

THIRD DIVISION

G.R. No. 272844 – ERWIN BONBON y TIA, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

Promulgated:

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SEPARATE CONCURRING OPINION

CAGUIOA, J.:

Fundamentally, crimes are offenses against the State, concerning matters of public, and not of private interests.¹ In connection therewith, the law on prescription of crimes is an act of amnesty and liberality on the part of the State in favor of the offender.² It is a surrender by the sovereign of its right to prosecute.³ Statutory provisions on the prescription of crimes must then be construed in favor of the accused and the interpretation that is more favorable to the accused must be adopted.⁴

With respect to crimes punished under the Revised Penal Code, the following provisions on prescription of crimes are applicable:

Article 90. Prescription of crimes. — Crimes punishable by death, *reclusion perpetua* or *reclusion temporal* shall prescribe in twenty years.

Crimes punishable by other afflictive penalties shall prescribe in fifteen years.

Those punishable by a correctional penalty shall prescribe in ten years; with the exception of those punishable by *arresto mayor*, which shall prescribe in five years.

The crime of libel or other similar offenses shall prescribe in two years.

The crime of oral defamation and slander by deed shall prescribe in six months.

Light offenses prescribe in two months.

When the penalty fixed by law is a compound one, the highest penalty shall be made the basis of the application of the rules contained in the first, second and third paragraphs of this article.

Article 91. Computation of prescription of offenses. — The period of prescription shall commence to run from the day on which the crime is

¹ *Causing v. People*, G.R. No. 258524, October 11, 2023 [Per J. Inting, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

² *Lim v. People*, 830 Phil. 669, 686 (2018) [Per J. Reyes, Jr., Second Division] citing *People v. Reyes*, 256 Phil. 1015, 1027 (1989) [Per J. Cortes, Third Division].

³ *People v. Lacson*, 448 Phil. 317, 383 (2003) [Per J. Callejo, Sr., *En Banc*].

⁴ *Causing v. People*, *supra* note 1.

discovered by the offended party, the authorities, or their agents, and shall be interrupted by the filing of the complaint or information, and shall commence to run again when such proceedings terminate without the accused being convicted or acquitted, or are unjustifiably stopped for any reason not imputable to him [or her].

The term of prescription shall not run when the offender is absent from the Philippine Archipelago.

Corollary thereto, discovery is defined as “the act, process, or an instance of gaining knowledge of or ascertaining the existence of something previously unknown or unrecognized.”⁵

The present case involves the crime of bigamy, which is a public offense and a crime against status.⁶ Since the penalty imposed for bigamy is *prision mayor*, an afflictive penalty, the crime prescribes in 15 years from discovery by the offended party, the authorities, or their agents.

To recall, Edwin Bonbon y Tia (petitioner) was married thrice: with Gemma Cunada in 1988; with Rizalina Marcos in 1994; and with his co-accused Elizabeth Brua in 1999. In 2021, or 22 years after his third marriage, he was charged with bigamy. The complaint for bigamy was filed before the National Bureau of Investigation (NBI) by the sisters of petitioner, and not any of his spouses as the offended parties. In his Petition for Review on *Certiorari*, petitioner argues that the crime of bigamy has already prescribed as his sisters (the private complainants) knew of his third marriage since 1999.

The *ponencia* finds that prescription does not bar the instant action. On this note, I agree with the *ponencia* that due to the nature of the crime of bigamy, understandably, discovery by the offended party is rendered more difficult as the offender generally enters the bigamous marriage in secrecy from the spouse of the previous subsisting marriage. Verily, petitioner contracted his first marriage in Cagayan de Oro City, then contracted his third marriage in Bukidnon Province. It was likewise not shown that either the first or the second wife knew of the subsequent marriages of petitioner.

Nonetheless, it is not only discovery by the offended party that commences the prescription of the offense of bigamy—discovery by the authorities also commences the prescription period.

From the factual circumstances of the case, the crime was only “discovered” by the authorities in 2021, when the private complainants filed a complaint before the NBI.

⁵ *Baylosis, Sr. v. People*, 556 Phil. 684, 690 (2007) [Per J. Velasco, Jr., Second Division].

⁶ *People v. Nepomuceno, Jr.*, 159-A Phil. 771, 775 (1975) [Per J. Esguerra, *En Banc*].



However, considering the provisions of Republic Act No. 11909⁷ and its Implementing Rules and Regulations,⁸ it is my view that discovery of the authorities should be reckoned from registration of the bigamous marriage in the Civil Registry Database of the Philippine Statistics Authority (PSA). Although the Court, in the 1994 case of *Sermonia v. Court of Appeals*⁹ (*Sermonia*), expressly ruled that the principle of constructive notice shall not apply to the crime of bigamy and the commencement of its prescription period, I find that the drastic differences in the circumstances of the present case *vis-à-vis* the circumstances in *Sermonia* justify the contrary ruling.

