



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**LEONARDO A. VILLALON and
ERLINDA TALDE-VILLALON,**
Petitioners,

G.R. No. 196508

Present:

- versus -

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

AMELIA CHAN,
Respondent.

Promulgated:

SEP 24 2014

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DECISION

BRION, *J.*:

We review in this petition for review on *certiorari*¹ the July 30, 2010 decision² and April 8, 2011 resolution³ of the Court of Appeals (CA) in CA-G.R. SP No. 93807. The CA annulled and set aside the March 3, 2006 resolution⁴ and September 5, 2006 order⁵ of the Regional Trial Court (RTC), Branch 74, Antipolo City, which disallowed the private offended party's counsel from participating in the prosecution of the petitioners for bigamy and dismissed the bigamy case filed against the petitioners, respectively.

¹ Under Rule 45 of the Rules of Court; *rollo*, pp. 7-28.

² Penned by CA Associate Justice Francisco P. Acosta, with Associate Justices Vicente S.E. Veloso and Samuel H. Gaerlan, concurring; *rollo*, pp. 32-47.

³ *Rollo*, p. 48-50.

⁴ Id. at 100-104.

⁵ Id. at 138-143.

Factual Antecedents

On May 6, 1954, the respondent Amelia Chan married Leon Basilio Chua in a civil ceremony solemnized by then Judge Cancio C. Garcia of the City Court of Caloocan. The respondent claimed that her husband Leon Basilio Chua and the present petitioner, Leonardo A. Villalon, are one and the same person.

During the subsistence of his marriage to Amelia, Leon Basilio Chua, this time under the name of Leonardo A. Villalon, allegedly contracted a second marriage with Erlinda Talde that took place on June 2, 1993. This marriage was solemnized by Judge Ruth C. Santos of the Municipal Trial Court of Antipolo, Rizal.

Amelia, who was then living in the United States and could not personally file a case for bigamy in the Philippines, requested Benito Yao Chua and Wilson Go to commence the criminal proceedings against the petitioners. On September 13, 2003, a verified complaint-affidavit⁶ alleging the commission of the crime of bigamy was filed with the Office of the City Prosecutor in Antipolo. Consequently, an Information⁷ was filed with the RTC, docketed as Criminal Case No. 05-30485. On arraignment, the petitioners pleaded not guilty.

During the pre-trial (or on February 6, 2006), Atty. Apollo V. Atencia appeared in behalf of Amelia, the private offended party. On February 20, 2006, Atty. Atencia formally filed his entry of appearance⁸ as private prosecutor, with the conformity and under the control and supervision of Assistant City Prosecutor Gerardo P. Barot.

Leonardo filed an omnibus motion⁹ with the RTC seeking to disqualify Atty. Atencia. He argued that Amelia could not be represented in the bigamy case because she was not a party to the case, as she did not file the complaint-affidavit. He also argued that Amelia had already waived her right to file a civil and criminal case against him and his co-defendant Erlinda. Amelia opposed the omnibus motion,¹⁰ while the public prosecutor joined the petitioners in disqualifying Atty. Atencia from appearing in the case.¹¹

In a resolution¹² dated March 3, 2006, the RTC granted Leonardo's omnibus motion. Trial of the case ensued thereafter.

⁶ Id. at 105-107.

⁷ Id. at 108-109.

⁸ Id. at 112-113.

⁹ Id. at 114-120.

¹⁰ In an Opposition dated February 27, 2006; id. at 121-125.

¹¹ In a Comment to the Omnibus Motion dated February 22, 2006; id. at 126-127.

¹² See note 4.

On March 27, 2006, Amelia filed a petition¹³ for *certiorari* and prohibition, with prayer for the issuance of a Temporary Restraining Order (*TRO*) and/or Writ of Preliminary Injunction, with the CA. In a resolution¹⁴ dated April 19, 2006, the CA issued a *TRO* enjoining further proceedings on the case.

Despite the TRO issued by the CA, trial of the bigamy case proceeded with the presentation of the prosecution's evidence, to which Leonardo filed a demurrer to evidence. In an order¹⁵ dated September 5, 2006, the RTC dismissed the bigamy case for failure of the prosecution to prove the petitioners' guilt.

Petition for certiorari and prohibition with the CA

In her petition for *certiorari* and prohibition before the CA, Amelia alleged grave abuse of discretion on the part of the RTC when it issued its March 3, 2006 resolution and proceeded with the bigamy case without permitting the participation of Atty. Atencia as private prosecutor.

