EN BANC

G.R. No. 259520 – MARIA LINA P. QUIRIT-FIGARIDO, Petitioner, v. **EDWIN L. FIGARIDO,** Respondents.

Promulgated:

November 5, 2024

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CONCURRING OPINION

CAGUIOA, *J.*:

I concur in denying the present Petition.

Condemning the guilty party in a bigamous marriage to perpetual incapacity to remarry is not too harsh a punishment imposed upon the act of travesty committed by such party in trifling with marriage as an inviolable social institution which the Constitution protects and cherishes. This dire consequence of knowingly entering into a bigamous marriage should serve as a stern warning to everyone that this Court will not lend its hand to extricate one who intentionally makes a mockery of the sanctity of marriage.

The main issue in this case is whether a bigamous spouse has the legal personality to nullify her second marriage based on bigamy which, if granted, would allow her to remarry.

Section 2(a) of A.M. No. 02-11-10-SC[1] provides that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife." In *Juliano-Llave v. Republic of the Philippines*,[2] the Court cited the Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders[3] (*Rationale of the Rules on Annulment*) and clarified that in bigamy cases, Section 2(a) refers to the "aggrieved or injured spouse," who may be: (i) the subsequent spouse who only discovered the bigamous nature of the marriage after it was contracted; or (ii) the prior spouse in the subsisting marriage.[4] The Court explained:

> Note that the Rationale makes it clear that Section 2(a) of A.M. No. 02-11-10-SC **refers to the "aggrieved or injured spouse."** If Estrellita's

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[1] *Re: Proposed Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages*, March 4, 2003.

[2] 662 Phil. 203 (2011) [Per J. Del Castillo, First Division].

[3] 8 Court Systems J. No. 2, 72 (June 2003).

[4] *Juliano-Llave v. Republic of the Philippines, supra*, at 223.

> interpretation is employed, the prior spouse is unjustly precluded from filing an action. Surely, this is not what the Rule contemplated.
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> The **subsequent spouse** may only be expected to take action **if he or she had only discovered during the connubial period that the marriage was bigamous**, and especially if the conjugal bliss had already vanished. Should parties in a subsequent marriage benefit from the bigamous marriage, it would not be expected that they would file an action to declare the marriage void and thus, in such circumstance, **the "injured spouse" who should be given a legal remedy is the one in a subsisting previous marriage**. The latter is clearly the aggrieved party as the bigamous marriage not only **threatens the financial and the property ownership aspect of the prior marriage** but most of all, it causes an **emotional burden to the prior spouse**. The subsequent marriage will **always be a reminder of the infidelity of the spouse and the disregard of the prior marriage** which sanctity is protected by the Constitution.[5] (Emphasis supplied)

Minoru Fujiki v. Marinay[6] reiterated *Juliano-Llave* and the *Rationale of the Rules on Annulment* but limited Section 2(a) to just the prior spouse of the subsisting marriage. Thus:

> Section 2(a) of A.M. No. 02-11-10-SC does not preclude a spouse of a subsisting marriage to question the validity of a subsequent marriage on the ground of bigamy. On the contrary, when Section 2(a) states that "[a] petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife"[—]it refers to the husband or the wife of the subsisting marriage. Under Article 35(4) of the Family Code, bigamous marriages are void from the beginning. Thus, the parties in a bigamous marriage are neither the husband nor the wife under the law. **The husband or the wife of the prior subsisting marriage is the one who has the personality to file a petition for declaration of absolute nullity of void marriage under Section 2(a) of A.M. No. 02-11-10-SC.**
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> ....
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> When the right of the spouse to protect his marriage is violated, the spouse is clearly an injured party and is therefore interested in the judgment of the suit. *Juliano-Llave* ruled that the prior spouse "is clearly the aggrieved party as the bigamous marriage not only threatens the financial and the property ownership aspect of the prior marriage but most of all, it causes an emotional burden to the prior spouse." Being a real party in interest, the prior spouse is entitled to sue in order to declare a bigamous marriage void. ...[7] (Emphasis supplied; citations omitted)

As correctly observed by the *ponencia*,[8] while the underlying reasons recognized in *Juliano-Llave* (i.e., emotional burden and threat to financial and property aspect) may be said to be no longer present in this case because of

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5 *Id.* at 223–224.
6 712 Phil. 524 (2013) [Per J. Carpio, Second Division].
7 *Id.* at 550–552.
8 *Ponencia*, pp. 8–9.

