EN BANC

G.R. No. 259520 — (MARIA LINA P. QUIRIT-FIGARIDO, Petitioner, **v. EDWIN L. FIGARIDO,** Respondent.)

Promulgated:

November 5, 2024

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DISSENT

LAZARO-JAVIER, *J.*:

In ruling that Maria Lina P. Quirit-Figarido (Maria Lina) lacks the legal capacity to file the present petition to declare the nullity of her bigamous marriage with Edwin L. Figarido (Edwin), the Majority cited as bases the rulings in *Fujiki v. Marinay*[1] and *Juliano-Llave v. Republic*;[2] and the *Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders* (Rationale). The Majority concluded that per these authorities, only the ***aggrieved or injured spouse*** may bring an action for declaration of nullity of a void marriage under Section 2(a) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 02-11-10-SC).

I dissent.

First off, Section 2(a) of A.M. No. 02-11-10-SC refers to the proper party who may file a petition for declaration of absolute nullity of a void marriage:

> **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**. (Emphasis supplied)

The categorical language of Section 2(a) of A.M. No. 02-11-10-SC leaves no room for doubt—either the husband or the wife in the void marriage may file a petition to declare their marriage void. Undoubtedly, therefore, Maria Lina is a proper party to file the present petition for declaration of nullity of her marriage to Edwin.

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1 712 Phil. 524, 550–551 (2013) [Per J. Carpio, Second Division].

2 662 Phil. 203, 223 (2011) [Per J. Del Castillo, First Division].

In fact, when psychological incapacity is invoked as a ground to declare a marriage void, the spouse claiming to be psychologically incapacitated, or the *guilty* spouse, has been recognized to possess the legal capacity to file the petition. Specifically, in *Puyat v. Puyat*,[3] Gil Miguel Puyat (Gil Miguel) filed a petition to declare his marriage to Ma. Teresa Jacqueline Puyat (Ma. Teresa) as void on the ground of his own psychological incapacity. The Court held that clear and convincing evidence of Gil Miguel's psychological incapacity was established through his own testimony during trial and the respective medical findings of the psychologist and the psychiatrist who both independently assessed him to be suffering from Narcissistic Personality Disorder. The Court unequivocally ruled in *Puyat* that Gil Miguel had the legal capacity to file an action to declare his marriage to Ma. Teresa void even though he is the psychologically incapacitated spouse, thus:

> Nonetheless, incapacity of one spouse is sufficient to declare the nullity of their marriage. Furthermore, **despite being declared as the psychologically incapacitated spouse, Gil Miguel is not barred from initiating an action to declare his marriage to Ma. Teresa null and void.** Section 2 (a) of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages states:
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> > 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.**
>
> **The rule does not distinguish who between the spouses may file the petition for declaration of absolute nullity of void marriage. Either party, even the psychologically incapacitated, can file the petition.** In view of the foregoing, the Court declared the marriage between the petitioner and the respondent on November 4, 1976 null and void *ab initio*.[4] (Emphasis supplied)

Indeed, A.M. No. 02-11-10-SC does not distinguish who between the spouses may file the petition for declaration of absolute nullity of a void marriage. To reiterate, Section 2(a) of A.M. No. 02-11-10-SC does not speak of any "guilty" or "innocent" spouse. Consequently, the application of Section 2(a) of A.M. No. 02-11-10-SC does not depend on the specific ground of the petition for declaration of nullity of marriage since, as worded, **Section 2(a) of A.M. No. 02-11-10-SC applies to all petitions for declaration of absolute nullity of void marriages.**

Thus, I see no reason why we should prevent Maria Lina from pursuing the present action to declare the nullity of her marriage to Edwin on the ground that she is supposed to be the *guilty* spouse. In any event, her pursuit of such civil action is without prejudice to a criminal prosecution for bigamy,

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[3] 906 Phil. 143 (2021) [Per J. Carandang, First Division].
[4] *Id.* at 160.

that may later on be filed against her, if warranted. Even then, I maintain that Maria Lina bore the badge of good faith when she contracted her marriage with Edwin, as will be shown in the succeeding parts of this **Dissent.**

