

The Facts

The CA summarized the facts, as follows:

[Lovelles] and [Henry] met while they were still attending college at the Technical University of the Philippines. Henry courted Lovelle and they became sweethearts sometime in July of 1999. Lovelle was then 17 years of age while Henry was 21.

After she turned 18, Lovelle found out that she was pregnant. It was accordingly agreed upon by Lovelle, Henry and their parents that they would have a civil wedding sometime in November of 2000 or after Lovelle would have given birth to their first child.

To assist with the documentary requirements of their intended civil wedding, Lovelle's parents sought the help of a friend.

As planned, Lovelle and Henry got married on 10 November 2000. Their union was blessed with three (3) children, namely, Elijah Henry (born on 21 August 2000), Elisha Lovelle (born on 12 September 2001) and Isaiah Henry (born on 03 June 2008).

Sometime in 2013, the couple decided to live apart owing to their many differences and misunderstandings.

Upon learning that Henry was in a relationship with another woman, Lovelle consulted a lawyer regarding her resolve to have their marriage annulled. This was in 2015.

Lovelle was advised by her lawyer to verify with the Civil Registry of Quezon City if the marriage license number appearing in their Certificate of Marriage had in fact been issued to them x x x.

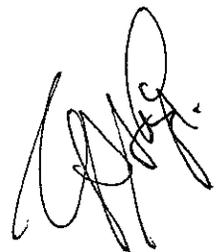
At the Civil Registry [Department] of Quezon City [(CRD-QC)], Lovelle discovered that Marriage License No. 131078 dated 09 November 2000 indicated in their [Certificate of Marriage] had been issued, not to them but, to another couple, Mamerto O. Yambao and Amelia B. Parado. Lovelle thus requested that a corresponding certification be issued. She asked as well that she be furnished with copies of documents related to the issuance of the said marriage license.

As per her request, the following Certification dated 16 July 2015 [(2015 QCCR Certification)] was issued by Salvador G. Carino, Jr., Assistant City Civil Registrar, [CRD-QC]:

CERTIFICATION

To Whom It May Concern:

This is to certify that as per Registry Records of Marriage License files in this office, there is no record of Marriage License No. 131078 dated November 9, 2000 allegedly issued in favor of HENRY G. CARIAGA and LOVELLE F. SAPLARAN. The said Marriage License No. 131078 dated November 9, 2000 was issued to MAMERTO O. YAMBAO, a resident of 187th St. Goodrich Village and



AMELIA B. PARADO, a resident of 4-A Illinois St., Cubao, Quezon City, valid until March 1, 2001.

This Certification is being issued upon the request of LOVELLE F. SAPLARAN, for whatever legal purposes it may serve.

Done this 16th day of July 2015 at City Hall, Quezon City, Metro Manila.

SALVADOR G. CARINO, JR. (sgd.)
Assistant City Civil Registrar
City Civil Registry Department
Quezon City

Lovelle was also given copies of the following documents: (1) Application for Marriage License of Mamerto O. Yambao and Amelia B. Parado; (2) Marriage License and Fee Receipt of P50.00; (3) Sworn Statement that Advice of Parents or Guardian has been Secured executed by Amelia B. Parado; and, (4) Notice of Application for Marriage License of Mamerto O. Yambao and Amelia B. Parado.

Armed with the x x x [2015 QCCR Certification] and the documents she was able to obtain from the [CRD-QC], Lovelle filed a petition for declaration of nullity of her marriage with Henry [(Nullity Petition)] on 09 March 2016. The petition was docketed as Civil Case No. 7186 before the RTC of Masbate City, Branch 48.⁴

RTC proceedings

In the Nullity Petition, Lovelle averred that her marriage with Henry is void *ab initio* as it was contracted without a valid marriage license.⁵

The Office of the Solicitor General (OSG) entered its appearance and deputized the City Prosecutor to appear on its behalf. Subsequently, the RTC directed the investigating prosecutor to conduct an investigation to determine whether collusion existed between the parties. In his Report, the investigating prosecutor declared that no collusion existed.⁶

Despite being duly served with summons, Henry did not file his answer. He also failed to participate in the proceedings.⁷

During the pre-trial, the City Prosecutor stipulated on the genuineness and due execution of the 2015 QCCR Certification. Because of this, the testimony of Assistant City Civil Registrar Salvador G. Carino, Jr. (ACCR Carino) was dispensed with.⁸

⁴ Id. at 30-32.

⁵ Id. at 32.

⁶ Id. at 32-33.

⁷ Id. at 33.

⁸ Id. at 14.



After trial, the RTC issued its July 25, 2017 Decision denying the Nullity Petition, thus:

A careful reading of the [2015 QCCR Certification], however, shows that [it] only declares that the Marriage License No. 131078, appearing on the marriage certificate of the parties, was not issued for one Henry S. Cariaga and Lovelle F. Saplaran but was issued for another couple. **The [2015 QCCR Certification] failed to state that no marriage license appears to have been issued [in favor of Henry and Lovelle] on their record.** The [2015 QCCR Certification] is insufficient that, in a way, there remains a doubt on whether there is a marriage license bearing another number issued for the parties to this case. This is important because, a typographical error of the number typed in the marriage certificate when there is actually a marriage license bearing a different number issued to the parties would only be an irregularity in the formal requisite and would not affect the validity of the marriage.

Evidence on record also shows that [Lovelle] failed to submit the original or a certified true copy of the [2015 QCCR Certification]. During the testimony of [Lovelle], the Court asked for the original copy of the [2015 QCCR Certification] but [Lovelle] stated that she failed to bring the same. On her formal offer of exhibits, [Lovelle] still failed to submit the original copy of the [2015 QCCR Certification].

WHEREFORE, premises considered, the [Nullity Petition] is DENIED.⁹ (Emphasis supplied)

In sum, the RTC found the 2015 QCCR Certification insufficient for the purpose of establishing that Lovelle and Henry's marriage was contracted without a valid marriage license.

Lovelle filed a motion for reconsideration alleging, among others, that the original 2015 QCCR Certification was presented during the pre-trial, after which, a stipulation had been made by the parties as regards its genuineness and due execution. Lovelle further explained that, contrary to what the Decision stated, the original document that she failed to produce during trial was not the 2015 QCCR Certification but rather, the Certificate of Live Birth of Elijah Henry S. Cariaga. This is confirmed by the transcript of stenographic notes.¹⁰

Nevertheless, the RTC denied the motion for reconsideration in its Order dated September 11, 2017.¹¹ Aggrieved, Lovelle filed an appeal with the CA under Rule 42 of the 1997 Rules.

CA proceedings

In her appeal, Lovelle maintained that the evidence she presented proved that she and Henry contracted their marriage without a valid marriage

⁹ Id. at 15-16.

¹⁰ Id. at 16.

¹¹ Id.



license. In particular, Lovelle relied on the 2015 QCCR Certification, her unequivocal and un rebutted testimony that she and Henry did not apply for a marriage license prior to the marriage, and that it was her parents' friend who took care of the documentary requirements for their civil wedding.¹²

Lovelle further asserted that after she received notice of the RTC Decision, she returned to the CRD-QC to request for another certification explicitly stating that no marriage license was ever issued in her and Henry's names in order to comply with the parameters set by the RTC. However, the CRD-QC could not issue such a certification, as "they could not retrieve all the marriage licenses that its office had issued from the beginning".¹³ In place of this, Lovelle attached to her Appeal Brief a new Certification dated November 7, 2017 (2017 QCCR Certification) that is similarly worded as the 2015 QCCR Certification.¹⁴

On December 17, 2018, the CA issued the assailed Decision denying Lovelle's appeal, thus:

WHEREFORE, the instant appeal is **DENIED**. The assailed Decision of the [RTC] is **AFFIRMED**.