In *Sermonia*, Jose C. Sermonia contracted marriage with Ma. Lourdes Unson in 1975, while his marriage with Virginia C. Neveria remained valid and subsisting. His second marriage was publicly held at a church in Marikina and was subsequently registered with the office of the Civil Registrar in the same year. In 1992, or 17 years after his second marriage, Sermonia was charged with bigamy. Sermonia argued that since the marriage contract was duly registered in 1975, such fact of registration makes it a matter of public record and thus constitutes notice to the whole world. As such, prescription commenced to run on the day of registration of the marriage contract. In holding that the rule on constructive notice cannot apply in the crime of bigamy, the Court, in *Sermonia*, held:

While we concede the point that the rule on constructive notice in civil cases may be applied in criminal actions if the factual and legal circumstances so warrant, we agree with the view expounded by the Court of Appeals that it cannot apply in the crime of bigamy notwithstanding the possibility of its being more favorable to the accused. The appellate court succinctly explains —

....

The non-application to the crime of bigamy of the principle of constructive notice is not contrary to the well[-] entrenched policy that penal laws should be construed liberally in favor of the accused. To compute the prescriptive period for the offense of bigamy from registration thereof would amount to almost absolving the offenders thereof for liability therefor. **While the celebration of the bigamous marriage may be said to be open and made of public record by its registration, the offender however is not truthful as he [or she] conceals from the officiating authority and those concerned the existence of his [or her] previous subsisting marriage.** He [or She] does not reveal to them that he [or she] is still a married person. He [or She] likewise conceals from his [or her] legitimate spouse his [or her] bigamous marriage. **And for these, he [or she] contracts the bigamous marriage in a place where he [or**

⁷ An Act Providing for the Permanent Validity of the Certificates of Live Birth, Death, and Marriage Issued, Signed, Certified, or Authenticated by the Philippine Statistics Authority (PSA) and its Predecessor, the National Statistics Office (NSO), and the Local Civil Registries, and the Reports of Birth, Death, and Marriage Registered and Issued by the Philippine Foreign Service Posts (2022).

⁸ PSA Administrative Order No. 2, s. 2023.

⁹ 303 Phil. 165 (1994) [Per J. Bellosillo, First Division].



she] is not known to be still a married person. And such a place may be anywhere, under which circumstance, the discovery of the bigamous marriage is rendered quite difficult and would take time. It is therefore reasonable that the prescriptive period for the crime of bigamy should be counted only from the day on which the said crime was discovered by the offended party, the authorities or their agency (sic).

Considering such concealment of the bigamous marriage by the offender, if the prescriptive period for the offense of bigamy were to be counted from the date of registration thereof, the prosecution of the violators of the said offense would almost be impossible. The interpretation urged by the petitioner would encourage fearless violations of a social institution cherished and protected by law.

To this we may also add that **the rule on constructive notice will make *de rigueur* the routinary inspection or verification of the marriages listed in the National Census Office and in various local civil registries all over the country to make certain that no second or even third marriage has been contracted without the knowledge of the legitimate spouse. This is too formidable a task to even contemplate.**¹⁰ (Emphasis supplied, citations omitted)

Verily, the Court's decision to not apply the rule on constructive notice is in recognition of the factual circumstances **of that time**.

Under Act No. 3753 or the *Law on Registry of Civil Status*, local civil registrars are tasked with keeping and preserving the marriage register, which contains the complete details of the contracting parties, including the place and date of the solemnization of their marriage. Entries in the marriage register are then reported monthly to the Civil Registrar General. Meanwhile, under the Administrative Code of 1978, the Executive Director of the National Statistics Office (NSO), as the Civil Registrar General, only had the duty to keep and preserve all the civil registry documents received from the local civil registrars and issue certified copies thereof. In the Implementing Rules and Regulations of Act No. 3753 and Other Laws on Civil Registration,¹¹ the Civil Registrar General merely exercised technical control and supervision on civil registrars. Ultimately, however, civil registry records are filed, kept, and preserved in the archival system of the local government unit.¹²

Indeed, in 1994, the functions of the NSO and the local civil registrar, with respect to the registration of marriages and pursuant to Act No. 3753, were merely ministerial. As the Court in *Sermonia* found, verifying the marriages listed in the NSO and in various local civil registries all over the country is too formidable a task to even contemplate.

¹⁰ *Id.* at 170–172.

¹¹ NSO Administrative Order No. 1-93 (1992).

¹² IMPLEMENTING RULES AND REGULATIONS OF ACT NO. 3753 AND OTHER LAWS ON CIVIL REGISTRATION, rule 5(m), in relation to the LOCAL GOVERNMENT CODE OF 1991, sec. 374.



However, times have changed. Our laws have evolved, and technology has advanced since 1994.