At any rate, the *ponencia* of the revered Associate Justice Alfredo Benjamin S. Caguioa in *Cariaga v. Republic*[5] aptly emphasized that:

> *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.
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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.**[6] (Emphasis supplied)

In other words, public policy is a paramount consideration which compels a declaration of nullity of a void marriage even though the one who comes to court does so with unclean hands. For whatever liability may attach to such party must be threshed out in a separate proceeding for that specific purpose. To rule otherwise "**would operate to validate marriages which the law itself declares void.**"[7] Notably, *Cariaga* carried the unanimous vote of the then First Division composed of Chief Justice Alexander G. Gesmundo as Chairperson, Associate Justice Caguioa as *ponente,* Associate Justice Mario V. Lopez, Associate Justice Jhosep Y. Lopez, and yours truly. Needless to state, *Cariaga* is part of the law of the land and must be honored as the leading and prevailing doctrine in similar cases, as here.

The ***rejection*** of the doctrine of unclean hands in *Cariaga* is very much a part of its *ratio* insofar as the declaration of nullity of marriage contracted without a marriage license is concerned. The word ***rejection*** may not be the exact word used in *Cariaga* but the essence of *Cariaga* cannot be any clearer. The wording "**in petitions to declare the absolute nullity of marriage based on the absence of a valid marriage license, testimony of this nature should**

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5 918-A Phil. 770 (2021) [Per J. Caguioa, First Division].
6 *Id.* at 804–805.
7 *Id.* at 805.

not *ipso facto* preclude a finding of nullity on the ground that parties who come to court must do so with clean hands"[8] speaks volumes of *Cariaga*'s ***rejection*** of the unclean hands doctrine in nullity of marriage cases. The discussion thereon even fell under the sub heading "*A note on the doctrine of unclean hands*" borne in the decision itself.

Cariaga may speak of declaration of nullity of a void marriage not for being bigamous but due to lack of a marriage license, an irregularity which the petitioner in *Cariaga* appeared to have acquiesced in. But bigamous marriages and marriages contracted without marriage license not otherwise exempted by law are both void *ab initio* under Article 35, specifically, paragraphs (3) and (4), of the Family Code.[9] The action available to any of the parties in these kinds of marriages is one and the same: an action for declaration of nullity of marriage under A.M. No. 02-11-10-SC. Why then should the application or non-application of the doctrine of unclean hands as decreed in *Cariaga* be different in the case of bigamous marriages? Why was the action for declaration of nullity of marriage in *Cariaga* not foreclosed, albeit there was an initial finding by the Court no less that the party initiating it appeared to have herself acquiesced in the defect, hence, was also a guilty party? Does not foreclosing an action for declaration of nullity of a bigamous marriage brought by the so-called guilty party operate to validate a marriage otherwise declared void by law, the very mischief sought to be avoided in *Cariaga*?

I submit that on this score, there is no substantial distinction between a petition for declaration of nullity of marriage for lack of marriage license, on one hand, and a similar petition involving a bigamous marriage, on the other. *Cariaga* is the leading case not only here but in other similar cases where the marriage is void *ab initio*. The doctrine of unclean hands should therefore not foreclose the grant of a petition for declaration of nullity of marriage in the present case, albeit Maria Lina, the ***perceived guilty*** party was the one who initiated it. The apprehension that allowing her the relief she is praying for here might arm her with a defense in the criminal case is not a valid ground to treat her differently here and now. For sure, we cannot second guess what she will do and how the proper court will act should the criminal case be pursued against her. Also, whether *Pulido v. People*[10] may be invoked by Maria Lina in case she is indicted for bigamy and how the proper court will dispose of it are matters belonging to the unknown. We cannot speculate and on its basis deny equal protection to Maria Lina.

Now, we are confronted with the issue **whether the ruling on the doctrine of unclean hands in *Cariaga* was part of the ratio or a mere**

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[8] *Id.* at 804.

[9] Art. 35. The following marriages shall be void from the beginning:

. . . .