SO ORDERED.¹⁵

Like the RTC, the CA also found Lovelle's evidence insufficient to support her cause.

According to the CA, the fact that no marriage license was issued to Lovelle and Henry cannot be deduced from the 2015 QCCR Certification. All that it confirms is that the marriage license referred to in Henry and Lovelle's Certificate of Marriage pertains to that issued to a certain Mamerto O. Yambao (Yambao) and Amelia B. Parado (Parado). The 2015 QCCR Certification does not dispel the possibility that Lovelle and Henry obtained a marriage license with a different number.¹⁶ Further, the CA treated as uncorroborated and self-serving Lovelle's testimony that she and Henry did not apply for a marriage license.¹⁷

Lovelle filed a motion for reconsideration which the CA denied through the assailed Resolution¹⁸ dated July 4, 2019. Lovelle received a copy of the assailed Resolution on July 22, 2019.¹⁹

¹² Id. at 34.

¹³ Id. Italics omitted.

¹⁴ Id.

¹⁵ Id. at 40.

¹⁶ Id. at 38.

¹⁷ Id. at 39.

¹⁸ Supra note 3.

¹⁹ Id. at 11.



On August 5, 2019, Lovelle filed a Motion for Extension of Time to File Petition for Review on *Certiorari*²⁰ requesting an additional period of fifteen (15) days from August 6, 2019, or until August 21, 2019 within which to file the her Petition.

This Petition was filed on August 20, 2019.²¹

Here, Lovelle maintains that she was able to prove that her marriage with Henry was solemnized without a valid marriage license. She insists that the 2015 QCCR Certification is sufficient to prove such fact, pursuant to Section 28, Rule 132 of the 1997 Rules. Lovelle further argues that in previous cases, the Court has found similarly worded certifications sufficient to overcome the presumption of validity of marriage, particularly, in *Republic v. Court of Appeals and Castro*²² (*Castro*) and *Abbas v. Abbas*²³ (*Abbas*).²⁴

For its part, the Republic, through the OSG, contends that in order to declare a marriage null and void on the ground of absence of a valid marriage license, such absence must be apparent on the face of the marriage contract, or, at the very least, supported by a certification to this effect. In this connection, the OSG argues that prevailing jurisprudence requires that the certification issued by the local civil registrar concerned categorically state that the license in question does not exist in their records, or could not be found despite diligent search.²⁵ The Republic argues that Lovelle's 2015 QCCR Certification fails to meet this standard.

More, the Republic avers that Lovelle's testimony to the effect that she and Henry never applied for a marriage license readily shows that Lovelle came to court with unclean hands. Hence, she should not be allowed to benefit from such failure by obtaining a declaration of nullity of their marriage.²⁶

The Issue

The sole issue submitted for the Court's resolution is whether the CA erred in affirming the dismissal of the Nullity Petition on the ground of insufficiency of evidence.

The Court's Ruling

The Petition is granted.

²⁰ Id. at 3-6.

²¹ Id. at 10.

²² G.R. No. 103047, September 2, 1994, 236 SCRA 257.

²³ G.R. No. 183896, January 30, 2013, 689 SCRA 646.

²⁴ See *rollo*, pp. 18-22.

²⁵ Id. at 74-75, citing *Sevilla v. Cardenas*, G.R. No. 167684, July 31, 2006, 497 SCRA 428.

²⁶ Id. at 77-78.



Lovelle and Henry wed on November 10, 2000. Thus, the Family Code governs their marriage. As to the essential and formal requisites for the validity of marriage, Articles 2 to 4 of the Family Code state:

ART. 2. No marriage shall be valid, unless these essential requisites are present:

(1) Legal capacity of the contracting parties who must be a male and a female; and

(2) Consent freely given in the presence of the solemnizing officer.

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.

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. (Emphasis supplied)

The provisions of the Family Code are clear — the absence of a valid marriage license renders the marriage *void ab initio*, except when the marriage is among those exempted from the license requirement, as set forth in Chapter 2, Title I of the Family Code.

There is no dispute that none of the exceptions apply here.²⁷ Hence, a valid marriage license is an indispensable requirement to the validity of

²⁷ These exceptions are set forth in Chapter 2 of the Family Code as follows:

ART. 27. In case either or both of the contracting parties are at the **point of death**, the marriage may be solemnized without necessity of a marriage license and shall remain valid even if the ailing party subsequently survives.

ART. 28. If the residence of either party is so located that there is **no means of transportation to enable such party to appear personally before the local civil registrar**, the marriage may be solemnized without the necessity of a marriage license.

x x x x

ART. 31. A marriage **in articulo mortis between passengers or crew members** may also be solemnized by a ship captain or by an airplane pilot not only while the ship is at sea or the plane is in flight, but also during stopovers at ports of call.

ART. 32. A military commander of a unit, who is a commissioned officer, shall likewise have authority to solemnize marriages **in articulo mortis between persons within the zone of military operation**, whether members of the armed forces or civilians.

Lovelle and Henry's marriage since it is the marriage license that grants the solemnizing officer the authority to solemnize the marriage and give it legal effect.²⁸

For a marriage to be considered void due to the lack of a marriage license, the absence of such license must be apparent on the marriage contract, or at the very least, supported by a certification from the local civil registrar that no such marriage license was issued to the parties.²⁹

Here, Lovelle hinges her Nullity Petition on the 2015 QCCR Certification issued by ACCR Carino of the CRD-QC. This Certification states that the marriage license indicated in the Certificate of Marriage evidencing her marriage with Henry was actually issued to another couple namely, Yambao and Parado. To reiterate, the 2015 QCCR Certification is worded as follows:

This is to certify that as per Registry Records of Marriage License files in this office, **there is no record of Marriage License No. 131078 dated November 9, 2000 allegedly issued in favor of HENRY G. CARIAGA and LOVELLE F. SAPLARAN.** The said Marriage License No. 131078 dated November 9, 2000 was issued to MAMERTO O. YAMBAO, a resident of 187th St. Goodrich Village and AMELIA B. PARADO, a resident of 4-A Illinois St., Cubao, Quezon City, valid until March 1, 2001.³⁰ (Emphasis supplied)

To properly assess the sufficiency of the 2015 QCCR Certification, it is necessary to first discuss and understand the duties of the local civil registrar, as well as the procedure governing the issuance of marriage licenses and the registration of marriages.

The duties of the local civil registrar vis-à-vis the registration of applications for marriage license and certificates of marriage

The duties of the local civil registrar are primarily set forth under Section 12 of Act No. 3753.³¹ It states:

ART. 33. Marriages among Muslims or among members of the ethnic cultural communities may be performed validly without the necessity of a marriage license, provided that they are solemnized in accordance with their customs, rites or practices.

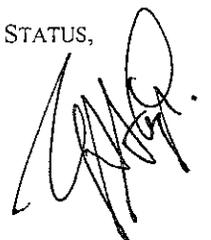
ART. 34. No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage. (Emphasis supplied)

²⁸ See *Arañes v. Occiano*, A.M. No. MTJ-02-1390 (Formerly IPI No. 01-1049-MTJ), April 11, 2002, 380 SCRA 402, 407.

²⁹ *Kho v. Republic*, G.R. No. 187462, June 1, 2016, 791 SCRA 604, 618.

³⁰ *Rollo*, pp. 31-32.

³¹ AN ACT TO ESTABLISH A CIVIL REGISTER, otherwise known as LAW ON REGISTRY OF CIVIL STATUS, November 26, 1930.