the subsequently obtained divorce of Maria Lina P. Quirit-Figarido (Maria Lina) and Ho Kar Wai, this circumstance results only in depriving Ho Kar Wai of the personality to assail the validity of Maria Lina's marriage with Edwin L. Figarido (Edwin). ***That is all.***

I also agree with the *ponencia*'s reiteration[9] of the ruling in *Juliano-Llave*, that even an innocent spouse in the bigamous marriage may be considered an aggrieved spouse under Section 2(a) of A.M. No. 02-11-10-SC. In this case, however, Edwin (the subsequent spouse) cannot be considered an aggrieved spouse because he knew of the marriage of Maria Lina to Ho Kar Wai when he consented to having an extramarital affair with Maria Lina.[10]

Maria Lina, not being the aggrieved spouse in the prior marriage, nor the innocent spouse in the second marriage, has no right or personality to nullify the bigamous marriage.

I respectfully submit that the Court should maintain its ruling in *Juliano-Llave* that only the aggrieved or injured spouse (whether of the prior marriage or the subsequent marriage) has the personality to nullify a marriage on the ground of bigamy.

I emphasize that this is ***not*** a case where Maria Lina thought in good faith that she was no longer married to Ho Kar Wai when she married Edwin and now simply wants to "right a wrong" or to "correct" the legal status of her marriage with the second spouse. From the facts in the *ponencia*, Maria Lina knowingly had an extramarital affair with Edwin, and then married him while her marriage to Ho Kar Wai was still subsisting. And after 14 years of marriage and two children with Edwin, she now decides that she wants to free herself from her marriage to Edwin so that she can yet marry another person. As the erring spouse, does she have the right to nullify her own bigamous marriage under the law for purposes of remarriage? Articles 35[11] and 40[12] of the Family Code[13] are silent.

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[9] *Id.* at 7 and 11.

[10] *Id.* at 2.

[11] ARTICLE 35. The following marriages shall be void from the beginning:
(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;
(3) Those solemnized without a license, except those covered by the preceding Chapter;
(4) Those bigamous or polygamous marriages not falling under Article 41;
(5) Those contracted through mistake of one contracting party as to the identity of the other; and
(6) Those subsequent marriages that are void under Article 53.

[12] ARTICLE 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

[13] Executive Order No. 209, titled "THE FAMILY CODE OF THE PHILIPPINES", approved on July 6, 1987.

Should we interpret Article 40 of the Family Code or Section 2(a)[14] of A.M. No. 02-11-10-SC so as to allow her to do so? I strongly believe that we should not.

"Under Article 40 of the Family Code, the marital *vinculum of a previous marriage that is void ab initio* subsists only for purposes of remarriage. For purposes *other than* remarriage, marriages that are void *ab initio*, such as those falling under Articles 35 and 36 of the Family Code, are void even without a judicial declaration of nullity."[15]

In a petition for declaration of nullity of marriage, the ultimate relief provided to petitioner is the severance of the *vinculum* between the spouses of the bigamous marriage. As seen from the rationale underlying the Court's pronouncement in *Juliano-Llave*, this relief, in cases involving bigamy, is given to the aggrieved spouse because it is he or she who was emotionally injured or whose finances and properties are threatened by the bigamous spouse's act of contracting a bigamous marriage. The innocent spouse in the bigamous marriage also suffers the same injury and threat. I submit that it is that "injury" that gives the aggrieved spouse of the prior marriage or of the bigamous marriage the legal personality to nullify the bigamous marriage. In such a case, the Court will provide redress to the injured party by declaring void the bigamous marriage and dissolving it in accordance with law.

In contrast, what injury does a bigamous spouse suffer from his or her act of knowingly contracting a bigamous marriage? ***There is none.*** He or she is the erring party in the eyes of the law. And so is the second spouse if he or she knew of the prior subsisting marriage upon entering the bigamous marriage. This is precisely why their act is considered a Crime Against the Civil Status of Persons and punished under Article 349 of the Revised Penal Code.

In the present case, the only apparent "injury" suffered by Maria Lina is her inability to remarry. But there lies the rub—this is really not a grievance that warrants redress. Her situation now would not be any different if Ho Kar Wai had not divorced her, as she would still have no ability to remarry (being still bound by the first marriage). That the divorce obtained by Ho Kar Wai rendered impossible the remedy of having Maria Lina's marriage to Edwin nullified does not make her an aggrieved spouse. Ho Kar Wai's personality to nullify her second marriage did not transfer to her upon the divorce.

