



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

JAAZIEL M. SALVA-ROLDAN,
Petitioner,

G.R. No. 268109

Present:

- versus -

LORY O. ROLDAN and
REPUBLIC OF THE
PHILIPPINES,
Respondents.

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., JJ.

Promulgated:

MAR 03 2025

DECISION

KHO, JR., J.:

Before the Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court¹ assailing the Decision² and the Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 116967, which affirmed the Decision⁴ of Regional Trial Court (RTC) denying the Petition for Annulment of Marriage⁵ on the ground of concealment of homosexuality.

The Facts

This case stemmed from a Petition for Annulment of Marriage on the ground of concealment of homosexuality filed by Jaaziel M. Salva-Roldan

¹ *Rollo*, pp. 4–19.

² *Id.* at 20–30. The January 24, 2023 Decision in CA-G.R. CV No. 116967 was penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Marlene B. Gonzales-Sison and Maximo M. De Leon of the Seventh Division, Court of Appeals, Manila.

³ *Id.* at 40–42. The June 22, 2023 Resolution in CA-G.R. CV No. 116967 was penned by Associate Justice Perpetua Susana T. Atal-Paño and concurred in by Associate Justices Marlene B. Gonzales-Sison and Maximo M. De Leon of the Seventh Division, Court of Appeals, Manila.

⁴ RTC records, pp. 110–116. The July 10, 2019 Decision in Civil Case No. C-24797 was penned by Presiding Judge Raymundo G. Vallega of the Branch 130, Regional Trial Court, Caloocan City.

⁵ *Id.* at 1–5.

(Jaaziel) against Lory O. Roldan (Lory). The summons with the Petition and its annexes were issued and served upon Lory by way of publication. However, Lory never filed any responsive pleading thereto.⁶

Jaaziel alleged that in 2010, Lory, who was then working in Saudi Arabia, sent her a friend request to her social media account which she initially ignored despite Lory being a coworker of Jaaziel's friend in the province. Eventually, Jaaziel learned of Lory's kindness. Due to Lory's persistence, Jaaziel gave her phone number to Lory which led to their constant communication. In 2011, Jaaziel and Lory became sweethearts. Lory returned to the Philippines for a vacation and met Jaaziel in 2012. On their first date, Jaaziel noticed Lory being distant from her and wondered why they neither kissed nor held hands. To Jaaziel, it was as if they were mere friends. Lory did not sit beside Jaaziel when they had lunch, and during their commute, Lory merely stood in front of the door of the train while Jaaziel was away from him. Jaaziel thus confronted Lory about his behavior, but Lory only confessed his timidity and lack of confidence. At the same time, Jaaziel learned that she was Lory's first girlfriend despite being 31 years old.⁷

Lory had to go back to Saudi Arabia for work. Thus, Jaaziel and Lory were engaged in a long-distance relationship which often involved arguments over the phone on flimsy matters. Notwithstanding, they got married on April 15, 2013 in Marinduque.⁸

After their wedding, they went home to their new house in Imus, Cavite and had an unusual honeymoon. Whenever Jaaziel would initiate intimate activities, Lory would make an excuse either to spend his time alone or for the two of them to talk about Lory's work and plans, but not their married life and sexual intimacy. Had it not been for Jaaziel, their marriage would not have been consummated.⁹ Worse, Lory would oftentimes initiate arguments which would lead to Lory sleeping in the other room alone. Jaaziel further averred that when a serious argument transpired once between them, Jaaziel felt dismayed and saddened, thus, she returned to her parents' house in Caloocan. Jaaziel thought Lory would woo her back, but instead, Lory sent her a message "*kung umalis ka, matuto kang bumalik.*" With these, Jaaziel thought their relationship was crumbling. In fact, just two months after their wedding, or in June 2013, Lory went back to Saudi Arabia and stopped communicating with Jaaziel. Even Jaaziel's effort to contact Lory proved futile.¹⁰

However, Jaaziel received flowers and gifts for their first anniversary which prompted her to call Lory to thank him. Instead of apologizing for the lack of communication, Lory replied "*hindi galing sa akin yan.*" Jaaziel then responded "*kanino galing e may happy first anniversary dito wala naman ako*

⁶ Rollo, p. 9.