SECTION 12. *Duties of local civil registrar.* — Local civil registrars shall (a) file registrable certificates and documents presented to them for entry; (b) compile the same monthly and prepare and send any information required of them by the Civil Registrar-General; (c) issue certified transcripts or copies of any certificate or document registered upon payment of proper fees; (d) order the binding, properly classified, of all certificates or documents registered during the year; (e) send to the Civil Registrar-General, during the first ten days of each month, a copy of the entries made during the preceding month for filing; (f) index the same to facilitate search and identification in case any information is required, and (g) administer oaths, free of charge, for civil register purposes.

Subsequently, the National Statistics Office³² (NSO) issued Administrative Order No. 1-93 prescribing the Implementing Rules and Regulations of Act No. 3753 and Other Laws on Civil Registration (Implementing Rules). These Implementing Rules, issued on December 18, 1992, further detailed the functions of the local civil registrars under Act No. 3753, and incorporated the additional duties imposed upon them by subsequent laws, particularly, the Family Code and the Local Government Code, thus:

RULE 5. *Duties of the Civil Registrar.* — The civil registrar shall take charge of the office of the civil registry and shall:

- a) file registrable certificates and documents presented to them for entry;
- b) compile the same monthly and prepare and send any information required of them by the Civil Registrar-General;
- c) issue certified transcripts or copies of any certificate or document registered, upon payment of the proper fees;
- d) order the binding, properly classified, of all certificates or documents registered during the year;
- e) send to the Civil Registrar-General, (through his designated representative) during the first ten days of each month, a copy of entries made during the preceding month, for filing;
- f) index the same to facilitate search and identification in case any information is required;
- g) administer oaths, free of charge, for civil register purposes; x x
x
- h) accept all registrable documents and judicial decrees/orders affecting the civil status of persons;
- i) file, keep and preserve in a secured place the books required by law;

³² Now Philippine Statistics Authority.



- a) Full name of the contracting party;
- b) Place of birth;
- c) Age and date of birth;
- d) Civil status;
- e) If previously married, how, when and where the previous marriage was dissolved or annulled;
- f) Present residence and citizenship;
- g) Degree of relationship of the contracting parties;
- h) Full name, residence and citizenship of the father;
- i) Full name, residence and citizenship of the mother; and
- j) Full name, residence and citizenship of the guardian or person having charge, in case the contracting party has neither father nor mother and is under the age of twenty-one years. x x x

(2) **The local civil registrar concerned shall enter all applications for marriage licenses filed with him in a registry book strictly in the order in which the same are received. He shall record in said book the names of the applicants, the date on which the marriage license was issued, and such other data as may be necessary. x x x** (Emphasis supplied)

On the other hand, a separate procedure for the registration of certificates of marriage is prescribed under Title Five, thus:

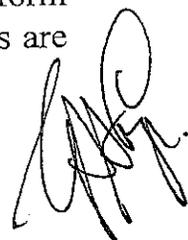
RULE 40. *Marriage.* — Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code. x x x

RULE 41. *Reglementary Period and Place of Registration.* — In ordinary marriage, the time for submission of the Certificate of Marriage is within fifteen (15) days following the solemnization of marriage while in marriage exempt from license requirement, the prescribed period is thirty (30) days, at the place where the marriage was solemnized.

RULE 42. *Person Responsible to Report the Event.* — The solemnizing officer has the duty to report the marriage to the Office of the Civil Registrar where the marriage was solemnized.

RULE 43. *Number of Copies to be Accomplished for Distribution.* — It shall be the duty of the person concerned to accomplish and send four (4) copies of the Certificate of Marriage to the civil registrar for registration. After the registration, the civil registrar shall distribute copies of the document bearing the civil registry number within five (5) days from receipt thereof as follows: first copy to the contracting parties; second copy to the Office of the Civil Registrar-General; third copy shall be retained for filing; and fourth copy to the solemnizing officer.

Prior to registration of documents in the civil registry, the Implementing Rules require the local civil registrar to see to it that: (i) the appropriate form is used; (ii) the form is properly and completely filled in; (iii) all entries are



- j) transcribe and enter immediately upon receipt all registrable documents and judicial decrees affecting the civil status of persons in the appropriate civil registry books;
- k) **receive applications for the issuance of a marriage license and after determining that the requirements and supporting certificates and publication thereof for the prescribed period have been complied with, shall issue the license upon payment of the authorized fee to the treasurer;**
- l) coordinate with the Office of the Civil Registrar-General [NSO] in conducting educational campaigns for vital registration and assist in the preparation of demographic and other statistics for the local government unit concerned; x x x
- m) file, keep and preserve civil registry records as per archival system mandated by the Local Government Code; x x x
- n) submit status reports on the condition of civil registry documents filed in the civil registry office whenever there are changes of the previous status of files;
- o) reconstruct destroyed civil registry records upon compliance with the requirements following the procedures established by the Office of the Civil Registrar-General; and
- p) make available at all times the civil registry forms in his office. (Emphasis supplied; citations omitted)

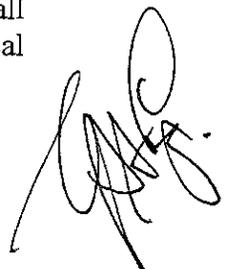
Rule 7 of the Implementing Rules lists the registry books that local civil registrars are required to maintain. Notably, the list includes **separate** registry books for marriages and applications for marriage license.

RULE 7. Civil Registry Books. — (1) Every civil registrar shall maintain, keep and preserve in a secured place in his office the following registry books where he shall properly enter the acts, events, and judicial decrees concerning the civil status of persons:

- a) Register of Births;
- b) Register of Foundlings;
- c) Register of Deaths;
- d) **Register of Marriages;**
- e) Register of Court Decrees/Orders;
- f) Register of Legal Instruments; and
- g) **Register of Applications for Marriage License x x x.** (Emphasis supplied)

In turn, the procedure for the registration of applications for marriage license is detailed under Title Six of the Implementing Rules. The relevant portions thereof state:

RULE 47. Reglementary Period and Place of Registration. — (1) Where a marriage license is required, each of the contracting parties shall file separately a sworn application for such license with the proper local civil registrar x x x which shall specify the following:



correct; and (iv) all proper attachments are submitted. The documents in question shall only be accepted for correction once the entries therein are complete and verified to be correct. This much is clear from Rule 9 of the Implementing Rules:

RULE 9. *Operative Act of Registration.* — 1) The civil registrar shall see to it that: a) appropriate form is used; b) form is properly and completely filled up; c) entries are correct; and d) proper attachments are submitted.

(2) In case the entries are found incomplete or incorrect, the civil registrar shall require the person concerned to fill up the document completely or to correct the entries, as the case may be.

(3) When the document is accepted for registration, the date of receipt shall be recorded in the space provided or it shall be stamped on the upper right hand margin, in document where no space is provided, properly signed by the person receiving the same.

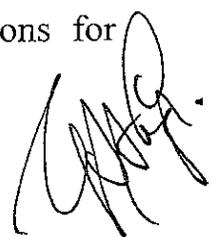
(4) The documents received for the day shall be entered immediately in the appropriate civil registry book, assigning therein the corresponding registry number. A document which bears no registry number is presumed not registered. However, when such document bears the date of receipt, name and signature of the civil registrar, it is deemed registered, in which case the civil registrar or his authorized personnel shall be liable for damages sustained by any party as a result of the non-registration of the document.

