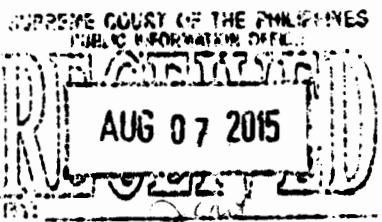




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

LEONILA G. SANTIAGO,

Petitioner,

G.R. No. 200233

- versus -

PEOPLE OF THE PHILIPPINES,

Respondent.

Present:

SERENO, CJ, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JUL 15 2015

X ----- X

DECISION

SERENO, CJ:

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. 33566.¹ The CA affirmed the Decision and Order of the Regional Trial Court (RTC) in Criminal Case No. 7232² convicting her of bigamy.

THE FACTS

Four months after the solemnization of their marriage on 29 July 1997,³ Leonila G. Santiago and Nicanor F. Santos faced an Information⁴ for bigamy. Petitioner pleaded “not guilty,” while her putative husband escaped the criminal suit.⁵

¹ *Rollo*, pp. 56-70, 72-73; the CA Decision dated 21 September 2011 and Resolution dated 5 January 2012 were penned by Associate Justice Remedios A. Salazar-Fernando, with Associate Justices Michael P. Elbinias and Elihu A. Ybañez, concurring.

² Id. at 75-83, 85-86; the RTC Decision dated 21 May 2010 and Order dated 24 June 2010 were penned by Judge Celso O. Baguio of RTC Branch 34, Gapan City, Nueva Ecija.

³ Id. at 88; Certificate of Marriage issued by the Civil Registry of Nueva Ecija.

⁴ Records, p. 1.

⁵ Id. at 117; his Certificate of Death showed that he died during the pendency of the case on 28 November 2001.

The prosecution adduced evidence that Santos, who had been married to Estela Galang since 2 June 1974,⁶ 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.”⁷

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.⁸

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.”⁹ Thus, the trial court convicted petitioner as follows:¹⁰

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 Prision Correctional as minimum to six (6) years and one (1) day of Prision Mayor as maximum.

⁶ *Rollo*, p. 87; Marriage Contract between Nicanor Santos and Estela Galang.

⁷ *Id.* at 57-58; CA Decision, pp. 2-3.

⁸ *Id.* at 80; RTC Decision, p. 6. *See also* records, pp. 269-270, 117; the appointment papers of petitioner showed that she worked as a faculty member of Divina Pastora College, and the Death Certificate of Nicanor Santos indicated that he was a laborer.

⁹ *Id.* at 83; RTC Decision, p. 9.

¹⁰ *Id.*

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:¹¹

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.¹²

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.

¹¹ Id. at 86; RTC Order, p. 2.

¹² Id. at 70, 73; CA Decision, p. 15, CA Resolution, p. 2.

Citing *People v. De Lara*,¹³ 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 Comment¹⁴ 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*,¹⁵ 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.*¹⁶ instructs that she should have had knowledge of the previous subsisting marriage. *People v. Archilla*¹⁷ 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.

¹³ No. 12583-R, 14 February 1955, 51 O.G. 4079.

¹⁴ Id. at 152-169; Comment filed on 23 August 2012 by the Office of the Solicitor General.

¹⁵ G.R. No. 181089, 22 October 2012, 684 SCRA 315.

¹⁶ 159-A Phil. 771 (1975).

¹⁷ 111 Phil. 291 (1961).

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*:¹⁸

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:¹⁹ (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.²⁰

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 *prisión correccional* as minimum to *prisión mayor* as maximum.

Her punishment as a principal to the crime is wrong. *Archilla*²¹ 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

¹⁸ Supra note 16, at 775.

¹⁹ *Rollo*, pp. 64-68, CA Decision dated 21 September 2011, pp. 9-13; *rollo*, pp. 80-81; RTC Decision dated 21 May 2010, pp. 6-7.

²⁰ *People v. Arcilla*, 326 Phil. 774 (1996).

²¹ Supra note 17, at 293.

consents or agrees to be married to another already bound in lawful wedlock is guilty as an accomplice in the crime of bigamy.”²² 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,²³ *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,²⁴ 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.²⁵ 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.²⁶ In this case, petitioner has consistently²⁷ 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*.²⁸

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,²⁹ and given that an appeal in a criminal case throws the whole case open for review,³⁰ this Court now resolves to correct the error of the courts *a quo*.

