



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOEL A. LASANAS,
Petitioner,

G.R. No. 159031

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

JUN 23 2014

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DECISION

BERSAMIN, J.:

Any person who contracts a second marriage without first having a judicial declaration of the nullity of his or her first marriage, albeit on its face void and inexistent for lack of a marriage license, is guilty of bigamy as defined and penalized by Article 349 of the *Revised Penal Code*.

The Case

The accused seeks the reversal of the decision promulgated on August 29, 2002,¹ whereby the Court of Appeals (CA) affirmed his conviction for bigamy under the judgment rendered on October 30, 2000 in Criminal Case No. 49808 by the Regional Trial Court (RTC), Branch 38, in Iloilo City.

¹ *Rollo*, pp. 17-24; penned by Associate Justice Hilarion L. Aquino (retired), with Associate Justice Edgardo P. Cruz (retired) and Associate Justice Regalado E. Maambong (retired/deceased) concurring.

Antecedents

On February 16, 1968,² Judge Carlos B. Salazar of the Municipal Trial Court of San Miguel, Iloilo solemnized the marriage of accused Noel Lasanas and Socorro Patingo³ without the benefit of a marriage license.⁴ The records show that Lasanas and Patingo had not executed any affidavit of cohabitation to excuse the lack of the marriage license.⁵ On August 27, 1980, Lasanas and Patingo reaffirmed their marriage vows in a religious ceremony before Fr. Rodolfo Tamayo at the San Jose Church in Iloilo City.⁶ They submitted no marriage license or affidavit of cohabitation for that purpose.⁷ Both ceremonies were evidenced by the corresponding marriage certificates.⁸ In 1982, Lasanas and Patingo separated *de facto* because of irreconcilable differences.⁹

On December 27, 1993, the accused contracted marriage with Josefa Eslaban in a religious ceremony solemnized by Fr. Ramon Sequito at the Sta. Maria Church in Iloilo City. Their marriage certificate reflected the civil status of the accused as single.¹⁰

On July 26, 1996, the accused filed a complaint for annulment of marriage and damages against Socorro in the RTC in Iloilo City,¹¹ which was docketed as Civil Case No. 23133 and raffled to Branch 39 of the RTC. The complaint alleged that Socorro had employed deceit, misrepresentations and fraud in securing his consent to their marriage; and that subsequent marital breaches, psychological incompatibilities and her infidelity had caused him to suffer mental anguish, sleepless nights and social humiliation warranting the award of damages. In support of his complaint, he further alleged, among others, that:

He was married to the defendant on February 16, 1968 which marriage was officiated by Hon. Carlos B. Salazar, Municipal Judge of San Miguel, Iloilo. Machine copy of the Marriage Contract is herewith attached as Exhibit "A" and made part hereof; which marriage was ratified by a wedding at San Jose Church, Iloilo City on August 27, 1980 and registered at the office of Iloilo City Registrar. Machine copy of the Marriage Contract is herewith attached as Annex "B";

² Records, p. 6.

³ Id. at 197.

⁴ *Rollo*, p. 20.

⁵ Id.

⁶ Records, p. 198.

⁷ *Rollo*, p. 21.

⁸ Records, pp. 197-198, 200, 205.

⁹ *Rollo*, p. 21.

¹⁰ Records, p. 199.

¹¹ Id. at 6-12.

Plaintiff and defendant have no children and have no properties except some personal belongings;

Plaintiff met the defendant sometime in the middle of 1967 at the house of Mr. Raul L. Cataloctocan in Burgos Street, Lapaz, Iloilo City wherein the purpose of their meeting was for the plaintiff to consult and seek treatment by the defendant because the latter was a “babaylan”:

Plaintiff was treated by the defendant and the subsequent treatments were performed by the defendant at her residence in Barangay, Banga, Mina, Iloilo, the treatment made being on a continuing basis;

x x x x

On February 16, 1968, defendant asked the plaintiff to come with her to Iloilo City. They went to Dainty Restaurant at J.M. Basa Street. Plaintiff saw several persons therein. After eating plaintiff was made to sign the marriage contract, which was null and void for lack of marriage license and based on a false affidavit of cohabitation. After their marriage, they went home to Barangay Bangac, Mina, Iloilo, which marked the start of a married life rocked with marital differences, quarrels and incompatibilities, without love, but under the uncontrollable fear of harm that should befall him should he not follow her;

x x x x

During the period the parties are living together defendant would nag the plaintiff, fabricate stories against him and displayed her fit of jealousy, neglect her marital obligations even committed infidelity, which psychological incompatibilities and marital breaches have forced the petitioner to live separately from defendant since 1982 up to the present.¹²

In October 1998, Socorro charged the accused with bigamy in the Office of the City Prosecutor of Iloilo City.¹³ After due proceedings, the accused was formally indicted for bigamy under the information filed on October 20, 1998 in the RTC, *viz*:

That on or about the 27th day of December, 1993 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, Noel Lasanas being previously united in a lawful marriage with Socorro Patingo and without the said marriage having been legally dissolve (sic) or annulled, did then and there willfully, unlawfully and feloniously contract a second or subsequent marriage with Josefa Eslaban.