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[14] SECTION 2. *Petition for declaration of absolute nullity of void marriages.* —
(a) *Who may file.* – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.

[15] J. Carpio, Concurring Opinion in *Abunado v. People*, 470 Phil. 420, 433 (2004) [Per J. Ynares-Santiago, First Division]. (Emphasis supplied)

I agree that the protection afforded by the law to marriages does not apply to those which are void *ab initio*.[16] But it does not necessarily follow that the courts are **bound** to nullify Maria Lina's marriage in the present case and allow her to remarry.

To be sure, Maria Lina's interest in dissolving her bigamous marriage so that she can remarry should be weighed against the State's policy of protecting the sanctity and inviolability of the social institution of marriage. Thus, to me, the guiding question should be—would the Court be promoting the sanctity and inviolability of marriage, as a social institution, by allowing a bigamous spouse the **convenience** of terminating his or her marriage **at will** for the purpose of remarrying? And the answer to that question should be a "no."

A bigamous spouse who knowingly and voluntarily entered into a bigamous marriage should not be allowed to benefit from his or her action and be allowed to free himself or herself from the marriage bond at his or her mere say-so when the situation is no longer palatable to his or her taste or suited to his or her lifestyle.[17] That would make a mockery of the institution of marriage. Having debased the marriage institution by committing bigamy, the guilty spouse should not be allowed to commit another transgression by terminating his or her bigamous marriage just so he or she can remarry again.

It is incongruous, to say the least, to criminally punish the bigamous spouse and yet, in the same instance, allow her the convenience of dissolving her marriage if and when she decides to remarry. In the end, denying Maria Lina the personality to nullify her marriage should be seen as protecting the sanctity of marriage **as an institution**. Any conflict between the sanctity of marriage as an institution, on one hand, and Maria Lina's interest in remarrying, on the other, should be resolved in favor of the former.

To be clear, Maria Lina's bigamous marriage is void and no judicial declaration is necessary for it to be treated as such, except only in the case of remarriage. Denying personality to the bigamous spouse would **not** result in the proliferation of bigamous marriages as these marriages may still be attacked, in cases such as settlement of estate,[18] actions for support,[19] and partition of estate.[20] The only effect of denying the petition is denying Maria Lina her desire to remarry.

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[16] *Kalaw v. Fernandez*, 750 Phil. 482, 501 (2015) [Per J. Bersamin, Special First Division].
[17] *See Alcantara v. Alcantara*, 558 Phil. 192, 206 (2007) [Per J. Chico-Nazario, Third Division].
[18] *Niñal v. Bayadog*, 384 Phil. 661, 675 (2000) [Per J. Ynares-Santiago, First Division].
[19] *De Castro v. Assidao-De Castro*, 568 Phil. 724 (2008) [Per J. Tinga, Second Division].
[20] *Anaban v. Anaban-Alfiler*, 898 Phil. 421 (2021) [Per J. Lazaro-Javier, Second Division].

Moreover, on the assumption that Section 2(a) of A.M. No. 02-11-10-SC, as interpreted in *Fujiki* and *Juliano-Llave*, and Article 40 of the Family Code remain obscure or insufficient, thereby calling the Court to exercise its equity jurisdiction,[21] I submit that Maria Lina's petition should still be denied. This Court has held that:

> He who seeks equity must do equity, and he who comes into equity must come with clean hands. The latter is a frequently stated maxim which is also expressed in the principle that he who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a court of equity on the ground that his conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.[22] (Citation omitted)

In the present case, Maria Lina obviously does not come to Court with clean hands. She and Edwin are *in pari delicto*. They married each other knowing fully well that Maria Lina was still married to Ho Kar Wai. The Court should not render aid and should leave them as they are.

I therefore concur in the *ponencia*'s application of the doctrine of unclean hands. The said doctrine is consistent with the *ponencia*'s ruling that only the *innocent* spouse of either the prior or the subsequent bigamous marriage has the personality to file the suit for annulment.

