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Hand

**Republic of the Philippines  
Supreme Court  
Manila**

**SECOND DIVISION**

**ALEX RAUL B. BLAY**

Petitioner,

**G.R. No. 232189**

Present:

- versus -

**CYNTHIA B. BAÑA,**

Respondent.

CARPIO, J.,\* Chairperson,  
PERALTA,  
PERLAS-BERNABE,  
CAGUIOA, and  
REYES, JJ.

Promulgated:

07 MAR 2018

*Alfonso C. Bengtson*

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**DECISION**

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated February 23, 2017 and the Resolution<sup>3</sup> dated June 6, 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 146138, which affirmed the Orders dated May 29, 2015<sup>4</sup> and March 3, 2016<sup>5</sup> of the Regional Trial Court of Pasay City, Branch 109 (RTC) in Civil Case No. R-PSY-14-17714-CV that: (a) granted petitioner Alex Raul B. Blay's (petitioner) Motion to Withdraw; and (b) declared respondent Cynthia B. Baña's (respondent) Counterclaim for independent adjudication.

\* Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

<sup>1</sup> *Rollo*, pp. 11-27.

<sup>2</sup> *Id.* at 109-114. Penned by Associate Justice Socorro B. Inting with Associate Justices Priscilla J. Baltazar-Padilla and Jane Aurora C. Lantion concurring.

<sup>3</sup> *Id.* at 125-126.

<sup>4</sup> *Id.* at 53-54. Penned by Judge Tingaraan U. Guiling.

<sup>5</sup> *Id.* at 55.

### The Facts

On September 17, 2014, petitioner filed before the RTC a Petition for Declaration of Nullity of Marriage,<sup>6</sup> seeking that his marriage to respondent be declared null and void on account of his psychological incapacity pursuant to Article 36 of the Family Code.<sup>7</sup> Subsequently, respondent filed her Answer with Compulsory Counterclaim<sup>8</sup> dated December 5, 2014.

However, petitioner later lost interest over the case, and thus, filed a Motion to Withdraw<sup>9</sup> his petition. In her comment/opposition<sup>10</sup> thereto, respondent invoked Section 2, Rule 17 of the Rules of Court (alternatively, Section 2, Rule 17), and prayed that her counterclaims be declared as remaining for the court's independent adjudication.<sup>11</sup> In turn, petitioner filed his reply,<sup>12</sup> averring that respondent's counterclaims are barred from being prosecuted in the same action due to her failure to file a manifestation therefor within fifteen (15) days from notice of the Motion to Withdraw, which – according to petitioner – was required under the same Rules of Court provision. In particular, petitioner alleged that respondent filed the required manifestation only on March 30, 2015. However, respondent's counsel received a copy of petitioner's Motion to Withdraw on March 11, 2015; hence, respondent had only until March 26, 2015 to manifest before the trial court her desire to prosecute her counterclaims in the same action.<sup>13</sup>

### The RTC Ruling

In an Order<sup>14</sup> dated May 29, 2015, the RTC granted petitioner's Motion to Withdraw petition.<sup>15</sup> Further, it declared respondent's counterclaim "as remaining for independent adjudication" and as such, gave petitioner fifteen (15) days to file his answer thereto.<sup>16</sup>

Dissatisfied, petitioner filed a motion for reconsideration,<sup>17</sup> which was denied in an Order<sup>18</sup> dated March 3, 2016. Thus, he elevated the matter to the CA via a petition for *certiorari*,<sup>19</sup> praying that the RTC Orders be set aside to the extent that they allowed the counterclaim to remain for

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<sup>6</sup> Dated April 11, 2014. Id. at 136-143.

<sup>7</sup> Id. at 142.

<sup>8</sup> Id. at 147-162.

<sup>9</sup> Dated March 11, 2015. Id. at 163-164.

<sup>10</sup> Dated March 26, 2015. Id. at 166-169.

<sup>11</sup> Id. at 168.

<sup>12</sup> Dated April 29, 2015. Id. at 170-174.

<sup>13</sup> See id. at 112.

<sup>14</sup> Id. at 53-54.

<sup>15</sup> Id. at 54.

<sup>16</sup> Id.

<sup>17</sup> Dated June 22, 2015. Id. at 100-109.

<sup>18</sup> Id. at 55.