(3) Those solemnized without license, except those covered the preceding Chapter;

(4) Those bigamous or polygamous marriages not failing under Article 41[.]

[10] 908 Phil. 573 (2021) [Per J. Hernando, *En Banc*].

obiter. I am of the view that **it was part of the ratio and not a mere *obiter***. Surely, it was not a stray portion but was **directly responsive** to the main argument of the Office of the Solicitor General "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."[11] And just because it was found in the last part of the decision did not make it a mere afterthought or surplusage for that matter.

Relatedly, we reckon with *Alcantara v. Alcantara*,[12] a case cited by the *ponencia*. There, the Court upheld the validity of the marriage and applied the doctrine of unclean hands to bar petitioner from seeking the declaration of nullity of his marriage to respondent since he initiated the marriage to take place even though he claimed they had no marriage license. ***But Alcantara does not apply to the present case***. For one, the marriage therein was upheld since the alleged absence of marriage license was belied by the existence of the marriage contract itself and the certification issued by the local civil registrar of Carmona, Cavite. The petitioner there was not shown to have acted truthfully in declaring the so called defect in his marriage. There was a nagging question whether he was telling the truth or was simply fabricating a story to be able to get out of his subsisting marriage with his wife so he could marry another woman. Also, he flatly admitted that he merely dealt with a "fixer" who supposedly arranged everything for them; and that they purportedly got married knowing full well they had no marriage license. Clearly, he acted with sheer malice and bad faith. Most important, the Court gave due credence and respect to the integrity of the marriage contract and the certification of the local civil registrar as against therein petitioner's unsubstantiated testimony to the contrary.

Here, the nullity of the bigamous marriage between Maria Lina and Edwin is undisputed. She still had a subsisting marriage with her absentee husband when she got married to Edwin. She had no intention of violating the law on marriage considering that she first sought the advice of a lawyer prior to marrying Edwin. The lawyer told her though that "she can re-marry considering the absence of her first husband for seven years already."[13] Precisely because Maria Lina is a layperson who is not learned in the intricacies of the law, she naturally believed and heeded the lawyer's advice. Thus, she should not be faulted for truly believing that there was no legal impediment if she married Edwin. Her action bore the badge of good faith unlike *Alcantara* whose story was not only self-serving but even went against the public records evidencing his lawful marriage to his wife.

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11 918-A Phil. 770, 776 [Per J. Caguioa, First Division].
12 558 Phil. 192, 206 (2007) [Per J. Chico-Nazario, Third Division].
13 Petition, p. 3.

During the deliberations, I also brought to fore the cases of *Townsend v. Morgan,*[14] *Heflinger v. Heflinger*,[15] and *Faustin v. Lewis*[16] which ruled that the doctrine of unclean hands does not apply in suits to nullify a bigamous marriage since the annulment of such marriage is a more effectual way of preventing injurious consequences upon innocent persons, and violations upon the public policy of the State to protect the sanctity of marriage and the welfare of the public. The marriage status being on a different footing from contracts, a party may therefore be relieved from a void marriage, although fully aware of its invalidity when contracted.[17] The doctrine of unclean hands is subservient to the paramount State interest to preserve the solemnity of the institution of marriage.[18]

In *Townsend v. Morgan*,[19] Arthur Townsend was married to Cleo Reed but they eventually separated. Having no contact and news from Cleo, and believing that he was free to marry, Arthur married Elsie in the City of Baltimore. Later on, after being cautioned that Cleo might still be alive and that his marriage with Elsie might be invalid, Arthur sought to nullify his marriage with Elsie for being bigamous. The Court of Appeals of Maryland held:

> 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. **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.**[20] (Emphasis supplied)

Meanwhile in *Heflinger v. Heflinger*,[21] Charles Heflinger obtained a divorce decree from his previous wife on the ground of desertion. The divorce

