organization, the Rotary Club of Tarlac.¹⁷

Atty. Cunanan's competent and credible identification of Judge De Gracia dispensed with the need for corroborative or documentary evidence. As an advocate of his client and an officer of the court, he also has the duty to disclose any irregularity, perceived or otherwise, in his client's marriage ceremony. He has no incentive to assert untruthful statements as it not only prejudices his client's cause but also jeopardizes his personal practice.

Taken together, petitioner and Atty. Cunanan's testimonies can be harmonized into a reasonable account: that Florendo solemnized petitioner and private respondent's marriage, but that Judge De Gracia signed the marriage contract as solemnizing officer after the ceremony.

III

As in *Genio*, the irregularities in petitioner's marriage ceremony and in the authority of the solemnizing officer create reasonable doubt on the presumed validity of her marriage contract.

Here, the marriage contract indicates (1) petitioner and private respondent's marriage and (2) Judge De Gracia's signature and name as solemnizing officer. The marriage contract, as a public document, is *prima facie* proof of marriage and evidence of the facts stated therein.¹⁸

In *University of Mindanao, Inc. v. Bangko Sentral ng Pilipinas*,¹⁹ this Court clarified that disputable presumptions may be overcome by contrary evidence.

[D]isputable presumptions are presumptions that may be overcome by contrary evidence. They are disputable in recognition of the variability of human behavior. Presumptions are not always true. They may be wrong under certain circumstances, and courts are expected to apply them, keeping in mind the nuances of every experience that may render the expectations wrong.

Thus, the application of disputable presumptions on a given circumstance must be based on the existence of certain facts on which they are meant to operate. "[P]resumptions are not allegations, nor do they supply

¹⁷ *Ponencia*, pp. 2-3, 6.

¹⁸ *Spouses Salgado v. Anson*, 791 Phil. 481, 494 (2016) [Per J. Reyes, Third Division].

¹⁹ 776 Phil. 401 (2016) [Per J. Leonen, Second Division].

their absence[.]” Presumptions are conclusions. They do not apply when there are no facts or allegations to support them.

If the facts exist to set in motion the operation of a disputable presumption, courts may accept the presumption. However, contrary evidence may be presented to rebut the presumption.

*Courts cannot disregard contrary evidence offered to rebut disputable presumptions. Disputable presumptions apply only in the absence of contrary evidence or explanations.*²⁰ (Emphasis supplied, citations omitted)

Contrary evidence rebuts the disputable presumption in favor of petitioner’s marriage contract: *first*, Atty. Cunanan positively identified the solemnizing officer as Florendo, not Judge De Gracia; *second*, petitioner categorically stated that she did not witness the solemnizing officer sign the marriage contract; *third*, petitioner and Quilana’s testimonies did not establish petitioner and private respondent’s personal declarations taking each other as husband and wife before the solemnizing officer and their witnesses.

Without compelling rebuttals or explanations to these findings, petitioner and private respondent’s marriage contract is questionable, if not invalid.

IV

As a final note, judges are not expected to be generally known by the public, nor is the public presumed or expected to personally know the identities of judges.

Exacting standards and constraints govern judicial conduct. Judges are required to abide by the norm of simplicity and modesty. Canon 2, Rule 2.02 of the Code of Judicial Conduct, which was in effect during the solemnization of petitioner and respondent’s marriage, provides that “[a] judge should not seek publicity for personal vainglory.”²¹ *Office of the Court Administrator v. Judge Floro, Jr.*²² explains this provision:

Canon 2, Rule 2.02 of the Code of Judicial Conduct says in no uncertain terms that “a judge should not seek publicity for personal vainglory.” A parallel proscription, this time for lawyers in general, is found in Rule 3.01 of the Code of Professional Responsibility: “a lawyer shall not use or permit the use of any false, fraudulent, misleading, deceptive, undignified, self-laudatory[,] or unfair statement or claim regarding his qualifications or legal services.” This means that lawyers and

²⁰ *Id.* at 435.

