

EN BANC

[G.R. No. 193719, March 21, 2017]

SAMSON R. PACASUM, SR., PETITIONER, VS. ATTY. MARIETTA D. ZAMORANOS, RESPONDENT.

DECISION

JARDELEZA, J.:

This petition for review on *certiorari*^[1] challenges the Amended Decision^[2] dated August 31, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 01945-MIN, which affirmed the resolutions of the Civil Service Commission (CSC) dismissing petitioner's administrative complaint against respondent.

I

Petitioner Samson R. Pacasum (Pacasum) and respondent Atty. Marietta D. Zamoranos (Zamoranos) were married on December 28, 1992.^[3] However, Pacasum discovered that Zamoranos was previously married to one Jesus De Guzman (De Guzman) on July 30, 1982.^[4] On December 14, 2004, Pacasum filed an administrative complaint for disgraceful and immoral conduct against Zamoranos on the ground that she had contracted a bigamous marriage.^[5]

In her answer to the complaint, Zamoranos raised as a defense the dissolution of her previous marriage under the Code of Muslim Personal Laws of the Philippines (the Muslim Code).^[6] Prior to her marriage with De Guzman, she had converted to Islam. In 1983, however, she and De Guzman divorced, as evidenced by the Decree of Divorce^[7] issued by Presiding Judge Kaudri L. Jainul of the *Shari'a* Circuit Court of Isabela, Basilan in Case No. 407-92.^[8]

The CSC dismissed the complaint because Pacasum failed to assail the existence, much less validity, of the Decree of Divorce. The CSC ruled that since Zamoranos' supposedly subsisting marriage with De Guzman is the sole basis for Pacasum's charge of immorality, the existence of the Decree of Divorce is fatal to Pacasum's complaint.^[9] Pacasum moved for reconsideration, but this was denied by the CSC.^[10]

On appeal, the CA initially granted the petition.^[11] The CA relied on the judicial admissions of Zamoranos in the various cases between her and Pacasum. In multiple pleadings, Zamoranos had stated that she was a Roman Catholic. On reconsideration, however, the CA corrected itself and admitted error in applying the admissions made in 1999 to the previous marriage contracted in 1982. The pleadings showed that the admissions were made "during and after [Zamoranos'] marriage to Pacasum."^[12] It recognized as undisputed the fact that the previous marriage between Zamoranos and De Guzman was solemnized and entered into under Muslim rites. The CA held that "a collateral attack against [the Decree of Divorce], much less one embedded merely as an incident to an administrative complaint lodged before a mere quasi-judicial tribunal such as the [CSC], cannot be countenanced x x x."^[13]

Pacasum then filed this petition for review on *certiorari* arguing that the *Shari'a* court had no jurisdiction to dissolve Zamoranos' first marriage. Consequently, her marriage to Pacasum was bigamous.

II

The Muslim Code recognizes divorce in marriages between Muslims, and mixed marriages wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or the Muslim Code in any part of the Philippines.^[14] At present, this is the only law in the Philippines that allows domestic divorce.^[15]

There are seven modes of effecting divorce under the Muslim Code, namely: 1) repudiation of the wife by the husband (*talaq*); 2) vow of continence by the husband (*ila*); 3) injurious assimilation of the wife by the husband (*zihar*); 4) acts of imprecation (*lian*); 5) redemption by the wife (*khul'*); 6) exercise by the wife of the delegated right to repudiate (*tafwid*); or 7) judicial decree (*faskh*).^[16] The divorce becomes irrevocable after observance of a period of waiting called *idda*,^[17] the duration of which is three monthly courses after termination of the marriage by divorce.^[18] Once irrevocable, the divorce has the following effects: the severance of the marriage bond and, as a consequence, the spouses may contract another marriage; loss of the spouses' mutual rights of inheritance;

adjudication of the custody of children in accordance with Article 78 of the Muslim Code; recovery of the dower by the wife from the husband; continuation of the husband's obligation to give support in accordance with Article 67; and the dissolution and liquidation of the conjugal partnership, if stipulated in the marriage settlements.^[19]