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14 192 Md. 168, 175 (Md. 1949).
15 136 Va. 289, 118 S. E. 816 (1923).
16 85 N.J. 507 (1981).
17 *Townsend v. Morgan*, 192 Md. 168, 175 (Md. 1949).
18 *Heflinger v. Heflinger*, 136 Va. 289, 118 S. E. 816 (1923).
19 192 Md. 168, 175 (Md. 1949).
20 *Id.*
21 136 Va. 289, 118 S. E. 816 (1923).

decree did not bear a ruling as to the right of either party to marry again. Notably, under the law of Virginia, the marital bond in the first marriage shall not be deemed dissolved until the expiration of six months following the divorce decree. Charles, who had actual and constructive knowledge of such statutory prohibition left Virginia and married Clelia Ramsey in the City of Baltimore prior to the expiration of the six-month period. When the marriage of Charles and Clelia turned sour, Charles sought to dissolve their marriage on the ground that it was null and void under the law of Virginia. In affirming the trial court's decree of annulment of the subsequent marriage between Charles and Clelia, the Court of Appeals of Virginia held:

> It has been urged upon us that the appellee could not maintain the suit to annul the marriage in consequence of the equitable doctrine of "clean hands," and the maxim *in pari delicto*. **If the jurisdiction to annul the marriage is a purely statutory remedy, plainly given by the statute without condition, there is no appeal to the conscience of the court, and it cannot impose conditions. Hence the maxim of "clean hands" does not apply**. . . Conceding, however, this jurisdiction, the equitable doctrine of "clean hands" is subservient to the public policy of the state, and cannot be invoked in contravention thereof. If section 5113 of the Code is a declaration of public policy on the part of the state, and renders void a second marriage within six months from the date of the decree of divorce, the public interest is such that the remedy afforded by section 5100 of the Code cannot be denied by the application of the doctrine of "clean hands." The doctrine of "clean hands" is closely akin to the maxim *in pari delicto*, and the two are sometimes discussed as though involving substantially the same principle. The authorities on the application of the doctrine are not in harmony.
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> [W]**e are satisfied that the annulment of such marriages is a more effectual way of preventing such violations of the statutes and public policy of the state than an affirmance of them would.**
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> . . . .
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> In *Szlauzis v. Szlauzis*, 255 Ill. 314, 319, 99 N.E. 640, 642 (L. R. A. 1916C, 741, Ann. Cas. 1913D, 454), it is said that—
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> > "**The rule of *par delictum* will not be applied, however, to prevent relief in a suit to annul and set aside a void marriage. That is a matter in which the state is an interested party.** Under the facts as found by the court the marriage should be set aside as void, but the parties are entitled to no other or further relief."[22] (Emphasis supplied)

Finally, *Faustin v. Lewis*[23] involved Jossline Faustin and Maurice Lewis who got married solely for the purpose of making the former eligible for lawful permanent residence in the United States. Jossline filed an action to nullify her marriage to Maurice, alleging that their marriage was a sham. The trial court and the appellate court denied Jossline's petition and ruled that she

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[22] *Id.*

[23] 85 N.J. 507 (1981).

was guilty of coming to court "with unclean hands" and thus not entitled to judicial relief. The Supreme Court of New Jersey, however, reversed.[24] Thus:

> The doctrine of unclean hands as applied to nullity actions in this State is judge-made and has no statutory basis. In simple parlance, it merely gives expression to the equitable principle that a court should not grant relief to one who is a wrongdoer with respect to the subject matter in suit. It is noteworthy that our courts have not always recognized the applicability of the doctrine in nullity matters. At one time, the courts of this State took the position that in suits for nullity of marriage contracts which were void under New Jersey statutes, where no property rights were involved, the doctrine of unclean hands, even though otherwise applicable, was subordinate to considerations of public policy which favored judicial declaration of marital status for the protection of public interests. E.g., Davis v. Green, 91 N.J. Eq. 17, 19-20 (Ch. 1919); Freda v. Bergman, 77 N.J. Eq. 46, 48-50 (Ch. 1910).
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> These decisions, however, were overruled in Tyll v. Keller, 94 N.J. Eq. 426 (E. & A. 1923), and it became the established law of this State that unclean hands was a per se bar to a litigant's obtaining a judgment of nullity. Smith v. Hrzich, 1 N.J. 1 (1948).
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> . . . .
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> We conclude therefore, that Tyll, as a hard and fast rule, is unduly harsh and should be modified so as to return discretion to the trial court. Henceforth, it will be permissible to weigh the equities, as well as the public policy in having a person's marital status declared, to the end that uncertainty may be removed from future transactions, rights of inheritance, etc. See Freda v. Bergman, supra, 77 N.J. Eq. at 48-50.[25]