²¹ CODE OF JUD. CONDUCT, Canon 2, Rule 2.02 of the Code of Judicial Conduct that was promulgated on September 5, 1989 and took effect on October 20, 1989.

²² 520 Phil. 590 (2006) [Per J. Chico-Nazario, *En Banc*].

judges alike, being limited by the exacting standards of their profession, cannot debase the same by acting as if ordinary merchants hawking their wares. As succinctly put by a leading authority in legal and judicial ethics, “(i)f lawyers are prohibited from [. . .] using or permitting the use of any undignified or self-laudatory statement regarding their qualifications or legal services (Rule 3.01, Code of Professional Responsibility), with more reasons should judges be prohibited from seeking publicity for vanity or self-glorification. Judges are not actors or actresses or politicians, who thrive by publicity.”²³ (Emphasis supplied, citation omitted)

*Sison-Barias v. Judge Rubia*²⁴ elaborates on the expected standards of propriety and behavior of judges:

In *Castillo v. Judge Calanog, Jr.*, this [C]ourt held:

The Code of Judicial Ethics mandates that the conduct of a judge must be free of a whiff of impropriety not only with respect to his performance of his judicial duties, but also to his behavior outside his sala as a private individual. There is no dichotomy of morality: a public official is also judged by his private morals. The Code dictates that a judge, in order to promote public confidence in the integrity and impartiality of the judiciary, must behave with propriety at all times. As we have recently explained, a judge’s official life can not simply be detached or separated from his personal existence. Thus:

Being the subject of constant public scrutiny, a judge should freely and willingly accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen.

A judge should personify judicial integrity and exemplify honest public service. The personal behavior of a judge, both in the performance of official duties and in private life should be above suspicion.

In *De la Cruz*, this court emphasized the need for impartiality of judges:

....

[I]n this connection, the Court pointed out in *Joselito Rallos, et al. v. Judge Ireneo Lee Gako Jr., RTC Branch 5, Cebu City*, that:

Well-known is the judicial norm that “judges should not only be impartial but should also appear impartial.” Jurisprudence repeatedly teaches that litigants are entitled to nothing less than the cold neutrality of an impartial judge. The other elements of due process, like notice and hearing, would become meaningless if the ultimate decision is rendered by a partial or biased judge. Judges must not only

²³ *Id.* at 615.

²⁴ 736 Phil. 81 (2014) [*Per Curiam, En Banc*].

render just, correct and impartial decisions, but must do so in a manner free of any suspicion as to their fairness, impartiality and integrity.


*This reminder applies all the more sternly to municipal, metropolitan and regional trial court judges like herein respondent, because they are judicial frontliners who have direct contact with the litigating parties. They are the intermediaries between conflicting interests and the embodiments of the people's sense of justice. Thus, their official conduct should be beyond reproach.*²⁵
(Emphasis supplied, citations omitted)

Hence, in the context of marriages, judges have the responsibility to introduce themselves to the parties and witnesses and affirm their authority to solemnize the marriage. In doing so, judges will have confirmed their competence and compliance with the formal requisites of marriage, such as the authority of the solemnizing officer and the marriage ceremony.

Here, petitioner and Quilana merely relied on the honest belief that the solemnizing officer was Judge De Gracia and not Florendo, as identified by Atty. Cunanan. Hence, the exception in Article 35 (2) of the Family Code applies to uphold the validity of the marriage.

However, another formal requisite remains absent: a proper marriage ceremony. Without petitioner and private respondent's personal declarations taking each other as husband and wife before the solemnizing officer and the witnesses, their marriage should be declared void *ab initio*.

ACCORDINGLY, I vote to **GRANT** the Petition. The October 27, 2022 Decision of the Court of Appeals in CA-G.R. CV No. 117590 should be **REVERSED** and **SET ASIDE**. The marriage between petitioner Eloisa Maliwat-Melad and private respondent Amancio Reyes Melad should be **DECLARED VOID AB INITIO**.



MARVIC M.V.F. LEONEN
Senior Associate Justice

²⁵ *Id.* at 117-118.