In a decision¹⁶ dated July 30, 2010, the CA granted Amelia's petition and annulled the RTC's March 3, 2006 resolution disqualifying Atty. Atencia from participation in the case, and its September 5, 2006 order that dismissed the bigamy case against the petitioners. The CA ruled that the crime of bigamy, being public in nature, can be denounced by anyone, not only by the offended party, before the prosecuting authorities without the offended party losing her right to recover damages. Thus, the CA concluded that the trial court committed grave abuse of discretion when it did not allow Atty. Atencia to intervene and represent Amelia in the bigamy case and that the trial court denied Amelia her right to due process.

Also, the CA ruled that the offended party could be deprived of the right to intervene in the criminal case only when he or she expressly waives the civil action or reserves the right to institute one. The CA found no such waiver from Amelia and held that Atty. Atencia's appearance as private prosecutor was proof enough of Amelia's determination to enforce her claim for damages in the bigamy case.

The CA disposed of the *certiorari* petition under these terms:

WHEREFORE, the petition is **GRANTED**. The Resolution dated 3 March 2006 disqualifying Petitioner's counsel to intervene and the Order dated 5 September 2006 dismissing Criminal Case No. 05-30485 is

¹³ *Rollo*, pp. 68-95.

¹⁴ *Id.* at 134-137.

¹⁵ See note 5.

¹⁶ See note 2.

ANNULLED and SET ASIDE. Public respondent is hereby inhibited from further hearing the case. This case is therefore REMANDED to the Regional Trial Court of Antipolo City for RE-RAFFLE to another branch and for further proceedings. The trial court and public prosecutor are ORDERED to allow the private prosecutor subject to the latter's control and supervision to intervene in the proceedings in order to protect the interests of Petitioner as a complaining witness.

SO ORDERED.¹⁷

Petition for review on certiorari with this Court

With the denial of their motion for reconsideration¹⁸ before the CA, the petitioners filed the present petition for review on *certiorari* before this Court and raised the following arguments:

- A. The Decision of the Court of Appeals gravely transgresses the petitioners' constitutional right to due process of law, apart from being violative of the legal proscription against double jeopardy.
- B. The Court of Appeals grossly erred in granting the petition for certiorari insofar as the Resolution, dated 3 March 2006, of therein respondent Judge was concerned.
- C. The petition in CA-G.R. SP No. 93907 is fatally defective in that, among other things, it failed to implead the People of the Philippines as a party-respondent in that case, hence, the same should have been dismissed outright.¹⁹

Our Ruling

We find no merit in the petitioners' arguments.

First, the petitioners argue that the RTC's September 5, 2006 order dismissing the bigamy case against them had already become final because it was not assailed by the respondent in her petition for *certiorari* before the CA. The petitioners point out that the respondent only particularly assailed the RTC's March 3, 2006 resolution and failed to file a separate or amended petition for *certiorari* to include the September 5, 2006 order as one of the assailed orders of the RTC. Based on this assertion, the petitioners contend that the CA, in ordering the remand and re-raffle of the bigamy case to another RTC branch, violates their right against double jeopardy.

The petitioners are mistaken. The review by the CA on whether the RTC committed grave abuse of discretion encompassed, not only the issuance of the March 3, 2006 resolution, but all proceedings in the bigamy

¹⁷ *Rollo*, p. 46.

¹⁸ *Id.* at 144-158.

¹⁹ *Id.* at 14-27.

case thereafter. This is apparent from the words used by the respondent in her *certiorari* petition before the CA where she raised the following supporting grounds:

1. THE RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE QUESTIONED RESOLUTION DATED 03 MARCH 2006 IN CRIMINAL CASE NO. 05-30485 WHICH HELD THAT NO CLAIM FOR CIVIL LIABILITY WAS DEEMED INSTITUTED IN THE CRIMINAL CASE, AND CONSEQUENTLY DISQUALIFYING THE OFFENDED PARTY'S COUNSEL FROM PARTICIPATING IN THE TRIAL OF THE CASE;
2. **THE HEARINGS OF THE BIGAMY CASE WHEREIN THE PARTICIPATION OF THE PRIVATE PROSECUTOR IS EXPRESSLY PROHIBITED ARE WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION.**²⁰ (Emphasis ours)

Evidently, the CA's review is not limited to the RTC's March 3, 2006 resolution but also included the September 5, 2006 order that was issued by the RTC in the course of the proceedings on the bigamy case. Thus, the RTC's September 5, 2006 order, which is still the subject of review by this Court, has not attained finality and the CA's assailed order of remanding and re-raffling the bigamy case to another trial court would not violate the petitioners' right against double jeopardy.

Also, we emphasize that the RTC issued its September 5, 2006 order in defiance of the TRO issued by the CA. The records show that the CA had issued a TRO on April 19, 2006, which should have prohibited the RTC from further proceeding on the case. But the RTC, instead, continued with the presentation of the prosecution's evidence and issued the assailed September 5, 2006 order.

Under this circumstance, the RTC's September 5, 2006 order was actually without force and effect and would not serve as basis for the petitioners to claim that their right against double jeopardy had been violated. The RTC, clearly, acted with grave abuse of discretion in issuing its September 5, 2006 order in view of the earlier TRO issued by the CA.

Second, the petitioners argue that the CA gravely erred when it ruled that: the RTC committed grave abuse of discretion in issuing its March 3, 2006 resolution disqualifying Atty. Atencia as private prosecutor, and that Atty. Atencia's disqualification violated the respondent's rights to intervene and be heard in the bigamy case. They contend that, even with Atty.

²⁰ Id. at 77.

Atencia's disqualification, the respondent was never denied her right to participate in the proceedings and was even called to stand as a witness but the respondent never appeared before the court because she was out of the country during the whole proceedings on the bigamy case.

Section 16²¹ of Rule 110 of the Revised Rules of Criminal Procedure²² expressly allows an offended party to intervene *by counsel* in the prosecution of the offense for the recovery of civil liability where the civil action for the recovery of civil liability arising from the offense charged is instituted with the criminal action. The civil action shall be deemed instituted with the criminal action, except when the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.²³

In this case, the CA found no such waiver from or reservation made by the respondent. The fact that the respondent, who was already based abroad, had secured the services of an attorney in the Philippines reveals her willingness and interest to participate in the prosecution of the bigamy case and to recover civil liability from the petitioners. Thus, the RTC should have allowed, and should not have disqualified, Atty. Atencia from intervening in the bigamy case as the respondent, being the offended party, is afforded by law the right to participate through counsel in the prosecution of the offense with respect to the civil aspect of the case.

Lastly, the petitioners argue that the respondent's *certiorari* petition before the CA should have been dismissed outright because it failed to implead the "People of the Philippines" as a party-respondent.

The respondent's failure to implead the "People of the Philippines" as a party-respondent is not a fatal defect warranting the outright dismissal of her petition for *certiorari* and prohibition before the CA because: (1) a petition for *certiorari* and prohibition under Rule 65 is directed against any tribunal, board or officer exercising judicial or quasi-judicial functions alleged to have acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction;²⁴ and (2) the petition for *certiorari* and prohibition filed by the respondent is a special civil action separate and independent from the bigamy case filed against the petitioners. For these reasons, the "People of the Philippines" need not be impleaded as a party in a petition for *certiorari* and prohibition.

²¹ SEC. 16. *Intervention of the offended party in criminal action* – Where the civil action for recovery of civil liability is instituted in the criminal action pursuant to Rule 111, the offended party may intervene by counsel in the prosecution of the offense

²² Effective December 1, 2000, A.M. No. 00-5-03-SC.

²³ Section 1, Rule 111 of the Revised Rules of Criminal Procedure.


²⁴ See Sections 1 and 2 of Rule 65, Rules of Court.

WHEREFORE, in view of the foregoing, we **DENY** the present petition for review on *certiorari* due to lack of merit, and hereby **AFFIRM** the decision dated July 30, 2010 and resolution dated April 8, 2011 of the Court of Appeals in CA-G.R. SP No. 93807.

SO ORDERED.


ARTURO D. BRION
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

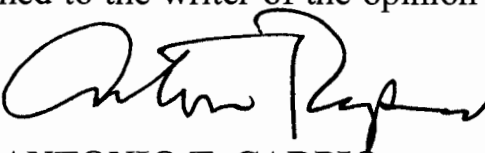

MARIANO C. DEL CASTILLO
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC M.V.F. LEONEN
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.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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.



MARIA LOURDES P. A. SERENO
Chief Justice