²² Luis B. Reyes, The Revised Penal Code, Criminal Law, Book Two, p. 979, Volume II (2012) *citing* Viada, 3 Cod. Pen. 274.

²³ Revised Penal Code, Art. 52.

²⁴ Act No. 4103 (1965).

²⁵ *De la Cruz v. Ejercito*, 160-A Phil. 669 (1975), *Zapanta v. Montesa*, 114 Phil. 1227 (1962), *Merced v. Diez*, 109 Phil. 155 (1960), and *People v. Dumpo*, 62 Phil. 246 (1935).

²⁶ *Marbella-Bobis v. Bobis*, 391 Phil. 648 (2000).

²⁷ *Rollo*, p. 77, RTC Decision, p. 3; records, pp. 311-312, Motion for Reconsideration filed by Santiago before the RTC, pp. 2-3.

²⁸ Family Code, Art. 3.

²⁹ *Formilleza v. Sandiganbayan*, 242 Phil. 519 (1988).

³⁰ *People v. Flores*, 442 Phil. 561 (2002).

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.

Therefore, the marriage of petitioner and Santos would have been exempted from a marriage license had they cohabited exclusively as husband and wife for at least five years before their marriage.³¹

Here, respondent did not dispute that petitioner knew Santos in more or less in February 1996³² and that after six months of courtship,³³ she married him on 29 July 1997. Without any objection from the prosecution, petitioner testified that Santos had frequently visited her in Castellano, Nueva Ecija, prior to their marriage. However, he never cohabited with her, as she was residing in the house of her in-laws,³⁴ and her children from her previous marriage disliked him.³⁵ On cross-examination, respondent did not question the claim of petitioner that sometime in 1993, she first met Santos as an agent who sold her piglets.³⁶

All told, the evidence on record shows that petitioner and Santos had only known each other for only less than four years. Thus, it follows that the two of them could not have cohabited for at least five years prior to their marriage.

Santiago and Santos, however, reflected the exact opposite of this demonstrable fact. Although the records do not show that they submitted an affidavit of cohabitation as required by Article 34 of the Family Code, it appears that the two of them lied before the solemnizing officer and misrepresented that they had actually cohabited for at least five years before they married each other. Unfortunately, subsequent to this lie was the issuance of the Certificate of Marriage,³⁷ in which the solemnizing officer stated under oath that no marriage license was necessary, because the marriage was solemnized under Article 34 of the Family Code.

³¹ *Republic v. Dayot*, 573 Phil. 553 (2008).

³² The TSN dated 13 June 2002, p. 3 reflected that petitioner met Santos in 1996; but according to the TSN dated 10 August 2004, she clarified in her additional direct testimony that she met Santos in 1993. In both cases, she only knew Santos for less than five years prior their marriage on 29 July 1997.

³³ *Id.* at 4.

³⁴ *Id.* at 7-8.

³⁵ TSN, 24 October 2002, p. 14.

³⁶ *Id.* at 2.

³⁷ Records, p. 88. Certified True Copy of the Certificate of Marriage between Nicanor F. Santos and Leonila G. Santiago.

***The legal effects in a criminal case
of a deliberate act to put a flaw in the
marriage***

The Certificate of Marriage, signed by Santos and Santiago, contained the misrepresentation perpetrated by them that they were eligible to contract marriage without a license. We thus face an anomalous situation wherein petitioner seeks to be acquitted of bigamy based on her illegal actions of (1) marrying Santos without a marriage license despite knowing that they had not satisfied the cohabitation requirement under the law; and (2) falsely making claims in no less than her marriage contract.

We chastise this deceptive scheme that hides what is basically a bigamous and illicit marriage in an effort to escape criminal prosecution. Our penal laws on marriage, such as bigamy, punish an individual's deliberate disregard of the permanent and sacrosanct character of this special bond between spouses.³⁸ In *Tenebro v. Court of Appeals*,³⁹ we had the occasion to emphasize that the State's penal laws on bigamy should not be rendered nugatory by allowing 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."