Indeed, these foreign cases underscored not only the imperative of defending and promoting the sanctity of marriage as an inviolable social institution, but also preserving **the integrity and veracity of the entries contained in the civil registry** governing the status of persons from birth to death.[26] When we speak of sanctity of marriage, it refers only to valid marriages, not to marriages that are void *ab initio,* which in the eyes of the law do not exist. Thus, it is important that only marriages which are valid under the law are kept and filed in the civil registry; and those which are not, be stricken out and declared a nullity, lest they be deemed validated even though they are not valid under the law. More than anything though, this is a matter of public policy which we must upheld.

Clearly, under the aforementioned precedents in the United States, the presumption of good faith, laudable desire to right a wrong, and compassionate justice were applied, rather than the punitive if not the oppressive opposites. Indeed, if we could interpret evidence either in good light or in bad light, we must always opt for the good light.

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24 *Id.*

25 *Id.*

26 *Atty. Tin vs. Republic of the Philippines*, 94 Phil. 321, 324 (1954) [Per J. Bautista Angelo, *En Banc*].

True, these U.S. cases are not binding in this jurisdiction; they are decisions of state appellate courts and not of the U.S. Supreme Court itself; *and* our family and bigamy laws are not patterned after U.S. states.

I respectfully maintain, however, that **these foreign cases should be accorded persuasive weight**, specifically the universal rationale for ensuring at all times that the entries in the civil registry remain truthful, reliable, incorruptible, and cleansed of any irregularity, independent of the ensuing liability of the person who caused the same. For the life of us, we cannot deny that the universal value ingrained in these foreign cases was the same value we applied in *Cariaga.*

In any case, what is the value of foreign jurisprudence in our own legal system? Why did the Court in *People v. Doria*[27] cite several rulings of American federal courts and state courts to discuss exhaustively the concept of entrapment in drug cases? Meanwhile, in *People v. Velasco*,[28] why did the Court again cite foreign jurisprudence to tackle the doctrine of double jeopardy? Why did every single member of the present Court and even their predecessors from long ago or in recent years, one time or another, cite foreign jurisprudence to support his or her *ponencia*? The answer is simple. The Court has, time and again, resorted to rulings of American tribunals when confronted by general concepts of law, whether sourced from American principles or otherwise. Foreign jurisprudence thus have persuasive effect on the Court. They may after all be invoked when they do not violate or contravene any of our existing laws,[29] and to support our own jurisprudence.[30]

On this score, my humble take again is, admit it or not, our own ***Cariaga*** substantially conformed with and mirrored the rulings in *Townsend, Heflinger, and Faustin.*

Another case cited by the *ponencia* is *Fujiki v. Marinay.*[31]

With due respect, however, the citation of *Fujiki* in the *ponencia* is misplaced. *Fujiki* involved a Judicial Recognition of Foreign Judgment (or Decree of Absolute Nullity of Marriage) while the present case involves a Petition for Declaration of Nullity of Marriage. Too, the issue in *Fujiki* was whether Fujiki, the first husband, had the legal capacity to file a petition to recognize the judgment of the Family Court in Japan nullifying the bigamous marriage between his wife Marinay and her second husband Maekara.

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27 361 Phil. 595 (1999) [Per J. Puno, *En Banc*].
28 394 Phil. 517, 527–528 (2000) [Per J. Bellosillo, *En Banc*].
29 *See Philippine National Bank v. Court of Appeals*, 392 Phil. 156 (2000) [Per J. Gonzaga-Reyes, Third Division].
30 *See Sanders v. Veridiano II*, 245 Phil 63 (1988) [Per J. Cruz, First Division].
31 712 Phil. 524, 550–551 (2013) [Per J. Carpio, Second Division].