Associate Justice Amy C. Lazaro-Javier (Justice Lazaro-Javier) opines that the doctrine of unclean hands does not apply in a suit to annul a bigamous marriage, citing the United States (US) case of *Townsend v. Morgan.*[23] In that case, Arthur James Townsend (Arthur) married Cleo Elberta Reed (Cleo) in Illinois in 1930. In the same year, they voluntarily separated, and Cleo left the State of Maryland. In 1940, after nine years of not hearing from Cleo, Arthur entered into a second marriage with Elsie Morgan. In 1942, after he was alerted to the possibility that Cleo was still alive and had not obtained a divorce from him, he obtained a divorce from Cleo. Arthur and Elsie eventually separated, and in 1948, he learned that Cleo was indeed still alive and did not divorce him prior to his marriage with Elsie. He thus sought the annulment of his marriage with Elsie on the ground of bigamy. Upon motion, the lower court dismissed the complaint on the ground that Arthur was barred from equity relief by the doctrine of unclean hands.

The Court of Appeals of Maryland reversed the lower court, holding that the unclean hands doctrine is not applicable when the result sustains a relation which is contrary to law or public policy. Further, by seeking to annul his bigamous marriage, the bigamous spouse is deemed to have repented for his wrongdoing and now seeks the court to correct his wrongful act. Thus:

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[21] *Reyes v. Lim*, 456 Phil. 1, 10 (2003) [Per J. Carpio, First Division].
[22] *Muller v. Muller*, 531 Phil. 460, 468 (2006) [Per J. Ynares-Santiago, First Division].
[23] 192 Md. 168, 63 A.2d 713 (Md. 1949). Rendered by the Court of Appeals of Maryland.

> It is generally accepted that the equitable maxim that he who comes into equity must come with clean hands cannot be applied in any case where the result of the application sustains a relation which is denounced by statute or is contrary to public policy. *Heflinger v. Heflinger*, 136 Va. 289, 118 S.E. 316, 32 A.L.R. 1088; *Simmons v. Simmons*, 57 App. D.C. 216, 19 F.2d 690, 54 A.L.R. 75. In proceedings to annul a bigamous marriage, the interest of the State is paramount to the grievances of the parties directly interested. The State sponsors the sanctity of the marriage relation and the welfare of society. In some cases the interests of unborn children may be affected. There is a difference between the ordinary case where the court refuses to aid the complainant in securing benefits from his own wrongdoing and the case where the complainant desires to have a judicial declaration that a marriage is null and void. When a party files a suit for annulment of his marriage, he is deemed as coming into court repenting of his wrongdoing and asking the court to correct his wrongful act as far as possible, in order to prevent any injurious consequences which might be cast thereby in the future upon innocent persons and upon the State. For these reasons the unclean hands doctrine is not applicable in a suit to annul a bigamous marriage. The marriage status being on a different footing from contracts generally, a party may be relieved from a void marriage, although fully aware of its invalidity when contracted. *Phelps, Juridical Equity*, sec. 259; *1 Bishop, Marriage, Divorce and Separation*, sec. 722; *Davis v. Green*, 91 N.J. Eq. 17, 108 A. 772; *Arado v. Arado*, 281 Ill. 123, 117 N.E. 816, 4 A.L.R. 28; *Kiessenbeck v. Kiessenbeck*, 145 Or. 82, 26 P.2d 58, 60.[24]

It is my view, however, that *Townsend* is not applicable to the present case. US cases are not binding in this jurisdiction, more so the decisions of a court of appeals.

Neither may *Townsend* be given great or persuasive weight, for it does not appear that our family and bigamy laws were patterned after those prevailing in the State of Maryland. For instance, based on *Townsend*, it appears that Maryland laws allow a spouse to remarry without dissolving the first marriage once the seven-year period to presume the first spouse as dead has lapsed. Should the first spouse turn out to be alive, the second marriage is treated as void. In the Philippines, however, the rule is different. Under Article 41[25] of the Family Code, before a spouse may presume the first spouse as dead for purposes of remarriage, he or she must first obtain a judicial declaration of presumptive death after the lapse of the applicable period. If the first spouse reappears and executes an affidavit of reappearance, the second marriage is treated as terminated, not void.

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[24] *Id.* at 176.