From the foregoing, it is clear that the issuance of a valid marriage license presupposes the submission of a sworn application duly verified and entered by the local civil registrar in the Register of Applications for Marriage License. In other words, no valid marriage license can be issued unless the requisite application is properly filed and entered in the Register of Applications for Marriage License of the locality where the application is filed. **The absence of the proper entry in the Register of Applications for Marriage License necessarily implies the absence of a marriage license.**

Similarly, a Certificate of Marriage can only be deemed duly registered and entered in the Register of Marriages when it is presented to and thereafter accepted by the local civil registrar for registration after the completeness and correctness of the entries therein are verified.

In cases where a certification issued by the local civil registrar is presented to prove the absence of a marriage license, courts must not solely rely on the language employed therein. Rather, courts must take a holistic approach in assessing its sufficiency.

At this juncture, the Court takes the opportunity to disabuse the bench and the bar of the erroneous notion that the resolution of actions for



declaration of absolute nullity of marriage on the ground of absence of a marriage license hinges *solely* on the language of the certification issued by the local civil registrar concerned.

Section 28, Rule 132 of the 1997 Rules³³ provides how lack of record may be proved. It states:

Sec. 28. *Proof of lack of record.* — A written statement signed by an officer having the custody of an official record or by his or her deputy that, after diligent search, no record or entry of a specified tenor is found to exist in the records of his or her office, accompanied by a certificate as above provided, is admissible as evidence that the records of his or her office contain no such record or entry. (Underscoring in the original)

To be sure, the aforesaid rule provides the matters which the written statement must certify in order to establish the absence of the record in question. Nevertheless, the rule does not mandate the use of specific language as a requisite for the admissibility of the written statement as sufficient proof of lack of record.

In this connection, it is worthy to note that no specific language and/or format is prescribed by the Implementing Rules for statements and certifications issued by the local civil registrars. These authorized officers are thus left to use such language as they may deem necessary and appropriate when issuing statements and certifications on matters within the scope of their authority. Thus, in the absence of a prescribed form, requesting parties are bound by the language which the concerned local civil registrar chooses to employ. Requesting parties are therefore left to contend with these statements and certifications as they are written.

Hence, in cases where the action is hinged on a certification issued by the local civil registrar (as is the case for actions for declaration of nullity based on absence of marriage license), the Court has adopted a holistic approach in assessing such certifications, giving due regard to the attendant circumstances, the totality of evidence on record, as well as the law and procedure relevant to the case in question.

In *Castro*, the Court held that a certification issued by the Senior Civil Registry Officer of Pasig City, to the effect that the marriage license referenced in the Certificate of Marriage of respondent therein “cannot be located as said license x x x does not appear from our records”³⁴ was adequate

³³ As revised by A.M. No. 19-08-15-SC (2019 Proposed Amendments to the Revised Rules on Evidence, October 8, 2019) to incorporate gender-neutral language. Prior to said revision, Section 28, Rule 132 read:

SEC. 28. *Proof of lack of record.* — A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as above provided, is admissible as evidence that the records of his office contain no such record or entry.

³⁴ *Republic v. Court of Appeals and Castro*, supra note 22, at 259. Italics omitted.

to prove its non-issuance, as the certification was unaccompanied by any circumstance of suspicion.³⁵

In *Castro*, the certification along with the testimony of the respondent were taken as sufficient evidence to prove the nullity of the marriage in question. The Court held:

Petitioner posits that the certification of the local civil registrar of due search and inability to find a record or entry to the effect that marriage license no. 3196182 was issued to the parties is not adequate to prove its non-issuance.

We hold otherwise. The presentation of such certification in court is sanctioned by Section 29, Rule 132 of the Rules of Court x x x

x x x x

The above Rule authorized the custodian of documents to certify that despite diligent search, a particular document does not exist in his office or that a particular entry of a specified tenor was not to be found in a register. As custodians of public documents, civil registrars are public officers charged with the duty, *inter alia*, of maintaining a register book where they are required to enter all applications for marriage licenses, including the names of the applicants, the date the marriage license was issued and such other relevant data.

The certification of “due search and inability to find” issued by the civil registrar of Pasig enjoys probative value, he being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license. Unaccompanied by any circumstance of suspicion and pursuant to Section 29, Rule 132 of the Rules of Court, a certificate of “due search and inability to find” sufficiently proved that his office did not issue marriage license no. 3196182 to the contracting parties.

The fact that private respondent Castro offered only her testimony in support of her petition is, in itself, not a ground to deny her petition. The failure to offer any other witness to corroborate her testimony is mainly due to the peculiar circumstances of the case. It will be remembered that the subject marriage was a civil ceremony performed by a judge of a city court. The subject marriage is one of those commonly known as a “secret marriage”—a legally non-existent phrase but ordinarily used to refer to a civil marriage celebrated without the knowledge of the relatives and/or friends of either or both of the contracting parties. The records show that the marriage between Castro and Cardenas was initially unknown to the parents of the former.³⁶

Similarly, in *Cariño v. Cariño*³⁷ (*Cariño*), the Court found the certification issued by the Local Civil Registrar of San Juan, Manila stating that the Office of the Civil Registrar has “no record of [the] marriage license” of the late Santiago Cariño and therein petitioner Susan Cariño sufficient to establish that the marriage between them was void *ab initio*.³⁸ As in *Castro*,

³⁵ Id. at 261-262.

³⁶ Id. Citations omitted.

³⁷ G.R. No. 132529, February 2, 2001, 351 SCRA 127.

³⁸ Id. at 133-134.

the Court lent credence to the certification in the absence of any circumstance of suspicion, and any evidence tending to prove the contrary. The Court held:

x x x Absent any circumstance of suspicion, as in the present case, the certification issued by the local civil registrar enjoys probative value, he being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license.

Such being the case, the presumed validity of the marriage of petitioner and the deceased has been sufficiently overcome. It then became the burden of petitioner to prove that their marriage is valid and that they secured the required marriage license. Although she was declared in default before the trial court, petitioner could have squarely met the issue and explained the absence of a marriage license in her pleadings before the Court of Appeals and this Court. But petitioner conveniently avoided the issue and chose to refrain from pursuing an argument that will put her case in jeopardy. Hence, the presumed validity of their marriage cannot stand.

It is beyond cavil, therefore, that the marriage between petitioner Susan Nicdao and the deceased, having been solemnized without the necessary marriage license, and not being one of the marriages exempt from the marriage license requirement, is undoubtedly void *ab initio*.³⁹ (Emphasis supplied)

On the other hand, in *Sevilla v. Cardenas*⁴⁰ (*Sevilla*), the counsel for petitioner committed a typographical error in his letter requesting for a certification regarding the existence of petitioner's marriage license, erroneously indicating the number "2880792" instead of "2770792" as the marriage license subject of the search.⁴¹

As a result, three separate certifications were issued by the Local Civil Registrar of San Juan, stating as follows:

The first Certification issued by the Local Civil Registrar of San Juan, Metro Manila, was dated 11 March 1994. It reads:

TO WHOM IT MAY CONCERN:

No Marriage License Number 2770792 were (sic) ever issued by this Office. With regards (sic) to Marriage License Number 2880792, we exert all effort (sic) but we cannot find the said number.

Hope and understand our loaded work cannot give you our full force locating the above problem.

San Juan, Metro Manila
March 11, 1994

(SGD) RAFAEL D. ALISCAD, JR.
Local Civil Registrar

³⁹ Id.

⁴⁰ Supra note 25.

⁴¹ See id. at 439.



The second [C]ertification was dated 20 September 1994 and provides:

TO WHOM IT MAY CONCERN:

This is to certify that no marriage license Number 2770792 were (*sic*) ever issued by this Office with regards (*sic*) to Marriage License Number 2880792, we exert all effort (*sic*) but we cannot find the said number.

Hope and understand our loaded work cannot give you our full force locating the above problem.

San Juan, Metro Manila
September 20, 1994

(SGD.) RAFAEL D. ALISCAD, JR.
Local Civil Registrar

The third Certification, issued on 25 July 2000, states:

TO WHOM IT MAY CONCERN:

This is to certify that according to the records of this office, no Marriage License Application was filed and no Marriage License No. 2770792 allegedly dated May 19, 1969 was issued by this Office to MR. JAIME O. SEVILLA and MS. CARMELITA CARDENAS-SEVILLA.

This is to further certify that the said application and license do not exist in our Local Civil Registry Index and, therefore, appear to be fictitious.

This certification is being issued upon the request of the interested party for whatever legal intent it may serve.

San Juan, Metro Manila
July 25, 2000

(SGD.) RAFAEL D. ALISCAD, JR.
Local Civil Registrar⁴²

Petitioner in *Sevilla* presented these certifications as evidence to prove that his marriage with respondent had been solemnized without a marriage license.

Resolving the case, the Court held that petitioner failed to establish that his marriage with respondent had been solemnized without a valid marriage license. In so ruling, the Court held that the totality of evidence on record shows that the Local Civil Registrar of San Juan failed to observe due diligence when he conducted the search for the marriage license in question. The Court explained:

⁴² Id. at 439-440.



Note that the first two certifications bear the statement that “hope and understand our loaded work cannot give you our full force locating the above problem.” It could be easily implied from the said statement that the Office of the Local Civil Registrar could not exert its best efforts to locate and determine the existence of Marriage License No. 2770792 due to its “loaded work.” Likewise, both certifications failed to state with absolute certainty whether or not such license was issued.

This implication is confirmed in the testimony of the representative from the Office of the Local Civil Registrar of San Juan, Ms. Perlita Mercader, who stated that they cannot locate the logbook due to the fact that the person in charge of the said logbook had already retired. Further, the testimony of the said person was not presented in evidence. It does not appear on record that the former custodian of the logbook was deceased or missing, or that his testimony could not be secured. **This belies the claim that all efforts to locate the logbook or prove the material contents therein, had been exerted.**

As testified to by Perlita Mercader:

Q Under the subpoena *duces tecum*, you were required to bring to this Court among other things the register of application of/or (*sic*) for marriage licenses received by the Office of the Local Civil Registrar of San Juan, Province of Rizal, from January 19, 1969 to May 1969. Did you bring with you those records?

A I brought [M]ay 19, 1969, sir.

Q Is that the book requested of you under no. 3 of the request for subpoena?

A *Meron pang* January. I forgot, January . . .

Q Did you bring that with you?

A No, sir.

Q Why not?

A I cannot locate the book. This is the only book.

Q Will you please state if this is the register of marriage of marriage applications that your office maintains as required by the manual of the office of the Local Civil Registrar?

COURT

May I see that book and the portion marked by the witness.

x x x x

COURT

Why don't you ask her [a] direct question [-] whether marriage license 2880792 is the number issued by their office while with respect to license no. 2770792 the [O]ffice of the Local Civil Registrar of San Juan

is very definite about it[;] it was never issued. Then ask him how about no. 2880792 if the same was ever issued by their office. Did you ask this 2887092, but you could not find the record? But for the moment you cannot locate the books? Which is which now, was this issued or not?

A The employee handling it is already retired, sir.

Given the documentary and testimonial evidence to the effect that utmost efforts were not exerted to locate the logbook where Marriage License No. 2770792 may have been entered, the presumption of regularity of performance of official function by the Local Civil Registrar in issuing the certifications is effectively rebutted.

X X X X

The presumption of regularity of performance of official duty is disputable and can be overcome by other evidence as in the case at bar where the presumption has been effectively defeated by the tenor of the first and second certifications.

Moreover, the absence of the logbook is not conclusive proof of non-issuance of Marriage License No. 2770792. It can also mean, as we believed true in the case at bar, that the logbook just cannot be found. In the absence of showing of diligent efforts to search for the said logbook, we cannot easily accept that absence of the same also means non-existence or falsity of entries therein.⁴³ (Emphasis and italics supplied; emphasis in the original omitted)

As a side note, it should be recognized that in *Sevilla*, the Court held that “[a] certification x x x issued by the [l]ocal [c]ivil [r]egistrar must categorically state that the document does not exist in his office or the particular entry could not be found in the register despite diligent search.”⁴⁴ This pronouncement appears to proceed from a misapplication of the Court’s ruling in *Castro*, as discussed above. To recall, in *Castro*, the Court held that the certification presented therein was sufficient to establish the nullity of respondent’s marriage, even if the certification did not bear the categorical statements adverted to in *Sevilla*.

Be that as it may, any doubt that may have been cast by the aforesaid statement in *Sevilla* was subsequently clarified in the case of *Abbas*.

In *Abbas*, the Court unequivocally held that the absence of the words “despite diligent search” in the certification of the local civil registrar does not, on its own, diminish its probative value. Thus:

The Municipal Civil Registrar of Carmona, Cavite, where the marriage license of Gloria and Syed was allegedly issued, **issued a certification to the effect that no such marriage license for Gloria and**

⁴³ Id. at 440-443.

⁴⁴ Id. at 438. Emphasis supplied.



Syed was issued, and that the serial number of the marriage license pertained to another couple, Arlindo Getalado and Myra Mabilangan. A certified machine copy of Marriage License No. 9969967 was presented, which was issued in Carmona, Cavite, and indeed, the names of Gloria and Syed do not appear in the document.

In reversing the RTC, the CA focused on the wording of the certification, stating that it did not comply with Section 28, Rule 132 of the Rules of Court.

The CA deduced that from the absence of the words “despite diligent search” in the certification, and since the certification used stated that no marriage license appears to have been issued, no diligent search had been conducted and thus the certification could not be given probative value.

To justify that deduction, the CA cited the case of [*Castro*]. It is worth noting that in that particular case, the Court, in sustaining the finding of the lower court that a marriage license was lacking, relied on the Certification issued by the Civil Registrar of Pasig, which merely stated that the alleged marriage license could not be located as the same did not appear in their records. Nowhere in the Certification was it categorically stated that the officer involved conducted a diligent search, nor is a categorical declaration absolutely necessary for Sec. 28, Rule 132 of the Rules of Court to apply.

Under Sec. 3(m), Rule 131 of the Rules of Court, it is a disputable presumption that an official duty has been regularly performed, absent contradiction or other evidence to the contrary. We held, “[t]he presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty.” No such affirmative evidence was shown that the Municipal Civil Registrar was lax in performing her duty of checking the records of their office, thus the presumption must stand. In fact, proof does exist of a diligent search having been conducted, as Marriage License No. 9969[9]67 was indeed located and submitted to the court. The fact that the names in said license do not correspond to those of Gloria and Syed does not overturn the presumption that the registrar conducted a diligent search of the records of her office.⁴⁵ (Emphasis supplied)

More importantly, in *Abbas*, the Court took a holistic approach in assessing the probative value of the local civil registrar’s certificate by evaluating it in conjunction with the attendant circumstances and the totality of evidence presented therein. The Court held:

It is telling that Gloria failed to present their marriage license or a copy thereof to the court. She failed to explain why the marriage license was secured in Carmona, Cavite, a location where, admittedly, neither party resided. She took no pains to apply for the license, so she is not the best witness to testify to the validity and existence of said license. Neither could the other witnesses she presented prove the existence of the marriage license, as none of them applied for the license in Carmona, Cavite. Her mother, Felicitas Goo, could not even testify as to the contents of the

⁴⁵ *Abbas v. Abbas*, supra note 23, at 660-661. Citations omitted.

license, having admitted to not reading all of its contents. Atty. Sanchez, one of the sponsors, whom Gloria and Felicitas Goo approached for assistance in securing the license, admitted not knowing where the license came from. The task of applying for the license was delegated to a certain Qualin, who could have testified as to how the license was secured and thus impeached the certification of the Municipal Civil Registrar as well as the testimony of her representative. As Gloria failed to present this Qualin, the certification of the Municipal Civil Registrar still enjoys probative value.

It is also noted that the solemnizing officer testified that the marriage contract and a copy of the marriage license were submitted to the Local Civil Registrar of Manila. Thus, a copy of the marriage license could have simply been secured from that office and submitted to the court. However, Gloria inexplicably failed to do so, further weakening her claim that there was a valid marriage license issued for her and Syed.⁴⁶

In the cases following *Abbas*, the Court's holistic approach vis-à-vis certifications on the non-existence of marriage licenses remained consistent.

Hence, in *Vitangcol v. People*⁴⁷ (*Vitangcol*), the Court found the certification of the local civil registrar of Imus, Cavite inadequate to support the petitioner's claim that his marriage with his first wife was null and void due to the absence of a marriage license. Such was the Court's ruling even as the certification in question categorically stated that "[a]fter a diligent search on the files of Registry Book on Application for Marriage License and License Issuance available in [the Office of the Civil Registrar of Imus], no record could be found on the alleged issuance of x x x Marriage License No. 8683519 in favor of [petitioner Norberto A. Vitangcol] and [his first wife Gina M. Gaerlan]."⁴⁸

In so ruling, the Court took pains to distinguish the factual circumstances attendant in *Vitangcol* from those in *Castro* and *Cariño*, and laid out the particular circumstances which cast doubt on the veracity of the local civil registrar's certification in *Vitangcol*, thus:

This Certification does not prove that petitioner's first marriage was solemnized without a marriage license. It does not categorically state that Marriage License No. 8683519 does not exist.

Moreover, petitioner admitted the authenticity of his signature appearing on the marriage contract between him and his first wife, Gina. The marriage contract between petitioner and Gina is a positive piece of evidence as to the existence of petitioner's first marriage. This "should be given greater credence than documents testifying merely as to [the] absence of any record of the marriage[.]"

[*Castro*] was originally an action for the declaration of nullity of a marriage. As part of its evidence, the plaintiff presented a certification that

⁴⁶ Id. at 661-662.

⁴⁷ G.R. No. 207406, January 13, 2016, 780 SCRA 598.

⁴⁸ Id. at 608.



states that the marriage license "cannot be located as said license x x x does not appear from [the local civil registrar's] records."

This Court held that "[t]he certification x x x enjoys probative value, [the local civil registrar] being the officer charged under the law to keep a record of all data relative to the issuance of a marriage license." This court further said that "[u]naccompanied by any circumstance of suspicion and pursuant to Section 29, Rule 132 of the Rules of Court, a certificate of 'due search and inability to find' sufficiently proved that [the local civil registrar] did not issue [a] marriage license x x x to the contracting parties."

The circumstances in *Castro* and in this case are different. *Castro* involved a civil case for declaration of nullity of marriage that does not involve the possible loss of liberty. The certification in *Castro* was unaccompanied by any circumstance of suspicion, there being no prosecution for bigamy involved. On the other hand, the present case involves a criminal prosecution for bigamy. To our mind, this is a circumstance of suspicion, the Certification having been issued to Norberto for him to evade conviction for bigamy.

The appreciation of the probative value of the certification cannot be divorced from the purpose of its presentation, the cause of action in the case, and the context of the presentation of the certification in relation to the other evidence presented in the case. We are not prepared to establish a doctrine that a certification that a marriage license cannot be found may substitute for a definite statement that no such license existed or was issued. Definitely, the Office of the Civil Registrar of Imus, Cavite should be fully aware of the repercussions of those words. That the license now cannot be found is not basis *per se* to say that it could not have been issued.

A different view would undermine the stability of our legal order insofar as marriages are concerned. Marriage licenses may be conveniently lost due to negligence or consideration. The motivation to do this becomes greatest when the benefit is to evade prosecution.

This case is likewise different from [*Cariño*]. In *Cariño*, the marriage contract between Santiago Cariño and his first wife, Susan Nicdao, bore no marriage license number. In addition, the local civil registrar certified that it has no record of any marriage license issued to Santiago Cariño and Susan Nicdao. This court declared Santiago Cariño's first marriage void for having been solemnized without a marriage license.

In this case, there is a marriage contract indicating the presence of a marriage license number freely and voluntarily signed and attested to by the parties to the marriage as well as by their solemnizing officer. The first marriage was celebrated on July 17, 1987. The second marriage was entered into on December 4, 1994. Within a span of seven (7) years, four (4) months, and seventeen (17) days, petitioner did not procure a judicial declaration of the nullity of his first marriage. **Even while the bigamy case was pending, no decision declaring the first marriage as spurious was presented. In other words, petitioner's belief that there was no marriage license is rendered untrue by his own actuations.**

This factual context makes the use and issuance of the Certification from the Office of the Civil Registrar suspect. x x x



The parties clearly identified Marriage License No. 8683519 in the marriage contract. There is no evidence to show that the number series of that license is spurious or is not likely to have been issued from its source. There is no proof as to whether the licenses issued before or after the document in question still exists in the custody of the civil registrar. There is no evidence that relates to the procedures for safekeeping of these vital documents. This would have shown whether there was unfettered access to the originals of the license and, therefore, would have contributed to the proper judicial conclusion of what the manifestation by the civil registrar implies.⁴⁹ (Emphasis and underscoring supplied)

Finally, in the more recent case of *Kho v. Republic*,⁵⁰ the Court held that “[b]ased on the Certification issued by the Municipal Civil Registrar of Arteche, Eastern Samar, coupled with respondent’s failure to produce a copy of the alleged marriage license or of any evidence to show that such license was ever issued, the only conclusion that can be reached is that no valid marriage license was, in fact, issued.”⁵¹

Hence, lest there be any confusion, the Court here clarifies that in cases where the absence of a marriage license is sought to be established through a certification issued by the local civil registrar, courts must take a holistic approach in resolving the case. To borrow the language in *Vitangcol*, the appreciation of the probative value of the certification cannot be divorced from the purpose of its presentation, the cause of action in the case, and the context of the presentation of the certification in relation to the other evidence presented in the case.⁵² Accordingly, courts must assess the sufficiency of the certification with due regard to applicable law and procedure, the attendant facts, and the evidence on record.

The 2015 QCCR Certification, taken together with applicable law and procedure, the attendant facts, and the evidence on record, serves as sufficient basis to hold that Lovelle and Henry’s marriage was solemnized without a valid marriage license.

Bearing in mind the duties of the local civil registrar, the rules governing the registration of applications for marriage license and certificates of marriage, and the prevailing jurisprudence on the matter, the Court finds the 2015 QCCR Certification sufficient to establish that Lovelle and Henry’s marriage had been solemnized without a valid marriage license.

To recall, the first part of the 2015 QCCR Certification states that “per Registry Records of Marriage License files [in the CRD-QC] no record of

⁴⁹ Id. at 608-611. Citations omitted.

⁵⁰ Supra note 29.

⁵¹ Id. at 615.

⁵² See *Vitangcol v. People*, supra note 47, at 610.



Marriage License No. 131078 dated November 9, 2000 allegedly issued in favor of [Henry] and [Lovellette]⁵³ appears. This corroborates Lovellette's testimony to the effect that she never appeared before the CRD-QC to file an application for marriage license.

Hence, the first part of the 2015 QCCR Certification, when considered in light of the procedure outlined in the Implementing Rules and in connection with Lovellette's testimony, confirms that Lovellette and Henry did not file the required application for marriage license in connection with Marriage License No. 131078.

The non-filing of the requisite application for marriage license is rendered even more apparent by the second part of the 2015 QCCR Certification, which states that the marriage license referred to in Lovellette and Henry's Certificate of Marriage had actually been issued to Yambao and Parado. This statement is further supported by the documentary evidence formally offered by Lovellette, namely: (i) the Application for Marriage License filed by Yambao and Parado; (ii) the Marriage License and Fee Receipt issued in favor of Yambao; (iii) the Sworn Statement that Advice of Parents or Guardian Has Been Secured executed by Parado; and (iv) the Notice of Application for Marriage License of Yambao and Parado.⁵⁴

Again, reference to *Abbas* is proper.

In *Abbas*, petitioner Syed Azhar Abbas (Syed) presented, as proof of non-issuance of marriage license, a certification issued by the Municipal Civil Registrar of Carmona to the effect that "the marriage license number appearing in the marriage contract [Syed] submitted x x x was the number of another marriage license issued to a certain Arlindo Getalado and Myra Mabilangan."⁵⁵ In addition, the certification stated that no marriage license appears to have been issued to Syed and his wife Gloria Goo (Gloria) on January 8, 1993, or the date of issuance indicated on their Certificate of Marriage.⁵⁶

Gloria vehemently challenged the sufficiency of this certificate, insisting that a marriage license had in fact been issued in their favor. However, despite Gloria's assertions, the Court ruled in favor of Syed, as follows:

It is telling that Gloria failed to present their marriage license or a copy thereof to the court. She failed to explain why the marriage license was secured in Carmona, Cavite, a location where, admittedly, neither party resided. She took no pains to apply for the license, so she is not the best witness to testify to the validity and existence of said license.

⁵³ Supra note 30.

⁵⁴ See Formal Offer of Documentary Exhibits as quoted in the Petition, *rollo*, p. 15.

⁵⁵ See *Abbas v. Abbas*, supra note 23, at 650.

⁵⁶ *Id.*



Neither could the other witnesses she presented prove the existence of the marriage license, as none of them applied for the license in Carmona, Cavite. Her mother, Felicitas Goo, could not even testify as to the contents of the license, having admitted to not reading all of its contents. Atty. Sanchez, one of the sponsors, whom Gloria and Felicitas Goo approached for assistance in securing the license, admitted not knowing where the license came from. The task of applying for the license was delegated to a certain Qualin, who could have testified as to how the license was secured and thus impeached the certification of the Municipal Civil Registrar as well as the testimony of her representative. As Gloria failed to present this Qualin, the certification of the Municipal Civil Registrar still enjoys probative value.

It is also noted that the solemnizing officer testified that the marriage contract and a copy of the marriage license were submitted to the Local Civil Registrar of Manila. **Thus, a copy of the marriage license could have simply been secured from that office and submitted to the court. However, Gloria inexplicably failed to do so, further weakening her claim that there was a valid marriage license issued for her and Syed.**

In the case of [*Cariño*], following the case of [*Castro*], it was held that the certification of the Local Civil Registrar that their office had no record of a marriage license was adequate to prove the non-issuance of said license. **The case of *Cariño* further held that the presumed validity of the marriage of the parties had been overcome, and that it became the burden of the party alleging a valid marriage to prove that the marriage was valid, and that the required marriage license had been secured. Gloria has failed to discharge that burden, and the only conclusion that can be reached is that no valid marriage license was issued.** It cannot be said that there was a simple irregularity in the marriage license that would not affect the validity of the marriage, as no license was presented by the respondent. No marriage license was proven to have been issued to Gloria and Syed, based on the certification of the Municipal Civil Registrar of Carmona, Cavite and Gloria's failure to produce a copy of the alleged marriage license.⁵⁷ (Emphasis and underscoring supplied)

The circumstances in *Abbas* are strikingly similar to those in the present case. Like the certificate presented in *Abbas*, the 2015 QCCR Certification also states that the marriage license number indicated in Lovelle and Henry's Certificate of Marriage refers to a license issued to a different couple. As well, similar to Gloria's allegations in *Abbas*, the OSG's assertions regarding the insufficiency of the 2015 QCCR Certification are unsubstantiated.

To recall, the Republic attacks the sufficiency of the 2015 QCCR Certification as it lacks a categorical statement that ACCR Carino conducted "a diligent search" to find Lovelle and Henry's marriage license in the records of CRD-QC.⁵⁸ This argument lacks merit.

⁵⁷ Id. at 661-662. Citations omitted.

⁵⁸ See OSG Comment, *rollo* p. 77.

As already held in *Abbas*, the absence of the words “despite diligent search” in the certification of the local civil registrar does not, on its own, diminish the probative value of the certification. Thus, the fact that the 2015 QCCR Certification fails to specifically state that the marriage license in question “does not exist” in their records, or could not be found “despite diligent search”, does not warrant its outright rejection. To reiterate, the sufficiency of the 2015 QCCR Certification must be assessed with due regard to applicable law and procedure, the attendant facts, and the evidence on record.

Here, the allegations made by Lovelle before the CA suggest that the CRD-QC exerted due diligence in trying to ascertain the existence of the marriage license in question. As narrated by the CA:

Lovelle further explained that after the [RTC] Decision was rendered, she returned to the [CRD-QC] purposely to request for the issuance of another certification that would comply with what was described in the [RTC Decision]. However, she was allegedly told that “*it could not issue a certification that no marriage license was issued in the name of [Lovelle and Henry] because they could not retrieve all the marriage licenses that its office had issued from the beginning*”; and, that, “*there is no basis to search for their file or record because in the first place they did not apply for a marriage license. What they could only issue is a certification as to whom marriage license number 131078 was issued as it is the marriage license number appearing in their Certificate of Marriage.*” Lovelle then attached to her brief a Certification dated [November 7, 2017] issued anew by [Assistant City Civil Registrar] Salvador G. Carino, Jr., which appears to be similarly worded as the [2015 QCCR Certification] presented and formally offered as Exhibit E.⁵⁹

The Republic further attempts to attack the sufficiency of the 2015 QCCR Certification by harping on the possibility that a marriage license bearing a different number could have been issued in favor of Lovelle and Henry, and that the erroneous marriage license number appearing on their Certificate of Marriage could have been a typographical error.

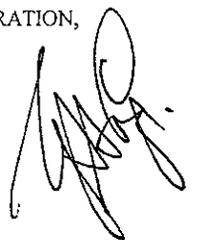
However, this assertion, without more, is insufficient to support the Republic’s cause. In fact, the Republic’s claim tends to cast doubt on the veracity of the Certificate of Marriage, thereby bolstering Lovelle’s claim.

Under the Implementing Rules, it is the duty of the solemnizing officer to report each marriage to the office of the local civil registrar of the locality where the marriage was solemnized.⁶⁰ For this purpose, the solemnizing officer must accomplish four (4) identical copies of the Certificate of Marriage and file them with the local civil registrar for entry in the Register of Marriages.⁶¹

⁵⁹ Id. at 34.

⁶⁰ IMPLEMENTING RULES AND REGULATIONS OF ACT NO. 3753 AND OTHER LAWS ON CIVIL REGISTRATION, Rule 42.

⁶¹ Id., Rule 43.