In contrast, the issue here is whether Maria Lina, the wife who contracted the second marriage, has the legal capacity to file a petition for declaration of nullity of her bigamous marriage to her second husband Edwin. More, **although there was a categorical declaration in *Fujiki* that A.M. No. 02-11-10-SC is inapplicable to the case as it involved a petition for recognition of foreign judgment, the Court quite inexplicably went on to still discuss what it just said was inapplicable to the case,** i.e., Section 2(a) of A.M. No. 02-11-10-SC, viz.:

> 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.[32] (Citations omitted)

I respectfully submit that **this opinion is hands down *obiter. It is also flawed.*** *Fujiki* opined that Section 2(a) of A.M. 02-11-10-SC refers only to the right of the husband or wife in the first subsisting marriage to bring an action for nullity of the second marriage. On this score, any or both of the contracting parties in the second marriage are precluded from doing so since they supposedly are not considered husband and wife in the eyes of the law. But by saying so, the ***obiter***, like a bill of attainder, was already pronouncing, sans any hearing, that the second marriage is indeed bigamous. Too, the ***obiter*** totally precluded the innocent party in the second marriage from initiating the action for nullity of marriage claimed to be bigamous. In any event, if we were to follow the line of the ***obiter,*** then in all marriages contracted with one who is psychologically incapacitated or between two psychologically incapacitated parties, no one between them is deemed qualified to initiate the action for nullity of marriage since, legally speaking, these parties are not husband and wife either. In reality, however, the Court has time and again recognized the personality of the errant party to file a petition for nullity of marriage.[33]

For the application of Section 2(a) of A.M. No. 02-11-10-SC does not depend on whether the petition for declaration of nullity of marriage is under Article 35(3) (lack of valid marriage license), or Article 35(4) (bigamy), or Article 36 (psychological incapacity) of the Family Code. As worded, Section 2(a) of A.M. No. 02-11-10-SC is clear: **it applies to all petitions for declaration of absolute nullity of void marriages.**

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[32] *Id.*

[33] *See Puyat v. Puyat*, 906 Phil. 143, 160 (2021) [Per J. Carandang, First Divison]; *Clavecilla v. Clavecilla*, G.R. No. 228127, March 06, 2023 [Per C.J. Gesmundo, First Division].

Even then, the Majority still applied *Fujiki* to support its conclusion that "the State does not have an absolute responsibility to dissolve bigamous marriages irrespective of the circumstances of the case and the acts and omissions of the parties involved."

Again, I differ.

In the first place and as mentioned earlier, Maria Lina is not a guilty party as the Majority perceived her to be. Records show that she sought the advice of a lawyer from Quezon City before marrying Edwin. The lawyer advised her that "she can re-marry considering the absence of her first husband for seven years already."[34] She also relied on a friend's advice that "per Hong Kong law, two years of absence by the spouse is a ground for divorce."[35] This explanation was not refuted by the State, nor passed upon either by the trial court, the appellate court, or even the *ponencia*. No one denied that indeed there are lawyers who give erroneous advice to their clients, based on their equally erroneous understanding of the law. In fact, there are several cases[36] where the Court has excused parties from serious consequences of their lawyers' gross negligence or misapplication of the law on grounds of equity and fairness. Particularly, in *Almelor v. The Regional Trial Court of Las Piñas City Branch 254*,[37] the Court spared petitioner from his counsel's negligence which prejudiced his right to appeal. The counsel therein availed of the wrong remedy before the Court of Appeals to assail the trial court's order granting the annulment of petitioner's marriage to private respondent. Thus:

> Clearly, this Court has the power to except a particular case from the operation of the rule whenever the demands of justice require it. With more conviction should it wield such power in a case involving the sacrosanct institution of marriage. This Court is guided with the thrust of giving a party the fullest opportunity to establish the merits of one's action.

After all, laypersons who rely on the legal advice or services of those who are supposed to be knowledgeable about the law should never be punished for relying on them in good faith, as in the case of Maria Lina.

