

## FIRST DIVISION

[ G.R. No. 200233, July 15, 2015 ]

**LEONILA G. SANTIAGO, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**SERENO, C.J.:**

We resolve the Petition for Review on Certiorari filed by petitioner Leonila G. Santiago from the Decision and Resolution of the Court of Appeals (CA) in CA-G.R. CR No. 33566.<sup>[1]</sup> The CA affirmed the Decision and Order of the Regional Trial Court (RTC) in Criminal Case No. 7232<sup>[2]</sup> convicting her of bigamy.

### THE FACTS

Four months after the solemnization of their marriage on 29 July 1997,<sup>[3]</sup> Leonila G. Santiago and Nicanor F. Santos faced an Information<sup>[4]</sup> for bigamy. Petitioner pleaded “not guilty,” while her putative husband escaped the criminal suit.<sup>[5]</sup>

The prosecution adduced evidence that Santos, who had been married to Estela Galang since 2 June 1974,<sup>[6]</sup> asked petitioner to marry him. Petitioner, who was a 43-year-old widow then, married Santos on 29 July 1997 despite the advice of her brother-in-law and parents-in-law that if she wanted to remarry, she should choose someone who was “without responsibility.”<sup>[7]</sup>

Petitioner asserted her affirmative defense that she could not be included as an accused in the crime of bigamy, because she had been under the belief that Santos was still single when they got married. She also averred that for there to be a conviction for bigamy, his second marriage to her should be proven valid by the prosecution; but in this case, she argued that their marriage was void due to the lack of a marriage license.

Eleven years after the inception of this criminal case, the first wife, Estela Galang, testified for the prosecution. She alleged that she had met petitioner as early as March and April 1997, on which occasions the former introduced herself as the legal wife of Santos. Petitioner denied this allegation and averred that she met Galang only in August and September 1997, or after she had already married Santos.

### THE RTC RULING

The RTC appreciated the undisputed fact that petitioner married Santos during the subsistence of his marriage to Galang. Based on the more credible account of Galang that she had already introduced herself as the legal wife of Santos in March and April 1997, the trial court rejected the affirmative defense of petitioner that she

had not known of the first marriage. It also held that it was incredible for a learned person like petitioner to be easily duped by a person like Santos.<sup>[8]</sup>

The RTC declared that as indicated in the Certificate of Marriage, "her marriage was celebrated without a need for a marriage license in accordance with Article 34 of the Family Code, which is an admission that she cohabited with Santos long before the celebration of their marriage."<sup>[9]</sup> Thus, the trial court convicted petitioner as follows:  
<sup>[10]</sup>

**WHEREFORE,** premises considered, the court finds the accused Leonila G. Santiago **GUILTY** beyond reasonable doubt of the crime of Bigamy, defined and penalized under Article 349 of the Revised Penal Code and imposes against her the indeterminate penalty of six (6) months and one (1) day of Prison Correctional as minimum to six (6) years and one (1) day of Prison Mayor as maximum.

No pronouncement as to costs.

**SO ORDERED.**

Petitioner moved for reconsideration. She contended that her marriage to Santos was void *ab initio* for having been celebrated without complying with Article 34 of the Family Code, which provides an exemption from the requirement of a marriage license if the parties have actually lived together as husband and wife for at least five years prior to the celebration of their marriage. In her case, petitioner asserted that she and Santos had not lived together as husband and wife for five years prior to their marriage. Hence, she argued that the absence of a marriage license effectively rendered their marriage null and void, justifying her acquittal from bigamy.

The RTC refused to reverse her conviction and held thus:<sup>[11]</sup>

Accused Santiago submits that it is her marriage to her co-accused that is null and void as it was celebrated without a valid marriage license x x x. In advancing that theory, accused wants this court to pass judgment on the validity of her marriage to accused Santos, something this court can not do. The best support to her argument would have been the submission of a judicial decree of annulment of their marriage. Absent such proof, this court cannot declare their marriage null and void in these proceedings.

### **THE CA RULING**

On appeal before the CA, petitioner claimed that her conviction was not based on proof beyond reasonable doubt. She attacked the credibility of Galang and insisted that the former had not known of the previous marriage of Santos.

Similar to the RTC, the CA gave more weight to the prosecution witnesses'

narration. It likewise disbelieved the testimony of Santos. Anent the lack of a marriage license, the appellate court simply stated that the claim was a vain attempt to put the validity of her marriage to Santos in question. Consequently, the CA affirmed her conviction for bigamy.<sup>[12]</sup>

## THE ISSUES

Before this Court, petitioner reiterates that she cannot be a co-accused in the instant case, because she was not aware of Santos's previous marriage. But in the main, she argues that for there to be a conviction for bigamy, a valid second marriage must be proven by the prosecution beyond reasonable doubt.

Citing *People v. De Lara*,<sup>[13]</sup> she contends that her marriage to Santos is void because of the absence of a marriage license. She elaborates that their marriage does not fall under any of those marriages exempt from a marriage license, because they have not previously lived together exclusively as husband and wife for at least five years. She alleges that it is extant in the records that she married Santos in 1997, or only four years since she met him in 1993. Without completing the five-year requirement, she posits that their marriage without a license is void.

In the Comment<sup>[14]</sup> filed by the Office of the Solicitor General (OSG), respondent advances the argument that the instant Rule 45 petition should be denied for raising factual issues as regards her husband's subsequent marriage. As regards petitioner's denial of any knowledge of Santos's first marriage, respondent reiterates that credible testimonial evidence supports the conclusion of the courts a quo that petitioner knew about the subsisting marriage.

