

THIRD DIVISION

[G.R. No. 164435, September 29, 2009]

**VICTORIA S. JARILLO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PERALTA, J.:

This resolves the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, praying that the Decision^[1] of the Court of Appeals (CA), dated July 21, 2003, and its Resolution^[2] dated July 8, 2004, be reversed and set aside.

On May 31, 2000, petitioner was charged with Bigamy before the Regional Trial Court (RTC) of Pasay City, Branch 117 under the following Information in Criminal Case No. 00-08-11:

INFORMATION

The undersigned Assistant City Prosecutor accuses VICTORIA S. JARILLO of the crime of BIGAMY, committed as follows:

That on or about the 26th day of November 1979, in Pasay City, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Victoria S. Jarillo, being previously united in lawful marriage with Rafael M. Alocillo, and without the said marriage having been legally dissolved, did then and there willfully, unlawfully and feloniously contract a second marriage with Emmanuel Eboras Santos Uy which marriage was only discovered on January 12, 1999.

Contrary to law.

On July 14, 2000, petitioner pleaded not guilty during arraignment and, thereafter, trial proceeded.

The undisputed facts, as accurately summarized by the CA, are as follows.

On May 24, 1974, Victoria Jarillo and Rafael Alocillo were married in a civil wedding ceremony solemnized by Hon. Monico C. Tanyag, then Municipal Mayor of Taguig, Rizal (Exhs. A, A-1, H, H-1, H-2, O, O-1, pp. 20-21, TSN dated November 17, 2000).

On May 4, 1975, Victoria Jarillo and Rafael Alocillo again celebrated marriage in a church wedding ceremony before Rev. Angel Resultay in

San Carlos City, Pangasinan (pp. 25-26, TSN dated November 17, 2000). Out of the marital union, appellant begot a daughter, Rachelle J. Alocillo on October 29, 1975 (Exhs. F, R, R-1).

Appellant Victoria Jarillo thereafter contracted a subsequent marriage with Emmanuel Eborá Santos Uy, at the City Court of Pasay City, Branch 1, before then Hon. Judge Nicanor Cruz on November 26, 1979 (Exhs. D, J, J-1, Q, Q-1, pp. 15-18, TSN dated November 22, 2000).

On April 16, 1995, appellant and Emmanuel Uy exchanged marital vows anew in a church wedding in Manila (Exh. E).

In 1999, Emmanuel Uy filed against the appellant Civil Case No. 99-93582 for annulment of marriage before the Regional Trial Court of Manila.

Thereafter, appellant Jarillo was charged with bigamy before the Regional Trial Court of Pasay City x x x.

x x x x

Parenthetically, accused-appellant filed against Alocillo, on October 5, 2000, before the Regional Trial Court of Makati, Civil Case No. 00-1217, for *declaration of nullity of their marriage*.

On July 9, 2001, the court *a quo* promulgated the assailed decision, the dispositive portion of which states:

WHEREFORE, upon the foregoing premises, this court hereby finds accused Victoria Soriano Jarillo **GUILTY** beyond reasonable doubt of the crime of **BIGAMY**.

Accordingly, said accused is hereby sentenced to suffer an indeterminate penalty of **SIX (6) YEARS** of prison correccional, as minimum, to **TEN (10) YEARS** of prison mayor, as maximum.

This court makes no pronouncement on the civil aspect of this case, such as the nullity of accused's bigamous marriage to Uy and its effect on their children and their property. This aspect is being determined by the Regional Trial Court of Manila in Civil Case No. 99-93582.

Costs against the accused.

The motion for reconsideration was likewise denied by the same court in that assailed Order dated 2 August 2001.^[3]

For her defense, petitioner insisted that (1) her 1974 and 1975 marriages to Alocillo

were null and void because Alocillo was allegedly still married to a certain Loretta Tillman at the time of the celebration of their marriage; (2) her marriages to both Alocillo and Uy were null and void for lack of a valid marriage license; and (3) the action had prescribed, since Uy knew about her marriage to Alocillo as far back as 1978.

On appeal to the CA, petitioner's conviction was affirmed *in toto*. In its Decision dated July 21, 2003, the CA held that petitioner committed bigamy when she contracted marriage with Emmanuel Santos Uy because, at that time, her marriage to Rafael Alocillo had not yet been declared null and void by the court. This being so, the presumption is, her previous marriage to Alocillo was still existing at the time of her marriage to Uy. The CA also struck down, for lack of sufficient evidence, petitioner's contentions that her marriages were celebrated without a marriage license, and that Uy had notice of her previous marriage as far back as 1978.