Finally, the Majority referred to the Rationale cited in *Juliano-Llave v. Republic*,[38] viz.:

> **(1) Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of**

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34 Petition, p. 3.

35 *Id.*

36 *See Apex Mining, Inc. v. Court of Appeals*, 377 Phil. 482, 493–494 (1999) [Per C.J. Davide, Jr., First Division]; *GSIS v. Bengson Commercial Buildings, Inc.*, G.R. No. 137448, January 31, 2002 [Per C.J. Davide, Jr., *En Banc*]; *CMTC International Marketing Corp. v. Bhagis International Trading Corp.*, 700 Phil. 575, 583 (2012) [Per J. Peralta, Third Division].

37 585 Phil. 439, 452 (2008) [Per J. R.T. Reyes, Third Division].

38 662 Phil. 203, 223 (2011) [Per J. Del Castillo, First Division].

void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouses or by the State. [Section 2; Section 3, paragraph a]

Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution.[39] (Emphasis supplied)

To clarify though, the Rationale is not part of the actual text of A.M. No. 02-11-10-SC. It contains a mere introduction of A.M. No. 02-11-10-SC and an outline of its salient features, viz.:

Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders

Prefatory Statement

The foundation of the family is marriage. The prevailing view is that the "family provided the frame work for all prestate society and the fount of its creativeness." It has been adjudged the most significant invention of the human revolution together with language and tool use.

Marital relation is the basis of society and its preservation is deemed vital to public welfare. Hence, marriage as an enduring societal value has been recognized by civilized countries. The Universal Declaration of Human Rights provides that men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. It declares that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The International Covenant on Economic, Social and Cultural Rights as well as the International Covenant on Civil and Political Rights likewise safeguard the sanctity of marriage and the integrity of the family.

The universal concern for marriage and the family is deeply etched in our 1987 Constitution and Family Code. Article II, section 12 of the 1931 Constitution proclaims in no uncertain terms that the "State recognizes the sanctity of family life and shall protect and strengthen the family as a basic social institution." More than that, it devotes an entire article to the family. Its Article 15 categorically recognizes the Filipino family as the foundation of the nation and obligates the State to protect it.

Marriage, while a contract requiring the consent of parties, is more than a civil contract. It creates a status and results in a social relation with rights, duties and liabilities. As its preservation is important not only to the contracting parties but to the State as well, its nature and consequence are

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[39] *Id.*

subject to regulation by Congress. Thus, laws regulate, among others, the requisites of marriage, void and voidable marriages as well as the property relations of the spouses.

Over time, proceedings involving legal separation, annulment of voidable marriages, and declaration of absolute nullity of void marriages have proven to be lengthy and costly. Stringent evidentiary requirements have unfortunately caused undue burden to couples whose marital relations have irretrievably broken down. They have become impediments to the dissolution of marriages that can no longer be saved.

In line with the judiciary's vision under the *Davide Watch* of providing accessible, inexpensive, efficient and effective administration of justice, these Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders have been drafted. They reflect full adherence to the fundamental principles that the Family Courts should be more accessible to our citizens and that rules of procedure should facilitate the complete and equitable resolution of the rights and obligations of the parties with the least possible expense.

Salient Features of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages

1. **Only an aggrieved or injured spouse may file petitions for annulment of voidable marriages and declaration of absolute nullity of void marriages. Such petitions cannot be filed by the compulsory or intestate heirs of the spouse or by the State. [Section 2; Section 3, paragraph a]**

   Only an aggrieved or injured spouse may file a petition for annulment of voidable marriages or declaration of absolute nullity of void marriages. Such petition cannot be filed by compulsory or intestate heirs of the spouses or by the State. The Committee is of the belief that they do not have a legal right to file the petition. Compulsory or intestate heirs have only inchoate rights prior to the death of their predecessor, and hence can only question the validity of the marriage of the spouses upon the death of a spouse in a proceeding for the settlement of the estate of the deceased spouse filed in the regular courts. On the other hand, the concern of the State is to preserve marriage and not to seek its dissolution.[40] (Emphasis in the original; citations omitted)

