

## FIRST DIVISION

[ G.R. No. 126746, November 29, 2000 ]

**ARTHUR TE, PETITIONER, VS. COURT OF APPEALS, AND LILIANA CHOA, RESPONDENTS.**

### D E C I S I O N

**KAPUNAN, J.:**

Before us is a petition for review on certiorari which seeks to reverse the Decision of the Court of Appeals Tenth Division, dated 31 August 1994 in CA-G.R. SP No. 23971<sup>[1]</sup> and CA-G.R. SP No. 26178<sup>[2]</sup> and the Resolution dated October 18, 1996 denying petitioner's motion for reconsideration.

The facts of the case are as follows:

Petitioner Arthur Te and private respondent Liliana Choa were married in civil rites on September 14, 1988. They did not live together after the marriage although they would meet each other regularly. Not long after private respondent gave birth to a girl on April 21, 1989, petitioner stopped visiting her.<sup>[3]</sup>

On May 20, 1990, while his marriage with private respondent was subsisting, petitioner contracted a second marriage with a certain Julieta Santella (Santella).<sup>[4]</sup>

On the basis of a complaint-affidavit filed by private respondent sometime in June 1990, when she learned about petitioner's marriage to Santella, an information charging petitioner with bigamy was filed with the Regional Trial Court (RTC) of Quezon City on August 9, 1990.<sup>[5]</sup> This case was docketed as Criminal Case No. Q-90-14409.<sup>[6]</sup>

Meanwhile, on July 20, 1990, petitioner filed in the RTC of Quezon City an action for the annulment of his marriage to private respondent on the ground that he was forced to marry her. He alleged that private respondent concealed her pregnancy by another man at the time of their marriage and that she was psychologically incapacitated to perform her essential marital obligations.<sup>[7]</sup>

On November 8, 1990, private respondent also filed with the Professional Regulation Commission (PRC) an administrative case against petitioner and Santella for the revocation of their respective engineering licenses on the ground that they committed acts of immorality by living together and subsequently marrying each other despite their knowledge that at the time of their marriage, petitioner was already married to private respondent. With respect to petitioner, private respondent added that he committed an act of falsification by stating in his marriage contract with Santella that he was still single.<sup>[8]</sup>

After the prosecution rested its case in the criminal case for bigamy, petitioner filed a demurrer to evidence with leave of court and motion to inhibit the trial court judge for showing antagonism and animosity towards petitioner's counsel during the hearings of said case.

The trial court denied petitioner's demurrer to evidence in an Order dated November 28, 1990 which stated that the same could not be granted because the prosecution had sufficiently established a *prima facie* case against the accused.<sup>[9]</sup> The RTC also denied petitioner's motion to inhibit for lack of legal basis.<sup>[10]</sup>

Petitioner then filed with the Court of Appeals a petition for certiorari, alleging grave abuse of discretion on the part of the trial court judge, Judge Cezar C. Peralejo, for (1) exhibiting antagonism and animosity towards petitioner's counsel; (2) violating the requirements of due process by denying petitioner's [motion for reconsideration and] demurrer to evidence even before the filing of the same; (3) disregarding and failing to comply with the appropriate guidelines for judges promulgated by the Supreme Court; and (4) ruling that in a criminal case only "*prima facie evidence*" is sufficient for conviction of an accused. This case was docketed as CA-G.R. SP No. 23971.<sup>[11]</sup>

Petitioner also filed with the Board of Civil Engineering of the PRC (PRC Board), where the administrative case for the revocation of his engineering license was pending, a motion to suspend the proceedings therein in view of the pendency of the civil case for annulment of his marriage to private respondent and criminal case for bigamy in Branches 106 and 98, respectively of the RTC of Quezon City.<sup>[12]</sup> When the Board denied the said motion in its Order dated July 16, 1991,<sup>[13]</sup> petitioner filed with the Court of Appeals another petition for *certiorari*, contending that the Board gravely abused its discretion in: (1) failing to hold that the resolution of the annulment case is prejudicial to the outcome of the administrative case pending before it; (2) not holding that the continuation of proceedings in the administrative case could render nugatory petitioner's right against self-incrimination in this criminal case for bigamy against him; and (3) making an overly-sweeping interpretation that Section 32 of the Rules and Regulations Governing the Regulation and Practice of Professionals does not allow the suspension of the administrative proceeding before the PRC Board despite the pendency of criminal and/or administrative proceedings against the same respondent involving the same set of facts in other courts or tribunals. This petition was docketed as CA-G.R. SP No. 26178.<sup>[14]</sup>

The two petitions for certiorari were consolidated since they arose from the same set of facts.