<sup>19</sup> Dated May 12, 2016. Id. at 31-49.

independent adjudication before the same trial court.<sup>20</sup>

### The CA Ruling

In a Decision<sup>21</sup> dated February 23, 2017, the CA dismissed the petition for lack of merit.<sup>22</sup> It found no grave abuse of discretion on the part of the RTC, holding that under Section 2, Rule 17 of the Rules of Court, if a counterclaim has been filed by the defendant before the service upon him of the petitioner's motion for dismissal, the dismissal shall be limited to the complaint.<sup>23</sup>

Aggrieved, petitioner moved for reconsideration,<sup>24</sup> which was denied in a Resolution<sup>25</sup> dated June 6, 2017; hence, this petition.

### The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in upholding the RTC Orders declaring respondent's counterclaim for independent adjudication before the same trial court.

### The Court's Ruling

The petition is meritorious.

Section 2, Rule 17 of the Rules of Court provides for the procedure relative to counterclaims in the event that a complaint is dismissed by the court at the plaintiff's instance, *viz.*:

Section 2. *Dismissal upon motion of plaintiff.* — Except as provided in the preceding section, a complaint shall not be dismissed at the plaintiff's instance save upon approval of the court and upon such terms and conditions as the court deems proper. **If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion for dismissal, the dismissal shall be limited to the complaint. The dismissal shall be without prejudice to the right of the defendant to prosecute his counterclaim in a separate action unless within fifteen (15) days from notice of the motion he manifests his preference to have his counterclaim resolved in the same action.** Unless otherwise specified in the order, a dismissal under this paragraph shall be without prejudice. A class suit shall not be dismissed or compromised without the approval of the court.

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<sup>20</sup> Id. at 47.

<sup>21</sup> Id. at 109-114.

<sup>22</sup> Id. at 114.

<sup>23</sup> Id. at 112-113.

<sup>24</sup> See Motion for Reconsideration dated March 28, 2017; id. at 115-123.

<sup>25</sup> Id. at 125- 126.

As per the **second sentence** of the provision, *if a counterclaim has been pleaded by the defendant prior to the service upon him of the plaintiff's motion for the dismissal* – as in this case – the rule is that **the dismissal shall be limited to the complaint**. Commentaries on the subject elucidate that “[i]nstead of an ‘action’ shall not be dismissed, the present rule uses the term ‘complaint’. A dismissal of an action is different from a mere dismissal of the complaint. For this reason, since only the complaint and not the action is dismissed, the defendant in spite of said dismissal may still prosecute his counterclaim in the same action.”<sup>26</sup>

However, as stated in the **third sentence** of Section 2, Rule 17, *if the defendant desires to prosecute his counterclaim in the same action, he is required to file a manifestation within fifteen (15) days from notice of the motion. Otherwise, his counterclaim may be prosecuted in a separate action*. As explained by renowned remedial law expert, former Associate Justice Florenz D. Regalado, in his treatise on the matter:

Under this revised section, where the *plaintiff* moves for the dismissal of the complaint to which a counterclaim has been interpose, the dismissal shall be limited to the complaint. Such dismissal shall be without prejudice to the right of the defendant to either prosecute his counterclaim in a separate action or to have the same resolved in the same action. Should he opt for the first alternative, the court should render the corresponding order granting and reserving his right to prosecute his claim in a separate complaint. **Should he choose to have his counterclaim disposed of in the same action wherein the complaint had been dismissed, he must manifest within 15 days from notice to him of plaintiff's motion to dismiss.** x x x<sup>27</sup>

In this case, the CA confined the application of Section 2, Rule 17 to that portion of its second sentence which states that the “dismissal shall be limited to the complaint.” Evidently, the CA ignored the same provision's third sentence, which provides for the alternatives available to the defendant who interposes a counterclaim prior to the service upon him of the plaintiff's motion for dismissal. As may be clearly inferred therefrom, should the defendant desire to prosecute his counterclaim, he is required to manifest his preference therefor within fifteen (15) days from notice of the plaintiff's motion to dismiss. Failing in which, the counterclaim may be prosecuted only in a separate action.

The rationale behind this rule is not difficult to discern: the passing of the fifteen (15)-day period triggers the finality of the court's dismissal of the complaint and hence, bars the conduct of further proceedings, *i.e.*, the prosecution of respondent's counterclaim, in the same action. Thus, in order

<sup>26</sup> Herrera, Oscar M., *Remedial Law*, 2000 Ed., Vol. 1, p. 785.