CONTRARY TO LAW.¹⁴

The criminal case, docketed as Criminal Case No. 49808, was raffled to Branch 38 of the RTC in Iloilo City. The accused pleaded *not guilty* at his arraignment,¹⁵ and trial ensued in due course.

¹² Id. at 6-9.

¹³ *Rollo*, p. 21.

¹⁴ Records, p. 1.

¹⁵ Id. at 38.

In the meanwhile, on November 24, 1998, the RTC (Branch 39) rendered its judgment in Civil Case No. 23133 dismissing the accused's complaint for annulment of marriage, and declaring the marriage between him and Socorro valid and legal, as follows:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint filed by the plaintiff Noel Arenga Lasanas against the defendant, Socorro Patingo, considering that the marriage between them is valid and legal.

The plaintiff Noel Lasanas is hereby ordered to give monthly support to his wife, the defendant in this case, Ma. Socorro Patingo in the amount of P3,000.00 a month, from the time that she filed her answer with counterclaim on February 3, 1997, pursuant to Article 203 of the Family Code and every month thereafter. Costs against the plaintiff.

SO ORDERED.¹⁶

The accused appealed to the CA.¹⁷

Ruling of the RTC

On October 30, 2000, the RTC (Branch 38) rendered its assailed decision in Criminal Case No. 49808, disposing thusly:

WHEREFORE, finding accused NOEL LASANAS guilty beyond reasonable doubt of the offense of BIGAMY punishable under Art. 349 of the Revised Penal Code, judgment is hereby entered ordering him to serve an indeterminate penalty of imprisonment of two (2) years and four (4) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor as maximum.

The accused is entitled to the privileges extended to him under Art. 29 of the Revised Penal Code.

SO ORDERED.¹⁸

Decision of the CA

Aggrieved, the accused appealed his conviction to the CA, insisting that the RTC thereby erred in finding that he had legally married Socorro despite the absence of the marriage license, affidavit of cohabitation and affidavit of the solemnizing officer.

¹⁶ Id. at 235-236.

¹⁷ Id. at 453.

¹⁸ Id. at 455.

The accused contended that because he had not been legally married to Socorro, the first element of bigamy was not established; that his good faith and the absence of criminal intent were absolatory in his favor; and that he had been of the honest belief that there was no need for a judicial declaration of the nullity of the first marriage before he could contract a subsequent marriage.¹⁹

On August 29, 2002, however, the CA promulgated its challenged decision, decreeing:

WHEREFORE, for lack of merit, the Court DISMISSES the appeal and AFFIRMS the appealed Decision.

SO ORDERED.²⁰

Issues

Hence, the accused has appealed by petition for review on *certiorari*.²¹ He argues that the RTC and the CA incorrectly applied the provisions of Article 349 of the *Revised Penal Code*,²² asserting that the civil law rule embodied in Article 40 of the *Family Code* requiring a judicial declaration of nullity before one could contract a subsequent marriage should not apply in this purely criminal prosecution;²³ that even if Article 40 of the *Family Code* was applicable, he should still be acquitted because his subsequent marriage was null and void for being without a recorded judgment of nullity of marriage, as provided in Article 53 in relation to Article 52 of the *Family Code*;²⁴ that, consequently, an essential element of the crime of bigamy, *i.e.* that the subsequent marriage be valid, was lacking;²⁵ and that his good faith and lack of criminal intent were sufficient to relieve him of criminal liability.²⁶

Ruling

The appeal lacks merit.

The law on bigamy is found in Article 349 of the *Revised Penal Code*, which provides:

¹⁹ *Rollo*, pp. 22-23.

²⁰ *Id.* at 24.

²¹ *Id.* at 8-16.

²² *Id.* at 10.

²³ *Id.* at 11-12.

²⁴ *Id.* at 13.

²⁵ *Id.*

²⁶ *Id.* at 14.