Thus, in the case at bar, we cannot countenance petitioner's illegal acts of feigning a marriage and, in the same breath, adjudge her innocent of the crime. For us, to do so would only make a mockery of the sanctity of marriage.⁴⁰

Furthermore, it is a basic concept of justice that no court will "lend its aid to x x x one who has consciously and voluntarily become a party to an illegal act upon which the cause of action is founded."⁴¹ If the cause of action appears to arise *ex turpi causa* or that which involves a transgression of positive law, parties shall be left unassisted by the courts.⁴² As a result, litigants shall be denied relief on the ground that their conduct has been inequitable, unfair and dishonest or fraudulent, or deceitful as to the controversy in issue.⁴³

Here, the cause of action of petitioner, meaning her affirmative defense in this criminal case of bigamy, is that her marriage with Santos was void for having been secured without a marriage license. But as elucidated earlier, they themselves perpetrated a false Certificate of Marriage by misrepresenting that they were exempted from the license requirement based on their fabricated claim that they had already cohabited as husband and wife for at least five

³⁸ *Tenebro v. CA*, 467 Phil. 723 (2004).

³⁹ Id. at 744.

⁴⁰ *Republic v. Albios*, G.R. No. 198780, 16 October 2013.

⁴¹ *Manuel v. People*, 512 Phil 818, 851 (2005).

⁴² *Acabal v. Acabal*, 494 Phil. 528 (2005).

⁴³ *Muller v. Muller*, 531 Phil. 460 (2006).

years prior their marriage. In violation of our law against illegal marriages,⁴⁴ petitioner married Santos while knowing fully well that they had not yet complied with the five-year cohabitation requirement under Article 34 of the Family Code. Consequently, it will be the height of absurdity for this Court to allow petitioner to use her illegal act to escape criminal conviction.

The applicability of People v. De Lara

Petitioner cites *De Lara* as the relevant jurisprudence involving an acquittal for bigamy on the ground that the second marriage lacked the requisite marriage license. In that case, the Court found that when Domingo de Lara married his second wife, Josefa Rosales, on 18 August 1951, the local Civil Registrar had yet to issue their marriage license on 19 August 1951. Thus, since the marriage was celebrated one day before the issuance of the marriage license, the Court acquitted him of bigamy.

Noticeably, Domingo de Lara did not cause the falsification of public documents in order to contract a second marriage. In contrast, petitioner and Santos fraudulently secured a Certificate of Marriage, and petitioner later used this blatantly illicit act as basis for seeking her exculpation. Therefore, unlike our treatment of the accused in *De Lara*, this Court cannot regard petitioner herein as innocent of the crime.

No less than the present Constitution provides that “marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.”⁴⁵ It must be safeguarded from the whims and caprices of the contracting parties.⁴⁶ In keeping therefore with this fundamental policy, this Court affirms the conviction of petitioner for bigamy.

WHEREFORE, the Petition for Review on Certiorari filed by petitioner Leonila G. Santiago is **DENIED**. The Decision and Resolution of the Court of Appeals in CA-G.R. CR No. 33566 is **AFFIRMED with MODIFICATION**. As modified, petitioner Leonila G. Santiago is hereby found guilty beyond reasonable doubt of the crime of bigamy as an accomplice. She is sentenced to suffer the indeterminate penalty of six months of *arresto mayor* as minimum to four years of *prision correccional* as maximum plus accessory penalties provided by law.

⁴⁴ REVISED PENAL CODE, Arts. 349-352. Art. 350 punishes the crime of illegal marriages as follows:

Art. 350. Marriage contracted against provisions of laws. — The penalty of *prision correccional* in its medium and maximum periods shall be imposed upon any person who, without being included in the provisions of the next proceeding article, shall have not been complied with or that the marriage is in disregard of a legal impediment.

If either of the contracting parties shall obtain the consent of the other by means of violence, intimidation or fraud, he shall be punished by the maximum period of the penalty provided in the next preceding paragraph.

⁴⁵ CONSTITUTION, Article XV, Sec. 2.

⁴⁶ Supra note 40.

SO ORDERED.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

C E R T I F I C A T I O N

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
MARIA LOURDES P. A. SERENO
Chief Justice