In 2013, the Philippine Statistics Authority replaced the NSO and took over the administration of the civil registration functions in Act No. 3753.¹³ The PSA was constituted as the central repository of all registered civil registry documents.¹⁴ Pursuant thereto, it has since maintained a Civil Registry System Database wherein civil registry documents are enrolled and from which copies of civil registry documents are issued or made available to the public.¹⁵

In 2022, Congress enacted Republic Act No. 11909 or the Permanent Validity of the Certificates of Live Birth, Death, and Marriage Act. Under Republic Act No. 11909, the PSA is mandated to develop and maintain a Civil Registry Database and to establish a virtual viewing facility in local civil registries to verify the authenticity of the certificates of live birth, death, or marriage, and the reports of birth, death, or marriage, respectively.¹⁶ Said database shall have been developed within six months from the effectivity of Republic Act No. 11909 on August 20, 2022.¹⁷ Notably, under the Implementing Rules and Regulations of Republic Act No. 11909, the Civil Registry Database shall contain the information and digitized images of civil registry documents, including certificates of marriage, submitted to the PSA by the local civil registry offices *nationwide*.

From the foregoing, it is my view that the PSA, through the Civil Registry Database, is immediately informed of possible cases of bigamy whenever multiple marriages involving different spouses are registered under the same individual in their system. Upon the enrollment or uploading of the certificate of marriage (pertaining to the bigamous marriage) to the PSA's database, the PSA "discovers" the crime. Accordingly, based on such information, the PSA can alert the appropriate authorities to investigate the multiple and irregular registration. On this note, I highly suggest for Congress

¹³ Republic Act No. 10625 also known as the Philippine Statistical Act of 2013, approved September 12, 2013.

¹⁴ Implementing Rules and Regulations of Republic Act No. 10625 (2013).

¹⁵ *Id.* at art. 25.

¹⁶ SECTION 7. *Civil Registry Database*. — Within six (6) months from the effectivity of this Act, the PSA shall, in coordination with the Department of Information and Communications Technology (DICT), develop a civil registry database and establish a virtual viewing facility in local civil registries and in the Philippine Foreign Service Posts, to verify the authenticity of the certificates of live birth, death, or marriage, and the reports of birth, death, or marriage, respectively. The facility shall incorporate such controls and safeguards as are appropriate and necessary, to ensure that only authorized personnel have access to the facility, and the confidentiality of the information is protected at all times, in accordance with the relevant provisions of Presidential Decree No. 603, or "The Child and Youth Welfare Code" as amended, and Republic Act No. 10173, or the "Data Privacy Act of 2012." The PSA may charge reasonable fees for the use of the virtual viewing facility.

To maximize the ease and convenience offered by technological advancements, the PSA shall continually upgrade its virtual viewing facility and prioritize the migration of its civil registry database into a fully digitized system. It shall likewise adopt appropriate policies relative to the submission of the certificates of live birth, death, or marriage, and the reports of birth, death, or marriage, towards facilitating the process of data registration.

¹⁷ Republic Act No. 11909 prescribes that the Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation. The Act was published in the Official Gazette, Vol. 118, No. 32, p. 9023 on August 8, 2022 and in the Daily Tribune on August 5, 2022.



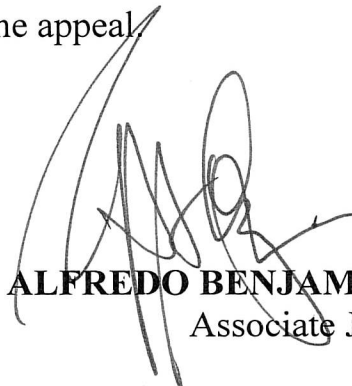
to include in the functions and responsibilities of the PSA the duty to report multiple marriage registrations to the appropriate authorities.

Consequently, the 15-year prescriptive period for the crime of bigamy shall be reckoned from: (a) the actual discovery by the offended party or the authorities, if the bigamous marriage was contracted and discovered prior to the establishment of the Civil Registry Database on August 20, 2022; (b) the establishment of the Civil Registry Database on August 20, 2022, for bigamous marriages contracted prior to but discovered after the said establishment; and (c) the registration of the certificate of marriage with the PSA of bigamous marriages contracted after establishment of the Civil Registry Database on August 20, 2022.

In this case, petitioner's third marriage was contracted and registered in 1999 or prior to the establishment of the PSA's database but was actually discovered by the authorities in 2021 when private complainants filed a complaint with the NBI. Thus, reckoning the 15-year period from 2021 (under paragraph (a) above, I agree that the crime of bigamy has not prescribed and petitioner's conviction must be affirmed.

As a final word, I reiterate the rule that statutory provisions on the prescription of crimes must be construed in favor of the accused and the interpretation that is more favorable to the accused must be adopted.¹⁸ As the Court held in *People v. Reyes*,¹⁹ the application of the rule on constructive notice to Article 91 of the Revised Penal Code would certainly be favorable to the accused since the prescriptive period of the crime would have to be reckoned from the time of registration, which shall be considered as the date of discovery of the crime by the authorities. The rule on constructive notice should not be disregarded solely on account of difficulties on the part of the government to prosecute the crime. It is well to keep in mind that in criminal cases, the life and liberty of an individual is at cost. The individual's right to due process, then, should be accorded greater weight than the prosecutorial capabilities of the government.

All told, I vote to **DENY** the appeal.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹⁸ *Causing v. People*, *supra* note 1.

¹⁹ *See supra* note 2.