Article 349. *Bigamy*. — The penalty of *prision mayor* shall be imposed upon any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

The elements of the crime of bigamy are as follows: (1) that the offender has been legally married; (2) that the marriage has not been legally dissolved or, in case his or her spouse is absent, the absent spouse could not yet be presumed dead according to the *Civil Code*; (3) that he or she contracts a second or subsequent marriage; and (4) that the second or subsequent marriage has all the essential requisites for validity.²⁷

The CA specifically observed:

This Court concedes that the marriage between accused-appellant Lasanas and private complainant Patingo was void because of the absence of a marriage license or of an affidavit of cohabitation. The ratificatory religious wedding ceremony could not have validated the void marriage. Neither can the church wedding be treated as a marriage in itself for to do so, all the essential and formal requisites of a valid marriage should be present. One of these requisites is a valid marriage license except in those instances when this requirement may be excused. There having been no marriage license nor affidavit of cohabitation presented to the priest who presided over the religious rites, the religious wedding cannot be treated as a valid marriage in itself.

But then, as the law and jurisprudence say, petitioner should have first secured a judicial declaration of the nullity of his void marriage to private complainant Patingo before marrying Josefa Eslaban. Actually, he did just that but after his marriage to Josefa Eslaban. Consequently, he violated the law on bigamy.

Accused's reliance on the cases of *People v. Mendoza*, 95 Phil. 845 and *People v. Aragon*, 100 Phil. 1033 is misplaced because the ruling in these cases have already been abandoned per *Relova v. Landico*, *supra*, and *Wiegel v. Sempio-Diy*, 143 SCRA 499. The petitioner also cited *Yap v. Court of Appeals*, 145 SCRA 229 which resurrected the *Aragon* and *Mendoza* doctrine but *Yap's* ruling too had been overtaken by Art. 40 of the Family Code and by *Domingo v. Court of Appeals* and *Te v. Court of Appeals*, *supra*.

Regarding accused-appellant's defense of good faith, the same is unavailing pursuant to *Mañozca v. Domagas*, 248 SCRA 625.

This Court, therefore concludes that the appealed Decision is correct in all respect.²⁸

²⁷ *Tenebro v. Court of Appeals*, G.R. No. 150758, February 18, 2004, 423 SCRA 272, 279, citing Reyes, L.B., *The Revised Penal Code*, Book II, 14th Ed., 1998, p. 907.

²⁸ *Rollo*, pp. 23-24.

Based on the findings of the CA, this case has all the foregoing elements attendant.

The first and second elements of bigamy were present in view of the absence of a judicial declaration of nullity of marriage between the accused and Socorro. The requirement of securing a judicial declaration of nullity of marriage prior to contracting a subsequent marriage is found in Article 40 of the *Family Code*, to wit:

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. (n)

The reason for the provision was aptly discussed in *Teves v. People*:²⁹

x x x The Family Code has settled once and for all the conflicting jurisprudence on the matter. A declaration of the absolute nullity of a marriage is now explicitly required either as a cause of action or a ground for defense. Where the absolute nullity of a previous marriage is sought to be invoked for purposes of contracting a second marriage, the sole basis acceptable in law for said projected marriage to be free from legal infirmity is a final judgment declaring the previous marriage void.

The Family Law Revision Committee and the Civil Code Revision Committee which drafted what is now the Family Code of the Philippines took the position that parties to a marriage should not be allowed to assume that their marriage is void even if such be the fact but must first secure a judicial declaration of the nullity of their marriage before they can be allowed to marry again.

In fact, the requirement for a declaration of absolute nullity of a marriage is also for the protection of the spouse who, believing that his or her marriage is illegal and void, marries again. With the judicial declaration of the nullity of his or her marriage, the person who marries again cannot be charged with bigamy.

In numerous cases, this Court has consistently held that a judicial declaration of nullity is required before a valid subsequent marriage can be contracted; or else, what transpires is a bigamous marriage, reprehensible and immoral.

If petitioner's contention would be allowed, a person who commits bigamy can simply evade prosecution by immediately filing a petition for the declaration of nullity of his earlier marriage and hope that a favorable decision is rendered therein before anyone institutes a complaint against him. We note that in petitioner's case the complaint was filed before the first marriage was declared a nullity. It was only the filing of the Information that was overtaken by the declaration of nullity of his first marriage. Following petitioner's argument, even assuming that a complaint has been instituted, such as in this case, the offender can still

²⁹ G.R. No. 188775, August 24, 2011, 656 SCRA 307, 313-314.

escape liability provided that a decision nullifying his earlier marriage precedes the filing of the Information in court. Such cannot be allowed. To do so would make the crime of bigamy dependent upon the ability or inability of the Office of the Public Prosecutor to immediately act on complaints and eventually file Informations in court. Plainly, petitioner's strained reading of the law is against its simple letter.