⁷ *Id.* at 21.

⁸ *Id.* at 21-22.

⁹ *Id.* at 22.

¹⁰ *Id.*

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ka-anniversary na ganitong date.” It was only then that Lory admitted and said “*oo ako nga joke lang.*” Thereafter, the lack of communication between them resumed.¹¹

In June 2015, Jaaziel found bundles of magazines of male models who were either half-naked or naked in Lory’s belongings. Jaaziel then confronted Lory who admitted that he was homosexual. Jaaziel then was devastated. It was at that moment when Jaaziel not only realized that their marriage must end due to fraud, as she would not have agreed to marry Lory had she known about Lory’s homosexuality, but also, understood the behavior of Lory before and after their marriage. Such discovery prompted Jaaziel to leave the conjugal dwelling and return to her parents in Caloocan for good. More than two years later, or on September 8, 2017, Jaaziel filed the Petition for Annulment before the RTC.¹²

To corroborate Jaaziel’s testimony, Francisco Salva (Francisco), Jaaziel’s father, also testified and averred that he noticed that Lory was somewhat effeminate or “*medyo malambot.*”¹³ Francisco even characterized Lory as “not romantic” or “man enough” because: (a) Lory did not know how to woo a woman as he refused to fetch Jaaziel in the house of Jaaziel’s parents when Jaaziel and Lory had an argument; and (b) Francisco failed to see Jaaziel and Lory holding hands and embrace each other as normal newlywed couples do. Francisco further attested that in 2015, Jaaziel confided to him about Lory’s homosexuality and the fact that the same was unacceptable to Jaaziel for had she known that Lory was homosexual, she would not have married him.¹⁴

Thereafter, Jaaziel offered their Marriage Certificate,¹⁵ her Judicial Affidavit, and Francisco’s Judicial Affidavit as evidence.¹⁶

Lory failed to appear despite notice for the reception of defense evidence. Accordingly, Lory was declared to have waived his right to present evidence.¹⁷

The RTC Ruling

In a Decision¹⁸ dated July 10, 2019, the RTC denied the Petition for lack of merit. The RTC ruled that Jaaziel failed to establish Lory’s homosexuality. Even Jaaziel’s and Francisco’s self-serving testimonies which were unsubstantiated by other evidence could not be considered as proof that Lory

¹¹ *Id.*

¹² *Id.* at 22–23.

¹³ *Id.* at 23.

¹⁴ *Id.*

¹⁵ RTC records, pp. 6–7.

¹⁶ *Id.* at 70–71.

¹⁷ *Id.* at 97.

¹⁸ *Id.* at 110–116.

deliberately concealed his homosexuality to vitiate Jaaziel's consent for marriage.¹⁹

Aggrieved, Jaaziel moved for reconsideration which was denied in an Order²⁰ dated June 11, 2020. Jaaziel appealed to the Court of Appeals (CA).

The CA Ruling

In a Decision²¹ dated January 24, 2023, the CA affirmed the RTC ruling. Similar to the RTC's findings, the CA held that Jaaziel failed to prove by preponderance of evidence that her consent was obtained through fraud and that Lory concealed his homosexuality. The CA further held that the testimonies of Jaaziel and Francisco were not convincing.²²

Undaunted, Jaaziel moved for reconsideration which was denied in a Resolution²³ dated June 22, 2023.

Hence, this Petition.

In a Resolution²⁴ dated October 23, 2023, the Court resolved to implead the Republic and required Lory and the Republic to file their respective comments.

In compliance, the Republic, through the Office of Solicitor General, filed its Comment and essentially argued that Jaaziel failed to prove that Lory concealed his homosexuality as to amount to fraud under Article 46 of the Family Code.²⁵

To date, no comment was filed by Lory.

The Issue Before the Court

The issue for the Court's resolution is whether the CA correctly affirmed the RTC ruling in denying Jaaziel's Petition for Annulment of Marriage under Article 45 of the Family Code.

¹⁹ *Id.*

²⁰ *Id.* at 132–134.

²¹ *Rollo*, pp. 20–30.

²² *Id.* at 26–28.

²³ *Id.* at 40–42.

²⁴ *Id.* at 43–44.

²⁵ *Id.* at 51–59.

The Court's Ruling

The Petition is meritorious.

Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life.²⁶ To be valid, consent must be freely given by both parties. Thus, a marriage may be annulled when consent was obtained by fraud.

To this end, pertinent provisions of Articles 45, 46, and 47 of the Family Code respectively read:

Article 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

....

(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;

....

Article 46. Any of the following circumstances shall constitute fraud referred to in Number 3 of the preceding Article:

....

(4) Concealment of drug addiction, habitual alcoholism or homosexuality or lesbianism existing at the time of the marriage.

No other misrepresentation or deceit as to character, health, rank, fortune or chastity shall constitute such fraud as will give grounds for action for the annulment of marriage.

Article 47. The action for annulment of marriage must be filed by the following persons and within the periods indicated herein:

....

(3) For causes mentioned in number 3 of Article 45, by the injured party within five years after the discovery of the fraud[.]

At this juncture, it is well to point out that as per available records: (a) in June 2015, Jaaziel testified that by Lory's own admission, she discovered that the latter fraudulently concealed his homosexuality from her; (b) soon after such discovery, Jaaziel left the conjugal dwelling and went back to living at her parents' house for good; and (c) Jaaziel filed the action before the RTC on September 8, 2017. Verily, these facts establish that: *first*, there was no free cohabitation after Jaaziel's discovery of Lory's supposed fraudulent concealment

²⁶ FAMILY CODE, art 1.

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of his homosexuality which would operate to ratify Jaaziel's vitiated consent, and *second*, she filed the action within the five-year prescriptive period provided under the Family Code.

These preliminary matters having been established, the Court now proceeds to determine whether Lory fraudulently concealed his homosexuality from Jaaziel. To be sure, in *Almelor v. RTC Las Piñas*,²⁷ the Court stressed that it is the concealment of homosexuality constitutive of fraud that serves as a valid ground to annul a marriage.²⁸ The allegation of vitiated consent, particularly the concealment of homosexuality in this case, must be proven by preponderance of evidence.²⁹

After a judicious scrutiny of the records, the Court is convinced that, contrary to the rulings of the lower courts, Jaaziel was able to prove by the evidentiary threshold of preponderance of evidence the fact that Lory fraudulently concealed his homosexuality from her, thereby vitiating her consent to enter into a marriage with him.

First, Lory admitted to Jaaziel that he is homosexual. Jaaziel found magazines depicting half-naked or naked men in Lory's belongings. Lory's admission only shows that Lory waited for their marriage before confessing his homosexuality. In fact, had it not been due to the discovery of the magazines, Lory would have continuously defrauded Jaaziel until this day.

Second, Francisco's observation as to the lack of intimacy and affection between Jaaziel and Lory bolsters Lory's homosexuality. Likewise, Francisco described Lory as "*medyo malambot*." Francisco even noticed that Lory did not know how to woo a woman and failed to see the passion and fondness as newlyweds. Furthermore, Francisco corroborates that Jaaziel confessed that had she known that Lory was homosexual, Jaaziel would not have married him. These circumstances encapsulate not only Lory's homosexuality, more so, his concealment of such fact from Jaaziel.

Third, Jaaziel was led to believe that Lory is someone who he is not at the onset of their relationship. Lory refused to talk about his behavior during their first date. Lory, who was then about 31 years old, pursued Jaaziel until they became sweethearts. During their first date, Jaaziel noticed Lory's behavior which was unusual for a guy who meets his girlfriend for the first time. As described by Jaaziel, she felt Lory's distance and lack of intimacy towards her. This led Jaaziel to confront Lory, but Lory only confessed his timidity and lack of confidence. Evidently, Lory deliberately concealed his homosexuality to convince Jaaziel to stay in the relationship, and later to marry Lory.

