

LOLITA ENRICO v. HEIRS OF SPS. EULOGIO B. MEDINACELI
G.R. No. 173614, 28 SEPT. 2007, Chico-Nazario, J. (Third Division)

Under Article 34 of the Family Code, a man and a woman who have been living together for at least five years without any legal impediment to marry are exempt from securing a marriage license. A Petition for Declaration of Absolute Nullity of a Void Marriage may be filed solely by the husband or the wife. The heirs of the deceased spouse can question the validity of the latter's marriage, not in a proceeding for declaration of nullity, but in a proceeding for the settlement of the estate of their deceased filed in the regular courts.

Spouses Eulogio B. Medinaceli and Trinidad Catli-Medinaceli were married on June 14, 1962. They had seven children, herein respondents. Trinidad died on May 1, 2004. On August 26, 2004, Eulogio married petitioner, Lolita Enrico and on February 10, 2005 or six months later, Eulogio passed away.

Respondents, as heirs of Eulogio Medinaceli, filed an action for declaration of nullity of marriage of Eulogio and Lolita on two grounds: that the marriage was entered into without the requisite marriage license and the lack of marriage ceremony due to Eulogio's serious illness which made its performance impossible.

Enrico contended that she has been living with Eulogio for 21 years hence exempt from getting a marriage license under Article 34 of the Family Code. More importantly, she sought the dismissal of the action on the ground that it is only the contracting parties while living who can file an action for declaration of nullity of marriage pursuant to AM 02-11-10-SC which provides in Section 2, par. (a) that a petition for Declaration of Absolute Nullity of a Void Marriage may be filed solely by the husband or the wife.

The heirs invoked the ruling in the case of *Niñal v. Bayadog* holding that the heirs of a deceased spouse have the standing to assail a void marriage even after the death of the latter.

ISSUES:

- 1) Whether or not the marriage between Eulogio and Enrico is exempt from securing a marriage license
- 2) Whether or not the respondent heirs can assail the validity of said marriage after the death of Eulogio

HELD:

Petition DISMISSED.

Under Article 34 of the Family Code, a man and a woman who have been living together for at least five years without any legal impediment to marry are exempt from securing a marriage license. The said exemption cannot possibly apply because the second marriage contracted by Eulogio with Enrico took place barely three months after his first

wife, Trinidad, died. Moreover, the respondent heirs have NO standing to assail the validity of the second marriage even after the death of their father, Eulogio.

While it is true that *Niñal v. Bayadog* allowed the heirs therein to file a petition for the declaration of nullity of their father's second marriage after the death of their father, the Court held that the same rule cannot be applied for the reason that the impugned marriage therein was solemnized *prior* to the effectivity of the Family Code. As can be gleaned from the facts of this case, Enrico's marriage to Eulogio was celebrated in 2004. Thus, AM 02-11-10-SC governs the instant case. A.M. No. 02-11-10-SC is explicit in its scope. Section 1 states that "this Rule shall govern petitions for declaration of absolute nullity of void marriages and annulment of voidable marriages under the Family Code of the Philippines. The Rules of Court shall apply suppletorily." Section 2, par. (a) categorically states that a petition for Declaration of Absolute Nullity of a Void Marriage may be filed solely by the husband or the wife.

Nonetheless, the heirs are not left without remedy. They can still protect their successional rights as compulsory or intestate heirs of Eulogio by questioning the validity of his second marriage with Enrico, not in a proceeding for declaration of nullity, but in a proceeding for the settlement of the estate of their deceased father filed in the regular courts.