Pursuant to *Teves*, the accused's conviction for bigamy is affirmed. The crime of bigamy was consummated from the moment he contracted the second marriage without his marriage to Socorro being first judicially declared null and void, because at the time of the celebration of the second marriage, his marriage to Socorro was still deemed valid and subsisting due to such marriage not being yet declared null and void by a court of competent jurisdiction.³⁰ "What makes a person criminally liable for bigamy," according to *People v. Odtuhan*.³¹

x x x is when he contracts a second or subsequent marriage during the subsistence of a valid marriage. Parties to the marriage should not be permitted to judge for themselves its nullity, for the same must be submitted to the judgment of competent courts and only when the nullity of the marriage is so declared can it be held as void, and so long as there is no such declaration, the presumption is that the marriage exists. Therefore, he who contracts a second marriage before the judicial declaration of nullity of the first marriage assumes the risk of being prosecuted for bigamy.

The accused's defense of acting in good faith deserves scant consideration especially because the records show that he had filed a complaint for the annulment of his marriage with Socorro prior to the institution of the criminal complaint against him but after he had already contracted his second marriage with Josefa. But even such defense would abandon him because the RTC (Branch 39) dismissed his complaint for annulment of marriage after the information for bigamy had already been filed against him, thus confirming the validity of his marriage to Socorro.

Considering that the accused's subsequent marriage to Josefa was an undisputed fact, the third element of bigamy was established. Nonetheless, he submits that his marriage to Josefa was invalid because of lack of a recorded judgment of nullity of marriage. Such argument had no worth, however, because it was he himself who failed to secure a judicial declaration of nullity of his previous marriage prior to contracting his subsequent marriage. In *Tenebro v. Court of Appeals*,³² the Court has explained that "[s]ince a marriage contracted during the subsistence of a valid marriage is automatically void, the nullity of this second marriage is not *per se* an argument for the avoidance of criminal liability for bigamy.

³⁰ See *Jarillo v. People*, G.R. No. 164435, September 29, 2009, 601 SCRA 236, 246.

³¹ G.R. No. 191566, July 17, 2013, 701 SCRA 506, 515.

³² *Supra* note 27.

x x x A plain reading of [Article 349 of the Revised Penal Code], therefore, would indicate that the provision penalizes *the mere act of contracting a second or subsequent marriage during the subsistence of a valid marriage*.³³ The Court has further observed in *Nollora, Jr. v. People*:³⁴

x x x Nollora may not impugn his [subsequent] marriage to Geraldino in order to extricate himself from criminal liability; otherwise, we would be opening the doors to allowing the solemnization of multiple flawed marriage ceremonies. As we stated in *Tenebro v. Court of Appeals*:

There is therefore a recognition written into the law itself that such a marriage, although void ab initio, may still produce legal consequences. Among these legal consequences is incurring criminal liability for bigamy. To hold otherwise would render the State's penal laws on bigamy completely nugatory, and allow individuals to deliberately ensure that each marital contract be flawed in some manner, and to thus escape the consequences of contracting multiple marriages, while beguiling throngs of hapless women with the promise of futurity and commitment.

Under Article 349 of the *Revised Penal Code*, the penalty for bigamy is *prision mayor*. With neither an aggravating nor a mitigating circumstance attendant in the commission of the crime, the imposable penalty is the medium period of *prision mayor*,³⁵ which ranges from eight years and one day to 10 years. Applying the *Indeterminate Sentence Law*, the minimum of the indeterminate sentence should be within the range of *prision correccional*, the penalty next lower than that prescribed for the offense, which is from six months and one day to six years. Accordingly, the indeterminate sentence of two years and four months of *prision correccional*, as minimum, to eight years and one day of *prision mayor* as maximum, as imposed by the RTC, was proper.

WHEREFORE, the Court **AFFIRMS** the decision of the Court of Appeals promulgated on August 29, 2002; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

³³ Id. at 282.

³⁴ G.R. No. 191425, September 7, 2011, 657 SCRA 330, 348.

³⁵ Article 64(1), *Revised Penal Code*.

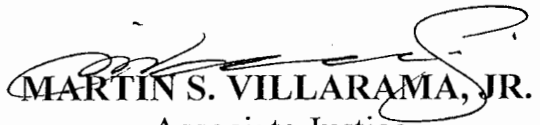
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
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.



MARIA LOURDES P. A. SERENO
Chief Justice