As stated, the local civil registrar is then duty-bound to ensure that the entries in each registrable document are correct. This duty on the part of the local civil registrar necessarily implies that in cases of registration of certificates of marriage, the local civil registrar is obliged to verify the correctness of the entries appearing thereon, including the marriage license number, among others. Hence, if the solemnizing officer committed an error in indicating the correct marriage license number on Lovelle and Henry's Certificate of Marriage, as the Republic claims, then this error would have been flagged and corrected by the local civil registrar prior to registration. The fact that the Certificate of Marriage in question had been registered despite the incorrect entry casts doubt on the veracity of the Certificate of Marriage itself, and consequently, the validity of Lovelle and Henry's marriage.

Thus, the 2015 QCCR Certification, when read in conjunction with applicable law and regulations, as well as the testimonial and documentary evidence forming part of the record, shows that Marriage License No. 131078, purportedly authorizing the solemnization of Lovelle and Henry's marriage, was actually issued on the basis of an application for marriage license filed by another couple. Based on these premises, the presumed validity of Lovelle and Henry's marriage had been overcome. Here, as in *Abbas*, the burden shifted to the Republic to prove that the marriage is valid by establishing that Lovelle and Henry had, in fact, secured the required marriage license.⁶²

To be sure, the Republic had ample opportunity to examine the evidence on record, including Lovelle and Henry's Certificate of Marriage. The Republic, with all the powers given it, could have easily resorted to all judicial processes and remedies available in order to ascertain: (i) whether a marriage license with a different number had in fact been issued to Lovelle and Henry; (ii) whether said license had been presented to the solemnizing officer prior to the ceremony; and (iii) whether the incorrect reference to Yambao and Parado's Marriage License No. 131078 on Lovelle and Henry's Certificate of Marriage was a mere typographical error which was overlooked by the local civil registrar when it was entered in the Register of Marriages.

However, the Republic's stance is to fault Lovelle for failing to call on ACCR Carino as a witness to shed light on the statements he made in the 2015 QCCR Certification. As stated in the Republic's Comment:

x x x [T]he Certification fails to state that "despite diligent search," no marriage license was found. More than that, it appears from the [2015 QCCR Certification] that the search was, in fact, limited to Marriage License No. 131078, which, as it turned out, was issued to a different couple. That is markedly different from a search of whether a marriage license was ever issued in the names of [Lovelle and Henry].

⁶² See *Abbas v. Abbas*, supra note 23, at 662, citing *Cariño v. Cariño*, supra note 37, at 133.



x x x Perhaps, it would have been different if the individual who made the [2015 QCCR Certification] were called to testify. Had he or she been presented in court, then clarifications relating to the [2015 QCCR Certification] could have been made.

x x x Petitioner took a risk by confining her evidence to her testimony and the certification, among others. Unfortunately, without more, she has failed to present clear and convincing evidence to show that there was no marriage license at the time of the celebration of their marriage.⁶³

These assertions show the Republic's failure to recognize that, as illustrated by the evidence on record, Lovelle had done all that could reasonably be expected to be done by a private party whose capacity to verify the civil registry books is limited by the mechanisms provided her by prevailing law and regulations.

Notably, Lovelle had done precisely what Section 28, Rule 132 of the 1997 Rules requires her to do, that is, to procure a written statement from the CRD-QC as proof of non-issuance of her marriage license. In fact, she had done so on two different occasions — *first*, prior to the filing of the Nullity Petition, and *second*, after the issuance of the RTC Decision. That the CRD-QC issued the 2017 QCCR Certification bearing the same language as the 2015 QCCR Certification despite Lovelle's request to make the former conform to the parameters of the RTC Decision further highlights how she remains bound by the language which the CRD-QC had chosen to employ in these certificates. Evidently, to require more from Lovelle would be to exact more than what prevailing law and jurisprudence require.

It thus became incumbent upon the Republic, with its vast powers, to verify the civil registry records and prove that the license necessary for the validity of Lovelle and Henry's marriage had been issued. This could have easily been done if only the Republic called ACCR Carino as its own witness to prove its speculation that a typographical error could have been committed. Its failure to do so is fatal to its cause.

To repeat, the presumption of validity of marriage had been overcome. Thus, as between the 2015 QCCR Certification and the other documentary and testimonial evidence on record which confirm that the marriage license indicated on Lovelle and Henry's Certificate of Marriage was issued based on an application filed by another couple, and the Republic's bare supposition that another marriage license with a different number "could have been issued" despite the absence of an application for marriage license in the names of Lovelle and Henry in the registry book, the Court lends more credence to the former.

⁶³ *Rollo*, p. 77.



A note on the doctrine of unclean hands

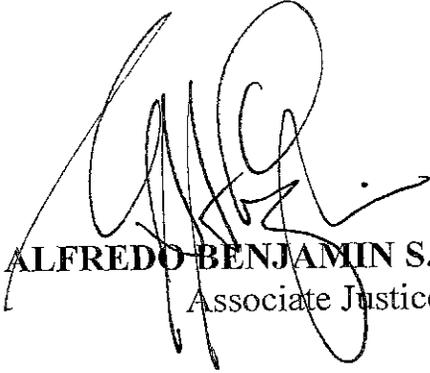
As a final note, the Court recognizes that Lovelle's testimony to the effect that she and Henry did not apply for a marriage license, and that they acquiesced to their parents' advice to "assist with the documentary requirements of their intended civil wedding," appears to show that she willingly acceded to the possibility that a spurious marriage license had been presented to the solemnizing officer during the ceremony.

That said, the Court also recognizes that in petitions to declare the absolute nullity of marriage based on the absence of a valid marriage license, testimony of this nature should not *ipso facto* preclude a finding of nullity on the ground that parties who come to court must do so with clean hands. To be sure, a marriage contracted despite the absence of a marriage license necessarily implies some sort of irregularity. Nevertheless, such irregularity, as well as any liability resulting therefrom, must be threshed out and determined in a proper case filed for the purpose. It is in that separate proceeding where the party or parties responsible for the irregularity would be ascertained. A contrary ruling would operate to validate marriages which the law itself declares void.

WHEREFORE, premises considered, the Petition is **GRANTED**. The December 17, 2018 Decision and July 4, 2019 Resolution issued by the Court of Appeals Sixth Division in CA-G.R. CV No. 109998, as well as the July 25, 2017 Decision of the Regional Trial Court of Masbate City, Branch 48 in Civil Case No. 7186 are hereby **REVERSED and SET ASIDE**.

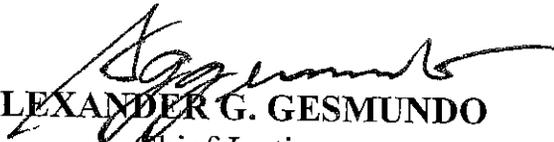
Pursuant to Article 35(3) of the Family Code, the marriage between petitioner Lovelle S. Cariaga and private respondent Henry G. Cariaga is declared *void ab initio* for having been solemnized without a valid marriage license.

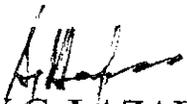
SO ORDERED.

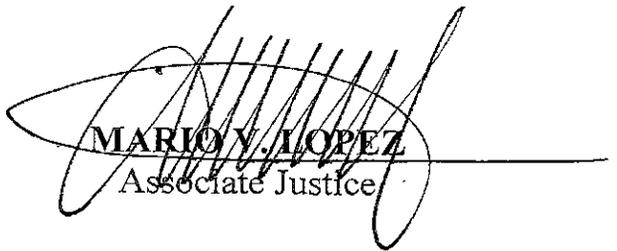


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

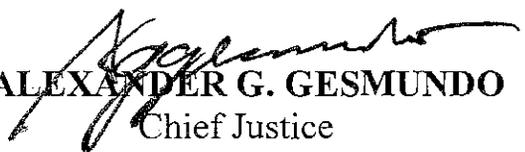

AMY C. LAZARO-JAVIER
Associate Justice


MARIO Y. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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