At any rate, the reference to the aggrieved or injured spouse in the Rationale was only made vis-à-vis the prohibition imposed against his or her heirs from initiating a nullity of marriage case against the surviving spouse. Hence, with due respect, the purpose for which the Rationale was being cited in the *ponencia* was not consistent with the purpose contemplated by the Rationale itself. Besides, the Rationale is a mere opinion by those who proposed A.M. No. 02-11-10-SC. Therefore, the Rationale cannot amend the clear and unequivocal language of Section 2(a) of A.M. No. 02-11-10-SC,

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[40] Rationale of the Rules on Annulment of Voidable Marriages and Declaration of Absolute Nullity of Void Marriages, Legal Separation and Provisional Orders, The Court Systems Journal (Vol. 8:83, 2003), pp. 72-73.

where the words "husband" and "wife" are not qualified by the operative words "aggrieved" and "injured."

Notably, Maria Lina prays for two remedies: first, to declare as void her marriage to Edwin for being bigamous; and second, to declare her capacitated to remarry.

Even assuming that Maria Lina may have been the *guilty* spouse when she married Edwin during the subsistence of her prior marriage to Ho Kor Wai, is she precluded from rectifying her mistake? Is righting a wrong, wrong? Does not Maria Lina simply desire to set right her marital status in accordance with law?

We should stress anew that her action to right a wrong which she herself was said to have caused is without prejudice to her criminal liability under the law, if warranted. Her situation is akin to a parent who caused the registration of a child's simulated birth which that parent herself or himself later on desires to correct. Although the parent is the guilty party, relief is still given her or him by law to correct the wrong that he or she had caused. But this, again, is without prejudice to his or her ensuing criminal liability, if any there be.

Under Article 40 of the Family Code, a judicial declaration of nullity of a prior marriage is required for purposes of remarriage, thus:

> 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.

Jurisprudence dictates that even if the marriage is void, a final judgment declaring it void for purposes of remarriage is required. Indeed, "parties to the marriage should not be permitted to judge for themselves its nullity, for this must be submitted to the judgment of competent courts and only when the nullity of a marriage is so declared can it be held as void[.]"[41]

Maria Lina's petition to declare the nullity of her marriage to Edwin proceeds from the command of Article 40 of the Family Code. For the Court to disallow her to pursue this remedy for the sole reason that she is "guilty" of contracting a bigamous marriage to Edwin is **unjust**, if not in clear contravention of what the law commands.

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[41] *Landicho v. Relova*, 130 Phil. 745, 748 (1968) [Per J. Fernando, *En Banc*].

A final point

By disqualifying a woman from being a proper party in an action for declaration of nullity of marriage on the ground of bigamy, we are adding one more disqualifying rule against her in the list of disqualifying rules we have against women in the Family Code.

This is the problem when we begin to **rationalize** the rules we craft on the basis of **our value judgments** that persons who have been through multiple relationships, including bigamous alliances, are **depraved, immoral,** and **deserving of their fate**. There again—the use of the word "**fate.**" This word masks the whole process of imposing the rule, because "**fate**" connotes the inevitable and natural, thus stopping us from unmasking the political and historical biases that underlie our reasons for creating the rule.

Maria Lina should **not** be denied the protection of the law because of what is **perceived** to be her immoral conduct. Recourse to the justice system is available to *anyone* who may need help or protection. To be abundantly clear, even unfaithful wives who cheat on their husbands are entitled to the full measure of protection of the law, as morally objectionable as their infidelity may have been. As such, *even if* Maria Lina was promiscuous and disrespectful of her first husband—though there is no evidence to that effect—she is entitled to the same protection as all women have the right to receive. This should not entitle the State or the Court to strangle her into a marriage that in law is clearly void.

All told, I vote to **GRANT** the Petition and to declare the nullity of the bigamous marriage between Maria Lina P. Quirit-Figarido and Edwin L. Figarido.

AMY C. LAZARO-JAVIER