Jurisdiction over actions for divorce is vested upon the *Shari'a* Circuit Courts,^[20] whose decisions may be appealed to the *Shari'a* District Courts.^[21] Under the Special Rules of Procedure in *Shari'a* Courts,^[22] an appeal must be made within a reglementary period of 15 days from receipt of judgment.^[23] The judgment shall become final and executory after the expiration of the period to appeal,^[24] or upon decision of the *Shari'a* District Courts on appeal from the *Shari'a* Circuit Court.^[25]

The effect of a final judgment is stated under Section 47, Rule 39 of the Rules of Court, which applies suppletorily to civil proceedings in *Shari'a* Courts.^[26] Paragraph (a) thereof provides:

(a) In case of a judgment or final order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or **in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is *conclusive* upon** the title to the thing, the will or administration, or the condition, **status or relationship of the person**; however, the probate of a will or granting of letters of administration shall only be *prima facie* evidence of the death of the testator or intestate[.] (Emphasis supplied.)

The provision embodies the principle of *res judicata* in judgments *in rem*. Suits that affect the personal status of a person are in the nature of proceedings *in rem*. Divorce suits fall under this category, and divorce decrees are considered judgments *in rem*.^[27] Final judgments *in rem* bar indifferently all who might be minded to make an objection of any sort against the right sought to be established, and anyone in the world who has a right to be heard on the strength of alleged facts which, if true, show an inconsistent interest.^[28] Simply put, a judgment *in rem* is binding upon the whole world.

As a rule, a judgment could not be collaterally impeached or called in question if rendered in a court of competent jurisdiction, but must be properly attacked in a direct action.^[29] A collateral attack is defined as an attack, made as an incident in another action, whose purpose is to obtain a different relief.^[30] This is proper only when the judgment, on its face, is null and void, as where it is patent that the court which rendered said judgment has no jurisdiction.^[31] But "[w]here a court has jurisdiction of the parties and the subject matter, its judgment, x x x is conclusive, as long as it remains unreversed and in force, and cannot be impeached collaterally."^[32]

The reason for the general rule against a collateral attack on a judgment of a court having jurisdiction is that public policy forbids an indirect collateral contradiction or impeachment of such a judgment. It is not a mere technicality, but is a rule of fundamental and substantial justice which should be followed by all courts.^[33]

With respect to the divorce between Zamoranos and De Guzman, the Decree of Divorce was issued on June 18, 1992 by Judge Kaudri L. Jainul, who was the presiding judge of the *Shari'a* Circuit Court, Third *Shari'a* District, Isabela, Basilan.^[34] It states that both Zamoranos and De Guzman appeared when the case was called for hearing. It further recites that both parties converted to the faith of Islam prior to their Muslim wedding, and that it was Zamoranos who sought divorce by *tafwid*, with De Guzman having previously delegated his authority to exercise *talaq*.^[35] Thus, on its face, the divorce appears valid, having been issued for a cause recognized under the applicable law by a competent court having jurisdiction over the parties. And, as neither party interposed an appeal, the divorce has attained finality.

Given the foregoing, we agree with the CA that the Decree of Divorce cannot be the subject of a collateral attack. It is evident that Pacasum's persistence in pursuing the administrative case against Zamoranos on the sole ground of bigamy is premised on the supposition that the latter's marriage with De Guzman was still subsisting when she contracted marriage with Pacasum, which effectively challenges the *Shari'a* Circuit Court's divorce judgment. As we have noted, however, the judgment of the court is valid on its face; hence, a collateral attack in this case is not allowed. The collateral unassailability of the divorce is a necessary consequence of its finality. It "cannot now be changed in any proceeding; and much less is it subject to the collateral attack which is here made upon it."^[36] As no appeal was taken with respect to the divorce decree, it must be conceded to have full force and effect.^[37] The decree, insofar as it affects the civil status of Zamoranos, has therefore become *res judicata*, subject to no collateral attack.

Furthermore, the proscription against collateral attacks similarly applies to matters involving the civil status of

persons. Thus, we have held that collateral attacks against the legitimacy and filiation of children,^[38] adoption,^[39] and the validity of marriages (except void marriages)^[40] are not allowed. Zamoranos' civil status as "divorced" belongs to the same category, and Pacasum cannot impugn it in an administrative case filed with the CSC, where the sole purpose of the proceedings is to determine the administrative liability, if any, of Zamoranos.

III

Finally, we have already passed upon the same Decree of Divorce in the earlier consolidated cases also involving Pacasum and Zamoranos. In *Zamoranos v. People*,^[41] which involved a criminal charge for bigamy filed by Pacasum against Zamoranos based on her earlier marriage to De Guzman, we granted Zamoranos' motion to quash the criminal information for bigamy. We held that, based on the case records, "[i]t stands to reason therefore that Zamoranos' divorce from De Guzman, as confirmed by an *Ustadz* and Judge Jainul of the [*Shari'a*] Circuit Court, and attested to by Judge Usman, was valid, and, thus, entitled her to remarry Pacasum x x x."^[42] Following the doctrine of conclusiveness of judgment, the parties are now bound by this earlier finding.

In *Tala Realty Services Corp., Inc. v. Banco Filipino Savings and Mortgage Bank*,^[43] we explained the doctrine of conclusiveness of judgment, otherwise known as "preclusion of issues" or "collateral estoppel":

Conclusiveness of judgment is a species of *res judicata* and it applies where there is identity of parties in the first and second cases, but there is no identity of causes of action. **Any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which judgment is rendered on the merits is conclusively settled by the judgment therein, and cannot again be litigated between the parties and their privies whether or not the claim, demand, purpose, or subject matter of the two actions is the same.** Thus, if a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties or their privies will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit. Identity of cause of action is not required but merely identity of issue.

In this case, the rule on conclusiveness of judgment is squarely applicable because Banco Filipino's action for reconveyance is solely based on a trust agreement which, it cannot be overemphasized, has long been declared void in a previous action that involved both Tala Realty and Banco Filipino, *i.e.*, G.R. No. 137533. In other words, the question on the validity of the trust agreement has been finally and conclusively settled. Hence, this question cannot be raised again even in a different proceeding involving the same parties. Although the action instituted in this case is one for reconveyance, which is technically different from the ejectment suit originally instituted by Tala Realty in G.R. No. 137533, "the concept of conclusiveness of judgment still applies because under this principle, the identity of causes of action is not required but merely identity of issues. Simply put, **conclusiveness of judgment bars the relitigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.**"^[44] (Emphasis supplied; citations omitted.)

Here, Pacasum's administrative complaint is wholly dependent on the continuing validity of the marriage between Zamoranos and De Guzman. However, we have already recognized that this marriage was dissolved in accordance with the Muslim Code in the case of *Zamoranos v. People*, which also involved the herein parties. Following the doctrine of conclusiveness of judgment, the parties are already bound by our previous ruling on that specific issue, that is, Zamoranos' divorce from De Guzman was valid which enabled her to contract the subsequent marriage with Pacasum. As a result, Pacasum's complaint for immorality based on Zamoranos' alleged bigamy has no leg to stand on.

WHEREFORE, the petition is **DENIED**. The Amended Decision dated August 31, 2010 of the Court of Appeals in CA-G.R. SP No. 01945-MIN is **AFFIRMED**.

SO ORDERED.

Sereno, C. J., no part.

Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Mendoza, Reyes, Perlas-Bernabe, Leonen, Caguioa, Martires, and Tijam, JJ., concur.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on March 21, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on May 17, 2017 at 10:00 a.m.

Very truly yours,

(SGD)

**FELIPA G. BORLONGAN-
ANAMA**

Clerk of Court

^[1] *Rollo*, pp. 3-28.

^[2] *Id.* at 117-124. Penned by Associate Justice Edgardo A. Camello with Associate Justices Romulo V. Borja and Angelita A. Gacutan, concurring.

^[3] *Id.* at 156.

^[4] *Id.* at 165.

^[5] *Id.* at 162-163.

^[6] Presidential Decree No. 1083.

^[7] *Rollo*, pp. 342-343.

^[8] *Id.* at 30-31.

^[9] *Id.* at 142-149.

^[10] *Id.* at 151-155.

^[11] *Id.* at 29-48. Decision dated February 26, 2010, penned by Associate Justice Danton Q. Bueser with Associate Justices Edgardo A. Camello and Angelita A. Gacutan, concurring.

^[12] *Id.* at 122.

^[13] *Id.* at 121.

^[14] Presidential Decree No. 1083, Art. 13(l).