[25] ARTICLE 41. A marriage contracted by any person during subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present has a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.
For the purpose of contracting the subsequent marriage under the preceding paragraph the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

Furthermore, the facts in *Townsend* are not on all fours with those in the present case. In *Townsend*, Maryland's bigamy laws exempted from criminal liability a person who enters a second marriage after the first spouse has been absent for more than seven years and without knowing that first spouse is still alive. Arthur believed, although erroneously, that he could immediately enter another marriage after the lapse of such period without dissolving the first marriage. When he learned during the second marriage of the possibility that the first wife was still alive, he sought and obtained a divorce from the first marriage. The Maryland court appears to have considered these badges of good faith in not applying the unclean hands doctrine to Arthur's case. In contrast, no such good faith is claimed or apparent in the case of Maria Lina. On the contrary, the facts show that she knowingly entered into an extramarital affair with Edwin and even married him despite the subsistence of her first marriage.

More importantly, it would be inconsistent to apply the ruling in *Townsend* to the Philippine setting for the State would, on one hand, treat the erring spouse's filing of the petition for nullity as an act of repentance, yet, on the other hand, punish him or her criminally for the crime of bigamy. In other words, the State would be taking contradictory positions by prosecuting the erring spouse criminally despite having forgiven such spouse civilly. Worse, if the Court adopts the *Townsend* ruling and treats the filing of an action to nullify the bigamous marriage as an act of repentance by the bigamous spouse, that may be construed as a possible defense in a prosecution for bigamy, such that the accused may simply avoid prosecution by filing the petition for nullity (i.e., repenting to the State) prior to his conviction in the criminal court. The availability of such a defense would practically amount to a decriminalization of bigamy. The same logic applies against applying the cases of *Heflinger v. Heflinger*[26] and *Faustin v. Lewis*,[27] which are additional cases cited by Justice Lazaro-Javier that echo the rationale in *Townsend.*

Justice Lazaro-Javier also cites the case of *Cariaga v. Republic*,[28] where the Court rejected the Office of the Solicitor General's (OSG) argument that the unclean hands doctrine bars the petitioner therein from filing the petition for declaration of nullity of marriage since therein petitioner admitted that neither she nor her husband applied for a marriage license. According to the Court, if the said doctrine is applied, it would operate to validate marriages which the law considers void. Thus:

> 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

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[26] 118 S. E. 316 (1923).
[27] 85 N.J. 507 (1981).
[28] 918-A Phil. 770 (2021) [Per J. Caguioa, First Division].

> 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.
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> 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.[29]

Justice Lazaro-Javier argues that *Cariaga* must be applied in the present case because it forms part of the law of the land and settles the conflicting views on the application of the unclean hands doctrine.

Again, I respectfully disagree.

In *Cariaga*, the petitioning wife admitted that she and her husband did not personally apply for a marriage license as it was her parents who took care of this, and the other documents required for their wedding. During trial, the wife presented a certificate issued by the local civil registrar that the marriage license number indicated in the spouse's marriage certificate actually pertained to the marriage license of another couple. The lower courts ruled that the certification was insufficient to establish the absence of the marriage license because the certification did not foreclose the possibility that a marriage license with a number different from that indicated in the marriage contract was issued to the spouses. During the appeal before the Court, the OSG further argued that the wife was barred by the unclean hands doctrine from filing the petition because she admitted that they (the spouses) did not personally apply for the marriage license and only relied on her parents in that regard. The Court reversed the lower courts, ruling that the absence of the marriage license had been sufficiently proven. With respect to the OSG's invocation of the unclean hands doctrine, the Court ruled that the wife's admission that she did not apply for a marriage license does not automatically preclude the courts, by reason of the said doctrine, from ruling on the validity of the marriage.

Nowhere in *Cariaga* did the Court rule that the unclean hands doctrine applied or did not apply. Indeed, the Court did not even make any finding that the spouses' act of not personally applying for their marriage license and their act of acceding to the possibility that a spurious marriage license would be

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[29] *Id.* at 804–805.

presented to the solemnizing officer was inequitable, fraudulent, or deceitful as would call for the operation of the unclean hands doctrine. The Court refrained from making such a finding, and simply held that the wife's admission should not automatically preclude the court from ruling on the validity of the marriage due to the unclean hands doctrine. Therefore, contrary to Justice Lazaro-Javier's assertion, *Cariaga* does not support the position that the unclean hands doctrine should not apply to the present case.