The crime of bigamy under Article 349 of the Revised Penal Code provides:

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.

In *Montañez v. Cipriano*,<sup>[15]</sup> this Court enumerated the elements of bigamy as follows:

The elements of the crime of bigamy are: (a) the offender has been legally married; (b) the marriage has not been legally dissolved x x x; (c) that he contracts a second or subsequent marriage; and (d) **the second or subsequent marriage has all the essential requisites for validity**. The felony is consummated on the celebration of the second marriage or subsequent marriage. It is essential in the prosecution for bigamy that the alleged second marriage, having all the essential requirements, would be valid were it not for the subsistence of the first marriage. (Emphasis supplied)

For the second spouse to be indicted as a co-accused in the crime, *People v. Nepomuceno, Jr.*<sup>[16]</sup> instructs that she should have had knowledge of the previous subsisting marriage. *People v. Archilla*<sup>[17]</sup> likewise states that the knowledge of the second wife of the fact of her spouse's existing prior marriage constitutes an indispensable cooperation in the commission of bigamy, which makes her responsible as an accomplice.

### **The Ruling of the Court**

#### ***The penalty for bigamy and petitioner's knowledge of Santos's first marriage***

The crime of bigamy does not necessarily entail the joint liability of two persons who marry each other while the previous marriage of one of them is valid and subsisting. As explained in *Nepomuceno*:<sup>[18]</sup>

In the crime of bigamy, both the first and second spouses may be the offended parties depending on the circumstances, as when the second spouse married the accused without being aware of his previous marriage. **Only if the second spouse had knowledge of the previous undissolved marriage of the accused could she be included in the information as a co-accused.** (Emphasis supplied)

Therefore, the lower courts correctly ascertained petitioner's knowledge of Santos's marriage to Galang. Both courts consistently found that she knew of the first marriage as shown by the totality of the following circumstances:<sup>[19]</sup> (1) when Santos was courting and visiting petitioner in the house of her in-laws, they openly showed their disapproval of him; (2) it was incredible for a learned person like petitioner to not know of his true civil status; and (3) Galang, who was the more credible witness compared with petitioner who had various inconsistent testimonies, straightforwardly testified that she had already told petitioner on two occasions that the former was the legal wife of Santos.

After a careful review of the records, we see no reason to reverse or modify the factual findings of the RTC, less so in the present case in which its findings were affirmed by the CA. Indeed, the trial court's assessment of the credibility of witnesses deserves great respect, since it had the important opportunity to observe firsthand the expression and demeanor of the witnesses during the trial.<sup>[20]</sup>

Given that petitioner knew of the first marriage, this Court concurs with the ruling that she was validly charged with bigamy. **However, we disagree with the lower courts' imposition of the principal penalty on her.** To recall, the RTC, which the CA affirmed, meted out to her the penalty within the range of *prision correccional* as minimum to *prision mayor* as maximum.

Her punishment as a principal to the crime is wrong. *Archilla*<sup>[21]</sup> holds that the second spouse, if indicted in the crime of bigamy, is liable only as an accomplice. In referring to Viada, Justice Luis B. Reyes, an eminent authority in criminal law, writes

that “a person, whether man or woman, who knowingly consents or agrees to be married to another already bound in lawful wedlock is guilty as an accomplice in the crime of bigamy.”<sup>[22]</sup> Therefore, her conviction should only be that for an accomplice to the crime.

Under Article 349 of the Revised Penal Code, as amended, the penalty for a principal in the crime of bigamy is *prision mayor*, which has a duration of six years and one day to twelve years. Since the criminal participation of petitioner is that of an accomplice, the sentence imposable on her is the penalty next lower in degree,<sup>[23]</sup> *prision correccional*, which has a duration of six months and one day to six years. There being neither aggravating nor mitigating circumstance, this penalty shall be imposed in its medium period consisting of two years, four months and one day to four years and two months of imprisonment. Applying the Indeterminate Sentence Law,<sup>[24]</sup> petitioner shall be entitled to a minimum term, to be taken from the penalty next lower in degree, *arresto mayor*, which has a duration of one month and one day to six months imprisonment.

*The criminal liability of petitioner  
resulting from her marriage to  
Santos*

Jurisprudence clearly requires that for the accused to be convicted of bigamy, the second or subsequent marriage must have all the essential requisites for validity.<sup>[25]</sup> If the accused wants to raise the nullity of the marriage, he or she can do it as a matter of defense during the presentation of evidence in the trial proper of the criminal case.<sup>[26]</sup> In this case, petitioner has consistently<sup>[27]</sup> questioned below the validity of her marriage to Santos on the ground that marriages celebrated without the essential requisite of a marriage license are void *ab initio*.<sup>[28]</sup>

Unfortunately, the lower courts merely brushed aside the issue. The RTC stated that it could not pass judgment on the validity of the marriage. The CA held that the attempt of petitioner to attack her union with Santos was in vain.

On the basis that the lower courts have manifestly overlooked certain issues and facts,<sup>[29]</sup> and given that an appeal in a criminal case throws the whole case open for review,<sup>[30]</sup> this Court now resolves to correct the error of the courts *a quo*.

After a perusal of the records, it is clear that the marriage between petitioner and Santos took place without a marriage license. The absence of this requirement is purportedly explained in their Certificate of Marriage, which reveals that their union was celebrated under Article 34 of the Family Code. The provision reads as follows:

No license shall be necessary for the marriage of a man and a woman who have **lived together as husband and wife for at least five years and** without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties are found no legal impediment to the marriage.