^[15] In 1917, the legislature passed Act No. 2710, which recognized divorce in the Philippine Islands. It was repealed by a new divorce law, Executive Order No. 141, during the Japanese occupation. Under Gen. Douglas MacArthur's Proclamation of October 23, 1944, which declared that "all laws, regulations and processes of any other government in the Philippines than that of the said Commonwealth are null and void and without legal effect in areas of the

Philippines free of enemy occupation and control," Act No. 2710 was deemed revived [*Baptista v. Castañeda*, 76 Phil. 461 (1946)]. Act No. 2710 was finally repealed by the New Civil Code, which only allowed annulment and legal separation. Before the effectivity of the New Civil Code, however, the legislature passed Republic Act No. 394, which recognized divorce according to Muslim practices for a period of 20 years, or from 1949 to 1969. Muslim divorce was again allowed following the promulgation of Presidential Decree No. 1083, the Code of Muslim Personal Laws, in 1977. The Family Code of the Philippines, which took effect in 1988, retained the policy of the New Civil Code that allows only annulment and legal separation.

[16] Presidential Decree No. 1083, Art. 45.

[17] Presidential Decree No. 1083, Art. 56.

[18] Presidential Decree No. 1083, Art. 57(l)(b).

[19] Presidential Decree No. 1083, Arts. 54 & 55.

[20] Presidential Decree No. 1083, Art. 155.

[21] Presidential Decree No. 1083, Art. 144(l).

[22] *Ijra-At Al Mahakim Al Shari'a*.

[23] Special Rules of Procedure in *Shari'a* Courts, Sec. 9.

[24] Special Rules of Procedure in *Shari'a* Courts, Sec. 8(2).

[25] Presidential Decree No. 1083, Art. 145.

[26] Special Rules of Procedure in *Shari'a* Courts, Sec. 17.

[27] *Coy Quing Reyes v. Republic*, 104 Phil. 889 (1958); See also *Romualdez-Licaros v. Licaros*, G.R. No. 150656, April 29, 2003, 401 SCRA 762, where we authorized the service of summons applicable to proceedings *in rem* or *quasi in rem* to an action for declaration of nullity of his marriage under the Family Code.

[28] *Risos-Vidal v. Commission on Elections*, G.R. No. 206666, January 21, 2015, 747 SCRA 210, 356 (Concurring Opinion of J. Brion).

[29] *Zafra de Alviar and Ahlar v. Ct. of 1st Inst. of La Union*, 64 Phil. 301, 310 (1937).

[30] *Go v. Echavez*, G.R. No. 174542, August 3, 2015, 764 SCRA 505, 518.

[31] *Co v. Court of Appeals*, G.R. No. 93687, May 6, 1991, 196 SCRA 705, 711.

[32] *Herrera v. Barretto and Joaquin*, 25 Phil. 245, 256 (1913).

[33] *Ching v. San Pedro College of Business Administration*, G.R. No. 213197, October 21, 2015, 773 SCRA 570, 589.

[34] *Rollo*, p. 343.

[35] *Id.* at 342.

[36] *Chereau v. Fuentabella*, 43 Phil. 216, 220 (1922).

[37] *Imperial v. Muñoz*, G.R. No. L-30787, August 29, 1974, 58 SCRA 678, 683-684.

[38] *Geronimo v. Santos*, G.R. No. 197099, September 28, 2015, 771 SCRA 508; *Reyes v. Mauricio*, G.R. No. 175080, November 24, 2010, 636 SCRA 79; *Sayson v. Court of Appeals*, G.R. Nos. 89224-25, January 23, 1992, 205 SCRA 321.

[39] *Reyes v. Sotero*, G.R. No. 167405, February 16, 2006, 482 SCRA 520; *Austria v. Reyes*, G.R. No. L-23079, February 27, 1970, 31 SCRA 754.

[40] *Draza v. The City Civil Registrar of Himamaylan City, Negros Occidental*, G.R. No. 181174, December 4, 2009, 607 SCRA 638; *De Castro v. Assidao-De Castro*, G.R. No. 160172, February 13, 2008, 545 SCRA 162.

[41] G.R. Nos. 193902, 193908 and 194075, June 1, 2011, 650 SCRA 304.

[42] *Id.* at 325.

[43] G.R. No. 181369, June 22, 2016.

[44] *Id.*