In the meantime, the RTC of Makati City, Branch 140, rendered a Decision dated March 28, 2003, declaring petitioner's 1974 and 1975 marriages to Alocillo null and void *ab initio* on the ground of Alocillo's psychological incapacity. Said decision became final and executory on July 9, 2003. In her motion for reconsideration, petitioner invoked said declaration of nullity as a ground for the reversal of her conviction. However, in its Resolution dated July 8, 2004, the CA, citing *Tenebro v. Court of Appeals*,^[4] denied reconsideration and ruled that "[t]he subsequent declaration of nullity of her first marriage on the ground of psychological incapacity, while it retroacts to the date of the celebration of the marriage insofar as the vinculum between the spouses is concerned, the said marriage is not without legal consequences, among which is incurring criminal liability for bigamy."^[5]

Hence, the present petition for review on *certiorari* under Rule 45 of the Rules of Court where petitioner alleges that:

V.1. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN PROCEEDING WITH THE CASE DESPITE THE PENDENCY OF A CASE WHICH IS PREJUDICIAL TO THE OUTCOME OF THIS CASE.

V.2. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN AFFIRMING THE CONVICTION OF PETITIONER FOR THE CRIME OF BIGAMY DESPITE THE SUPERVENING PROOF THAT THE FIRST TWO MARRIAGES OF PETITIONER TO ALOCILLO HAD BEEN DECLARED BY FINAL JUDGMENT NULL AND VOID *AB INITIO*.

V.3. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT CONSIDERING THAT THERE IS A PENDING ANNULMENT OF MARRIAGE AT THE REGIONAL TRIAL COURT BRANCH 38 BETWEEN EMMANUEL SANTOS AND VICTORIA S. JARILLO.

V.4. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT CONSIDERING THAT THE INSTANT CASE OF BIGAMY HAD ALREADY PRESCRIBED.

V.5. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT CONSIDERING THAT THE MARRIAGE OF VICTORIA JARILLO AND

EMMANUEL SANTOS UY HAS NO VALID MARRIAGE LICENSE.

V.6. THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR IN NOT ACQUITTING THE PETITIONER BUT IMPOSED AN ERRONEOUS PENALTY UNDER THE REVISED PENAL CODE AND THE INDETERMINATE SENTENCE LAW.

The first, second, third and fifth issues, being closely related, shall be discussed jointly. It is true that right after the presentation of the prosecution evidence, petitioner moved for suspension of the proceedings on the ground of the pendency of the petition for declaration of nullity of petitioner's marriages to Alocillo, which, petitioner claimed involved a prejudicial question. In her appeal, she also asserted that the petition for declaration of nullity of her marriage to Uy, initiated by the latter, was a ground for suspension of the proceedings. The RTC denied her motion for suspension, while the CA struck down her arguments. In *Marbella-Bobis v. Bobis*, [6] the Court categorically stated that:

x x x as ruled in *Landicho v. Relova*, he who contracts a second marriage before the judicial declaration of nullity of the first marriage assumes the risk of being prosecuted for bigamy, and in such a case **the criminal case may not be suspended on the ground of the pendency of a civil case for declaration of nullity.** x x x

x x x x

x x x The reason is that, **without a judicial declaration of its nullity, the first marriage is presumed to be subsisting.** In the case at bar, respondent was for all legal intents and purposes regarded as a married man at the time he contracted his second marriage with petitioner. Against this legal backdrop, **any decision in the civil action for nullity would not erase the fact that respondent entered into a second marriage during the subsistence of a first marriage.** Thus, **a decision in the civil case is not essential to the determination of the criminal charge. It is, therefore, not a prejudicial question.** x x x [7]

The foregoing ruling had been reiterated in *Abunado v. People*, [8] where it was held thus:

The subsequent judicial declaration of the nullity of the first marriage was immaterial because prior to the declaration of nullity, the crime had already been consummated. Moreover, petitioner's assertion would only delay the prosecution of bigamy cases considering that an accused could simply file a petition to declare his previous marriage void and invoke the pendency of that action as a prejudicial question in the criminal case. We cannot allow that.

The outcome of the civil case for annulment of petitioner's marriage to [private complainant] had no bearing upon the