At this point, I wish to surface the case of *Alcantara v. Alcantara*[30] (cited in the *ponencia*) which involved a petition for declaration of nullity of marriage on the ground of absence of a marriage license. The petitioning husband therein alleged that the spouses engaged the services of a fixer to procure their marriage license. The Court rejected this argument, holding that the absence or spuriousness of the marriage license was not sufficiently proven. The Court found that the supposed absence of the marriage license was not apparent on the face of the marriage contract and was not even supported by a certification from the local civil registrar that no such marriage license was issued to the parties. On the contrary, the evidence showed that the marriage license indicated in the marriage contract was actually issued to the spouses, based on a certification issued by the local civil registrar. All told, the husband failed to overcome the presumption in favor of the validity of the marriage. Additionally, the Court ruled that the unclean hands doctrine precludes the husband from benefitting from his own action and allow him to terminate the marriage bond at his mere say-so.

The cases of *Cariaga* and *Alcantara* show that there are varying degrees of inequitable conduct that may or may not call for the application of the unclean hands doctrine. The Court should carefully consider the facts of each case before applying the said doctrine. If, as in *Cariaga*, it is not clearly shown that the petitioning spouse knowingly performed the act which he or she later cites as basis for the nullity of their marriage, then I would vote against the application of the unclean hands doctrine, since its application has no clear factual basis. But if, as in the case of *Alcantara*, the petitioning spouse admits engaging a fixer to procure a spurious marriage license, I would vote in favor of applying the unclean hands doctrine.

Nonetheless, the Court is not currently confronted with the issue of whether or not the unclean hands doctrine should likewise apply to marriages where the nullity is due to the absence of a marriage license (as in *Cariaga* and *Alcantara*), or to all petitions for declaration of nullity of marriage for that matter. Indeed, the Court should await the proper case on when the unclean hands doctrine becomes an issue on a void marriage involving a different ground for its nullity. Otherwise, any pronouncement by the Court in this case on that matter will constitute *obiter*.

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[30] *Supra* note 17.

Going back, the Court must not lose sight of the fact that the only issue presented before it now is whether the petitioning spouse, who fully knew that her first marriage was still subsisting when she entered into another marriage, has the personality to file the petition for declaration of nullity of marriage on the ground of bigamy. The only practical effect of denying Maria Lina such personality is that she would not be able to secure a marriage license in the Philippines for purposes of remarrying. Denying her such personality will not validate her void bigamous marriage, because her marriage may still be considered void for purposes other than remarriage such as in cases involving settlement of estate, actions for support, and partition of estate.

Again, I reiterate my view that Maria Lina, being the erring spouse, is not an aggrieved spouse within the contemplation of Section 2(a) of A.M. No. 02-11-10-SC and the *Rationale of the Rules on Annulment.* Further, she is barred by the unclean hands doctrine from filing the petition because she entered into another marriage despite full knowledge of the subsistence of her first marriage. Allowing a bigamous spouse the personality to nullify his or her bigamous marriage at will for the purpose of remarrying will not promote the sanctity and inviolability of marriage as a social institution.

Not recognizing the erring bigamous spouse's legal personality to nullify his or her marriage is not discriminatory and does not violate the Convention for the Elimination of Discrimination Against Women. It is merely a recognition that he or she is not an "aggrieved" or "injured" spouse who, regardless of sex, has the personality to file the petition for nullity. A woman who knowingly enters into a bigamous marriage is not discriminated upon when she is given the same legal treatment and placed in the same legal footing as a man who knowingly enters into a bigamous marriage. What qualifies a party as "injured" or "aggrieved" is innocence of the party to the bigamous marriage or the subsisting marriage, or the status of a spouse being left and abandoned by the other spouse who contracts the bigamous marriage. In this case, Maria Lina is neither the innocent spouse of the bigamous marriage nor the abandoned spouse of the subsisting marriage who is clothed with capacity and standing to petition the declaration of nullity of her bigamous marriage. Even granting, for the sake of discussion, that men are more likely to commit bigamy (as posited by Justice Lazaro-Javier), then the *ponencia*'s effect would actually be adverse to men, since men, as supposedly more likely to commit bigamy, would have no personality to nullify their bigamous marriages.

While Maria Lina finds herself in this predicament of being bound under a bigamous marriage that cannot and should not be declared void on the ground of bigamy, the Court should not "rescue" her from her illegal act of contracting a bigamous marriage. To be clear, by denying the Petition, this Court is not ruling on the validity or nullity of Maria Lina's and Edwin's

marriage. Rather, it is simply refusing to acknowledge Maria Lina as having the legal personality to nullify her marriage on the ground of bigamy.

Accordingly, I vote to **DENY** the Petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice