



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NENA BAGCAT-GULLAS,

Petitioner,

G.R. No. 264146

Present:

CAGUIOA, *J., Chairperson,*
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, *JJ.*

- versus -

JOSELITO F. GULLAS, JOIE
MARIE F. GULLAS YU, and JOHN
VINCENT F. GULLAS,

Respondents.

Promulgated:

August 7, 2023

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DECISION

SINGH, *J.:*

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by petitioner Nena Bagcat-Gullas (**Bagcat-Gullas**) assailing the Decision,² dated June 22, 2021, and the Resolution,³ dated September 6, 2022, of the Court of Appeals (CA) in CA-G.R. SP No. 12402. The CA held that the rule on immutability of judgments does not apply in this case because the judgment is void, there being no summons served upon the children of the adopter who are indispensable parties to the case.

¹ *Rollo*, pp. 10-29.

² *Id.* at 34-44. Penned by Associate Justice Dorothy P. Montejo-Gonzaga and concurred in by Executive Justice Gabriel T. Ingles and Associate Justice Bautista G. Corpin, Jr.

³ *Id.* at 47-51. Penned by Associate Justice Bautista G. Corpin, Jr. and concurred in by Associate Justices Mercedes G. Dadole-Ygnacio and Eleuterio L. Bathan.

The Facts

On May 5, 2016, Bagcat-Gullas, together with her husband Jose R. Gullas (**Jose**), filed a Petition for Adoption and Correction of Entries in the Birth Record⁴ of minor Jo Anne Maria Ariraya (**Jo Anne**). The case was raffled to the Regional Trial Court (**RTC**), Branch 24, Cebu City and was docketed as SP Proc. No. R-CEB-16-02302-SP.

Jo Anne's biological mother is Settie Asiah Ariraya (**Settie**) and she has no known father. She and her mother lived at the house of Bagcat-Gullas and Jose, who supported them because Settie had no source of income. For unknown reasons, Settie left Jo Anne and never came back. Despite diligent efforts, Bagcat-Gullas and Jose failed to find Settie. From then on, they provided Jo Anne with all of her needs and showered her with love and care as if she was their own child.⁵

On October 24, 2017, the RTC issued an Order⁶ finding the Petition for Adoption to be sufficient in form and substance and set it for hearing on December 1, 2017. The RTC ordered that a copy of the Order be published once a week for three consecutive weeks in a newspaper of general circulation in the cities and Province of Cebu. The RTC further ordered that the offices of the Solicitor General, the Local Civil Registrar of Cebu City, the Regional Director of Department of Social Welfare and Development, Cebu City and the RTC Social Worker be furnished copies of the Petition and the Order. The RTC Social Worker was directed to conduct a social case study on Jose and Bagcat-Gullas, the minor sought to be adopted, and the latter's biological parents.

When the case was called for hearing on December 1, 2017, the Petition was read thrice in open court. No person objected to or filed any opposition.⁷

The Ruling of the RTC

On May 18, 2018, the RTC rendered a Decision⁸ granting the Petition for Adoption.

On June 6, 2018, the Wee Lim and Salas Law Firm filed an Entry of Appearance⁹ for the respondents Joselito F. Gullas, Joie Marie F. Gullas Yu, and John Vicente F. Gullas (collectively, the **respondents**), children of Jose.

⁴ Id. at 94-96.


⁵ Id. at 129.

⁶ Id. at 126.

⁷ Id. at 128.

⁸ Id. at 128-131.

⁹ Id. at 132-133.



On June 8, 2018, the RTC ruled that the Entry of Appearance is without basis because the respondents are not parties of record.¹⁰

On July 16, 2018, the RTC issued a Certificate of Finality¹¹ stating that the Decision, dated May 18, 2018, has become final and executory on July 4, 2018.

On July 17, 2018, the respondents filed a Motion for Reconsideration¹² assailing the Order, dated June 8, 2018, which denied their Entry of Appearance. The respondents argued that being the legitimate children of Jose, they are real parties in interest who are also indispensable parties. As such children of the adopter, their consent to the adoption is necessary.¹³

On August 20, 2018, Bagcat-Gullas and Jose filed a Comment *Ad Cautelam*¹⁴ in opposition to the respondents' Motion for Reconsideration. They argued that aside from the fact that the respondents are not indispensable parties to the case, the respondents have already executed an Affidavit of Consent¹⁵ signifying their knowledge of and consent to the adoption. Thus, there is no basis to allow the respondents to intervene in the proceedings.¹⁶

In an Order,¹⁷ dated October 3, 2018, the RTC granted the respondents' Motion for Reconsideration and Formal Entry of Appearance. It vacated the May 28, 2018 Decision, set aside the July 16, 2018 Certificate of Finality, reinstated the case in the docket of the court, and issued summons to be served upon the respondents. It ruled that the children of the adopter are indispensable parties in a petition for adoption. Hence, service of summons upon them is necessary to protect their substantive rights and to vest the court with jurisdiction. Without such service of summons, the subsequent judgment is null and void.

Aggrieved, Bagcat-Gullas and Jose filed a Motion for Reconsideration,¹⁸ to which the respondents filed an Opposition.¹⁹

In an Order,²⁰ dated November 21, 2018, the RTC denied the Motion for Reconsideration. It resolved that the rule on immutability of judgments does not apply to the case because the judgment is void, there being no

¹⁰ Id. at 134.

¹¹ Id. at 135-136.

¹² Id. at 137-143.

¹³ Id. at 138.

¹⁴ Id. at 145-157.

¹⁵ Id. at 232.

¹⁶ Id. at 156.

¹⁷ Id. at 90-91.

¹⁸ Id. at 158-183.

¹⁹ Id. at 184-216.

²⁰ Id. at 92-93.



summons served upon the children of the adopter, who are indispensable parties to the case.

The petitioner Bagcat-Gullas and Jose then filed a Petition for *Certiorari* with Prayer for Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction²¹ before the CA.

The Ruling of the CA

The CA denied the Petition for *Certiorari* and denied the prayer for issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction for being moot and academic.²²

In so ruling, the CA, citing Republic Act (R.A.) No. 8552²³ or the Domestic Adoption Act of 1998,²⁴ held that legitimate children of the adopter are indispensable parties.

With regard to the Affidavit of Consent, it held that although it evidently contains the signatures of the respondents, it does not appear to be genuine, thus:

[U]pon closer inspection of the notarial register of Atty. Gonzales, the same documentary details will reveal an *Affidavit of Loss* dated 30 September 2017 of a certain Jovito Aquiles Remulta who lost his Social Security System Identification Card (SSS ID) sometime in 2012. This matches the information of the *Notarial Register of Atty. Jaime O. Gonzales* under Entry No. 95, with a signed name of a certain Jovito A. Remulta matching the competent evidence of identity in the *Affidavit of Loss*. Undoubtedly, the *Affidavit of Consent* does not appear to be genuine. Consequently, the lack thereof did not vest the court with jurisdiction.²⁵ (Citations omitted)

Further, it held that the case is an exception to the principle of immutability of judgments:

The applicability of the principle of immutability of judgments is based upon a final and executory judgment. Hence, a void judgment is an exception because it never attains finality. It produces no legal or binding

²¹ Id. at 52-87.

²² Id. at 43.

²³ Approved on February 25, 1998.

²⁴ SECTION 9. *Whose Consent is Necessary to the Adoption.* — After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

....

(c) The legitimate and adopted sons/daughters, ten (10)-years of age or over, of the adopter(s) and adoptee, if any

²⁵ *Rollo*, p. 40.



effect. **“A void judgment is in legal effect no judgment. By it no rights are divested. From it no rights can be obtained. Being worthless in itself, all proceedings founded upon it is equally worthless. It neither binds nor bars any one. All acts performed under it an (sic) all claims flowing out of it are void.”**

....

In *Denila v. Republic*, the Supreme Court held that compliance with jurisdictional requirements is strictly mandatory in a special proceedings case as it is the operative fact which vests a court with the power and authority to validly take cognizance and decide a case. A re-examination of the jurisdictional validity cannot be simply barred or prevented by a simple invocation of the immutability doctrine. Once the allegations of absence of jurisdiction are proven by the party assailing it, it now becomes the burden of the other party to prove presence of jurisdiction. Special proceedings cases are dependent on express statutory requirements regarding jurisdiction in order for said proceedings and judgments to be wholly valid...

In view of the foregoing disquisitions, *We* find that the Decision dated 18 May 2018 granting the petition for adoption and its consequent Certificate of Finality are void for lack of jurisdiction. Thus, the principle of immutability of judgment shall not apply. Consequently, the petitioners' plea for injunctive relief has been rendered moot and academic.²⁶ (Emphasis in the original; citations omitted)

Bagcat-Gullas and Jose filed a Motion for Reconsideration,²⁷ but this was denied.²⁸

Hence, this Petition.

The Issue

Did the CA err in affirming the ruling of the RTC? Did the CA err when it ruled that the Affidavit of Consent executed by the respondents is not genuine?

The Ruling of the Court

The Court denies the Petition for failing to show that the CA committed a reversible error and for raising an issue which is substantially factual.

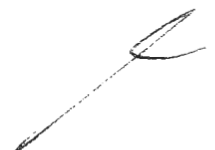
It must be emphasized that when an issue invites a review of the evidence presented, the question posed is one of fact.²⁹ It is a settled rule that the Court is not a trier of facts. The function of the Court in petitions for

²⁶ *Rollo*, pp. 42-43.

²⁷ *Id.* at 234-243.

²⁸ *Id.* at 47-51.

²⁹ *Falalimpa v. Manalastas*, G.R. No. 240591, September 29, 2021.



review on *certiorari* under Rule 45 of the Rules of Court is limited to reviewing errors of law that may have been committed by the lower courts. As a matter of sound practice and procedure, the Court defers and accords finality to the factual findings of trial courts. To do otherwise would defeat the very essence of Rule 45 and would convert the Court into a trier of facts, which is not its intended purpose under the law.³⁰ On this ground alone, therefore, the Petition ought to be denied.

But even on the merits, the Petition must fail.

Section 9 of R.A. No. 8552 provides:

SECTION 9. *Whose Consent is Necessary to the Adoption.* — After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

....

(c) The legitimate and adopted sons/daughters, ten (10)-years of age or over, of the adopter(s) and adoptee, if any; . . . (Emphasis supplied)

The law could not be any clearer. The consent of the adopter's legitimate children, who are, at least, of the age of 10, is required for the petition for adoption to prosper.

In the case of the respondents, it is undisputed that they were all over 10 years old at the time of the adoption proceedings.³¹ Their written consent, therefore, was necessary for the adoption to be valid.

In this regard, the Court in *Castro v. Gregorio*,³² ruled:

The consent of the adopter's other children is necessary as it ensures harmony among the prospective siblings. It also sufficiently puts the other children on notice that they will have to share their parent's love and care, as well as their future legitimes, with another person.

....

For the adoption to be valid, petitioners' consent was required by Republic Act No. 8552. Personal service of summons should have been effected on the spouse and all legitimate children to ensure that their substantive rights are protected. It is not enough to rely on constructive

³⁰ *Heirs of Villanueva v. Heirs of Mendoza*, 810 Phil. 172, 177-178 (2017).

³¹ *Rollo*, p. 55.

³² 745 Phil. 523 (2014).

notice as in this case. Surreptitious use of procedural technicalities cannot be privileged over substantive statutory rights.

Since the trial court failed to personally serve notice on Rosario and Joanne of the proceedings, it never validly acquired jurisdiction.³³

The respondents' interest is material as an adoption decree not only affects the rights of the adoptee *vis-à-vis* the adopter, but also the rights of the other children of the adopter, Jose in this case. Further, it is not enough to rely on constructive notice. The respondents, as children of Jose, should have been personally served summons by the trial court. Without impleading the respondents, and absent service of summons upon them, the judgment rendered by the RTC is void.

On this note, the Court would like to recognize the passage of R.A. No. 11642³⁴ which aims to provide a more efficient and expeditious process for adoption proceedings.³⁵

One of the law's salient features is the creation of the National Authority for Child Care (NACC), which shall have the original and exclusive jurisdiction over all matters pertaining to alternative child care.³⁶ With the creation of the NACC, domestic adoption proceedings have become a purely administrative process.³⁷

Another significant feature of R.A. No. 11642 is that parties in pending domestic adoption proceedings are allowed to withdraw the same and avail of the benefits provided by law.³⁸

³³ Id. at 537.

³⁴ Entitled "DOMESTIC ADMINISTRATIVE ADOPTION AND ALTERNATIVE CHILD CARE ACT," approved on January 6, 2022.

³⁵ Section 3. *Objectives.* – This Act shall provide for and allow simpler and inexpensive domestic administrative adoption proceedings and shall streamline services for alternative child care. Pursuant to this, it shall create the National Authority for Child Care (NACC), which shall exercise all powers and functions relating to alternative child care including, declaring a child legally available for both domestic, administrative adoption and inter-country adoption, foster care, kinship care, family-like care, or residential care.

³⁶ Section 6. *Jurisdiction of the NACC.* – The NACC shall have the original and exclusive jurisdiction over all matters pertaining to alternative child care, including declaring a child legally available for adoption; domestic administrative adoption; adult adoption; foster care under Republic Act No. 10165, otherwise known as the "Foster Care Act of 2012"; adoptions under Republic Act No. 11222, otherwise known as the "Simulated Birth Rectification Act"; and inter-country adoption under Republic Act No. 8043, otherwise known as the "Inter-Country Adoption Act of 1995". The NACC shall also have the authority to impose penalties in case of any violation of this Act.

³⁷ Section 2. *Declaration of Policy.* . . .

. . . .

It is hereby recognized that the administrative adoption processes for the cases of legally-available children, relative, stepchild, and adult adoptees are the most expeditious proceedings that will redound to their best interest.

³⁸ Section 56. *Transitory Clause.* – All judicial petitions for domestic adoption pending in court upon the effectivity of this Act may be immediately withdrawn, and parties of the same shall be given the option

In this case, as it is not clear from the records if the adoption proceeding is still pending, the option to withdraw may or may not be available to Bagcat-Gullas, depending on the status of the RTC proceedings.

On the issue of immutability of judgment, in *People v. Layag*,³⁹ the Court explained that it has the power to relax the doctrine of immutability of judgment if there exists compelling reasons therefor:

Under the doctrine of finality of judgment or immutability of judgment, a decision that has acquired finality becomes immutable and unalterable, and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact and law, and whether it be made by the court that rendered it or by the Highest Court of the land. Any act which violates this principle must immediately be struck down. Nonetheless, the immutability of final judgments is not a hard and fast rule as the Court has the power and prerogative to relax the same in order to serve the demands of substantial justice considering: (a) matters of life, liberty, honor, or property; (b) the existence of special or compelling circumstances; (c) the merits of the case; (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules; (e) the lack of any showing that the review sought is merely frivolous and dilatory; and (f) that the other party will not be unjustly prejudiced thereby.⁴⁰

In this case, the rule on immutability of judgments does not apply because the judgment is void. The respondents, being the legitimate children of one of the adopters, Jose, are without a doubt, indispensable parties. The absence of an indispensable party renders all subsequent actions of the court null and void, as such the court has no authority to act not only as to the absent party but also as to those present.⁴¹

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision, dated June 22, 2021, and the Resolution, dated September 6, 2022, of the Court of Appeals in CA-G.R. SP No. 12402 are **AFFIRMED**.

SO ORDERED.


MARIA FILOMENA D. SINGH
Associate Justice

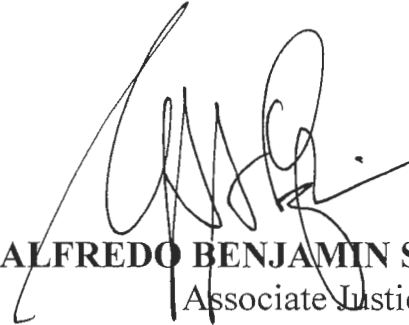
to avail of the benefits of this Act. Upon effectivity of this Act and during the pendency of the establishment of the NACC, the functions relating to foster care, issuance of CDCLAA, and adoption under Republic Act No. 11222 shall remain with the DSWD, specifically, its Program Management Bureau (PMB). . .

³⁹ 797 Phil. 386 (2016).


⁴⁰ Id. at 389.

⁴¹ *Quilatan v. Heirs of Quilatan*, 614 Phil. 162 (2009).


WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



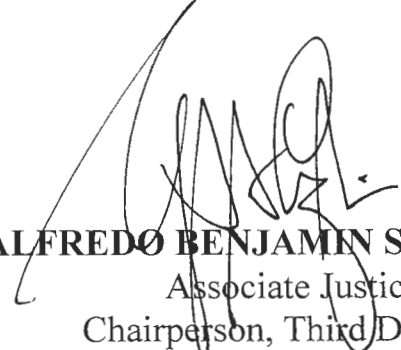
SAMUEL H. GAERLAN
Associate Justice



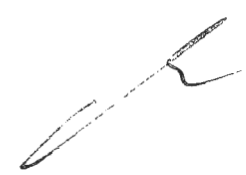
JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