²⁷ 585 Phil. 439 (2008) [Per J. Reyes, R.T., Third Division].

²⁸ *Almelor v. RTC Las Piñas*, 585 Phil. 439, 457 (2008) [Per J. Reyes, R.T., Third Division].

²⁹ *Id.* at 456.

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Fourth, Lory refused or looked for an excuse to evade intimacy with Jaaziel. Jaaziel and Lory had an unusual honeymoon as Lory would prefer to spend his time alone or to talk about anything, but their married life and sexual intimacy. Worse, just two months after their wedding Lory went back to Saudi Arabia and stopped communicating with Jaaziel. It thus appears that Lory's actions towards Jaaziel were done with the intent of keeping the latter in the dark about Lory's sexuality.

Given the foregoing, the Court is convinced that the allegations of Jaaziel are not mere baseless perception or malicious interpretation of Lory's peculiarities. With the lies and deception, coupled by their failure to cohabit as husband and wife, it is evident that Lory merely tricked Jaaziel to marry him by making her believe that he is a heterosexual. The admission of Lory and the unexplained prolonged silence to negate the allegation as to his homosexuality cannot be taken lightly by the Court. No woman would put herself in a shameful position if the fact that she married a homosexual was not true. More so, no man would keep silent when his sexuality is being questioned thus creating disgrace in his name. It must be emphasized that Jaaziel's allegations must be proven by preponderance of evidence or the evidence that is of greater weight, or more convincing, than the evidence offered in opposition to it.³⁰ Therefore, the totality of Jaaziel's evidence should be properly given weight, and thus, should be considered sufficient as against Lory's eerie silence on this matter. Hence, their marriage must be annulled on the ground of fraudulent concealment of homosexuality pursuant to Article 45(3) in relation to Article 46(4) of the Family Code.

ACCORDINGLY, the Petition is **GRANTED**. The Decision dated January 24, 2023 and the Resolution dated June 22, 2023 of the Court of Appeals in CA-G.R. CV No. 116967 are **REVERSED** and **SET ASIDE**. The marriage between petitioner Jaaziel M. Salva-Roldan and respondent Lory O. Roldan is hereby declared **ANNULLED** on the ground of fraudulent concealment of homosexuality pursuant to Article 45(3) in relation to Article 46(4) of the Family Code.

SO ORDERED.



ANTONIO T. KHO, JR.

Associate Justice

³⁰ *Sps. Nerosa v. Aldanese*, 909 Phil. 579, 585 (2021) [Per J. Hernando, Second Division].

WE CONCUR:



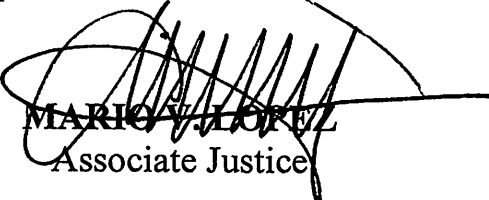
MARVIC M.V.F. LEONEN

Senior Associate Justice
Division Chairperson



AMY C. LAZARO-JAVIER

Associate Justice



MARIO V. LOPEZ

Associate Justice



JHOSEP V. LOPEZ

Associate Justice

ATTESTATION

I attest 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's Division.

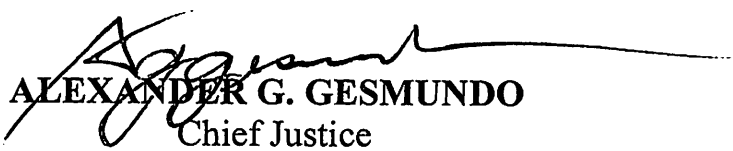


MARVIC M.V.F. LEONEN

Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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's Division.



ALEXANDER G. GESMUNDO

Chief Justice