<sup>27</sup> Regalado, Florenz D., *Remedial Law Compendium*, 10<sup>th</sup> Ed., Vol. 1, p. 302.

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to obviate this finality, the defendant is required to file the required manifestation within the aforesaid period; otherwise, the counterclaim may be prosecuted only in a separate action.

It is hornbook doctrine in statutory construction that “[t]he whole and every part of the statute must be considered in fixing the meaning of any of its parts and in order to produce a harmonious whole. A statute must be so construed as to harmonize and give effect to all its provisions whenever possible. In short, every meaning to be given to each word or phrase must be ascertained from the context of the body of the statute since a word or phrase in a statute is always used in association with other words or phrases and its meaning may be modified or restricted by the latter.”<sup>28</sup>

By narrowly reading Section 2, Rule 17 of the Rules of Court, the CA clearly violated the foregoing principle and in so doing, erroneously sustained the assailed RTC Orders declaring respondent’s counterclaim “as remaining for independent adjudication” despite the latter’s failure to file the required manifestation within the prescribed fifteen (15)-day period. As petitioner aptly points out:

[I]f the intention of the framers of the Rules of Court is a blanket dismissal of the complaint ALONE if a counterclaim has been pleaded prior to the service of the notice of dismissal then there is NO EVIDENT PURPOSE for the third (3<sup>rd</sup>) sentence of Sec. 2, Rule 17.

x x x x<sup>29</sup>

[I]t is clearly an ABSURD conclusion if the said provision will direct the defendant to manifest within fifteen (15) days from receipt of the notice of dismissal his preference to prosecute his counterclaim in the SAME ACTION when the same AUTOMATICALLY REMAINS. If the automatic survival of the counterclaim and the death of the complaint as being ruled by the Court of Appeals in its questioned Decision is indeed true, then the third sentence should have required defendant to manifest that he will prosecute his counterclaim in a SEPARATE [and not – as the provision reads – in the same] ACTION.<sup>30</sup> (Emphases and underscoring in the original)

Petitioner’s observations are logically on point. Consequently, the CA rulings, which affirmed the patently erroneous RTC Orders, must be reversed. As it should be, the RTC should have only granted petitioner’s Motion to Withdraw and hence, dismissed his Petition for Declaration of Nullity of Marriage, without prejudice to, among others, the prosecution of respondent’s counterclaim in a separate action.

<sup>28</sup> *Chavez v. Judicial and Bar Council*, 691 Phil. 173, 200-201 (2012).

<sup>29</sup> *Rollo*, p. 19.

<sup>30</sup> *Id.* at 21.


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**WHEREFORE**, the petition is **GRANTED**. The Decision dated February 23, 2017 and the Resolution dated June 6, 2017 of the Court of Appeals in CA-G.R. SP No. 146138 are hereby **REVERSED** and **SET ASIDE**. A new one is **ENTERED** solely granting petitioner Alex Raul B. Blay's Motion to Withdraw his Petition for Declaration of Nullity of Marriage in Civil Case No. R-PSY-14-17714-CV. The aforesaid dismissal is, among others, without prejudice to the prosecution of respondent Cynthia B. Baña's counterclaim in a separate action.

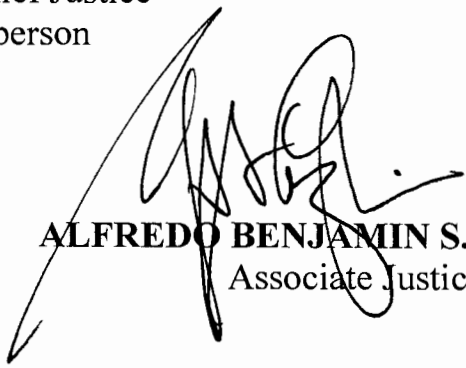
**SO ORDERED.**

  
**ESTELA M. PERLAS-BERNABE**  
 Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
 Acting Chief Justice  
 Chairperson


  
**DIOSDADO M. PERALTA**  
 Associate Justice

  
**ALFREDO BENJAMIN S. CAGUIOA**  
 Associate Justice

  
**ANDRES B. REYES, JR.**  
 Associate Justice

**CERTIFICATION**

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

  
**ANTONIO T. CARPIO**  
 Acting Chief Justice  
 Chairperson