On 31 August 1994, the Court of Appeals, Tenth Division, rendered the assailed decision in the consolidated petitions. The appellate court upheld the RTC's denial of the motion to inhibit due to petitioner's failure to show any concrete evidence that the trial court judge exhibited partiality and had prejudged the case. It also ruled that the denial of petitioner's motion to suspend the proceedings on the ground of prejudicial question was in accord with law.<sup>[15]</sup> The Court of Appeals likewise affirmed the RTC's denial of the demurrer to evidence filed by petitioner for his failure to set forth persuasive grounds to support the same, considering that the

prosecution was able to adduce evidence showing the existence of the elements of bigamy.<sup>[16]</sup>

Neither did the appellate court find grave abuse of discretion on the part of the Board's Order denying petitioner's motion to suspend proceedings in the administrative case on the ground of prejudicial question. Respondent court held that no prejudicial question existed since the action sought to be suspended is administrative in nature, and the other action involved is a civil case.<sup>[17]</sup>

Petitioner thereafter filed a motion for reconsideration of the decision of the Court of Appeals but the same was denied.<sup>[18]</sup>

Hence, petitioner filed the instant petition raising the following issues:

#### I

**PUBLIC RESPONDENT COMMITTED A SERIOUS ERROR IN REFUSING TO SUSPEND THE LEGAL [CRIMINAL AND ADMINISTRATIVE] PROCEEDINGS DESPITE THE PENDENCY OF THE CIVIL CASE FOR DECLARATION OF NULLITY OF MARRIAGE.**

#### II

**PUBLIC RESPONDENT GRAVELY ABUSED ITS DISCRETION AND COMMITTED AN ERROR OF LAW IN NOT HOLDING THAT THE DEMURRER TO EVIDENCE SHOULD HAVE BEEN GIVEN DUE COURSE.**

#### III

**PUBLIC RESPONDENT COMMITTED A SERIOUS LEGAL ERROR IN NOT HOLDING THAT THE TRIAL JUDGE A QUO SHOULD HAVE INHIBITED HIMSELF.<sup>[19]</sup>**

The petition has no merit.

While the termination of Civil Case No. Q-90-6205 for annulment of petitioner's marriage to private respondent has rendered the issue of the propriety of suspending both the criminal case for bigamy before the RTC of Quezon City, Branch 98 and the administrative case for revocation of petitioner's engineering license before the PRC Board moot and academic, the Court shall discuss the issue of prejudicial question to emphasize the guarding and controlling precepts and rules.<sup>[20]</sup>

A prejudicial question has been defined as one based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused, and for it to suspend the criminal action, it must appear not only that said case involves facts intimately related to those upon which the criminal prosecution would be based but also that in the resolution of the issue or issues raised in the civil case, the guilt or innocence of the accused would necessarily be determined.<sup>[21]</sup> The rationale behind the principle of suspending a

criminal case in view of a prejudicial question is to avoid two conflicting decisions.  
[22]

The Court of Appeals did not err when it ruled that the pendency of the civil case for annulment of marriage filed by petitioner against private respondent did not pose a prejudicial question which would necessitate that the criminal case for bigamy be suspended until said civil case is terminated.

The outcome of the civil case for annulment of petitioner's marriage to private respondent had no bearing upon the determination of petitioner's innocence or guilt in the criminal case for bigamy, because all that is required for the charge of bigamy to prosper is that the first marriage be subsisting at the time the second marriage is contracted.[23] Petitioner's argument that the nullity of his marriage to private respondent had to be resolved first in the civil case before the criminal proceedings could continue, because a declaration that their marriage was void ab initio would necessarily absolve him from criminal liability, is untenable. The ruling in *People vs. Mendoza*[24] and *People vs. Aragon*[25] cited by petitioner that no judicial decree is necessary to establish the invalidity of a marriage which is void ab initio has been overturned. The prevailing rule is found in Article 40 of the Family Code, which was already in effect at the time of petitioner's marriage to private respondent in September 1988. Said article states that the absolute nullity of a previous marriage may not be invoked for purposes of remarriage unless there is a final judgment declaring such previous marriage void. Thus, under the law, a marriage, even one which is void or voidable, shall be deemed valid until declared otherwise in a judicial proceeding.[26] In *Landicho vs. Relova*,[27] we held that:

Parties to a marriage should not be permitted to judge for themselves its nullity, for this must be submitted to the judgment of competent courts and only when the nullity of a marriage is so declared can it be held as void, and so long as there is no such declaration the presumption of marriage exists.[28]

It is clear from the foregoing that the pendency of the civil case for annulment of petitioner's marriage to private respondent did not give rise to a prejudicial question which warranted the suspension of the proceedings in the criminal case for bigamy since at the time of the alleged commission of the crime, their marriage was, under the law, still valid and subsisting.

Neither did the filing of said civil case for annulment necessitate the suspension of the administrative proceedings before the PRC Board. As discussed above, the concept of prejudicial question involves a civil and a criminal case. We have previously ruled that there is no prejudicial question where one case is administrative and the other is civil.[29]

Furthermore, Section 32 of the Rules and Regulations Governing the Regulation and Practice of Professionals of the PRC Board expressly provides that the administrative proceedings before it shall not be suspended notwithstanding the existence of a criminal and/or civil case against the respondent involving the same facts as the administrative case:

The filing or pendency of a criminal and/or civil cases in the courts or an administrative case in another judicial body against an examinee or