

SPECIAL SEVENTH DIVISION

[CA-G.R. CR. NO. 34017, May 15, 2014]

**PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. EDWIN
B. GUEVARRA, ACCUSED-APPELLANT.**

DECISION

TIJAM, J.:

Before Us on appeal is the Decision^[1] promulgated on February 9, 2011 by the Regional Trial Court (RTC), Branch 50, Villasis, Pangasinan, in Criminal Case No. V-1234 finding Accused-Appellant Edwin B. Guevarra (Accused-Appellant) guilty beyond reasonable doubt of the crime of Bigamy, sentencing him to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum, and to indemnify private complainant Romelyn Caldito-Guevarra^[2] moral damages in the amount of P100,000.00.

The facts of the case are as follows:

On February 24, 2005, Accused-Appellant was charged with the crime of Bigamy before the RTC, Branch 50, Villasis Pangasinan, in an Information^[3] that reads:

"That on or about April 24, 1996, at Villasis, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, being then previously united in lawful marriage with Ester M. Briones and without said marriage having been legally dissolved, did, then and there willfully, unlawfully and feloniously contract a second marriage with Romelyn C. Guevarra, to the damage and prejudice of said Romelyn C. Guevarra.

CONTRARY to Art. 349, of the Revised Penal Code."

After the filing of the Information, a warrant^[4] for the arrest of the Accused-Appellant was issued by the court *a quo*.

On March 17, 2005, Accused-Appellant posted bail.

A notice was sent to the Accused-Appellant for his arraignment, but the same was returned unserved with the notation "RTS addressee moved".

On June 1, 2005, the court *a quo* ordered the confiscation of Accused-Appellant's bail bond^[5] and issued another warrant^[6] for his arrest. Since the warrant of arrest was not implemented, the case was archived.

On January 24, 2006, an alias warrant of arrest^[7] was issued.

On October 29, 2009, Accused-Appellant voluntarily surrendered and simultaneously posted bail.^[8]

Upon his arraignment on November 6, 2009, Accused-Appellant, assisted by counsel, entered a plea of not guilty.^[9]

A pre-trial conference was held. After it was terminated, trial thus ensued.

To establish the guilt of the Accused-Appellant, the prosecution presented several witnesses, to wit: private complainant Romelyn V. Caldito; Remedios Caldito, Romelyn's mother; Josie Lustina, Local Civil Registrar of Villasis, Pangasinan; and Romulo Tresvalles, Administrative Officer I of the City Civil Registry of Pasay City.

As culled from the assailed Decision of the court *a quo*, the respective testimonies of the prosecution witnesses were as follows:

ROMELYN BORJA (sic) testified that "[s]he and Edwin Guevarra were board mates and went to the same school in Dagupan City when the latter courted her. She was seven (7) months pregnant with their child, Rowen Carl, when they got married in Villasis, Pangasinan, on April 24, 1996 (Exh. "B").

Before their marriage, Edwin represented himself to be single. However, she learned later that he is married to another woman when she received a letter from a certain Ester Briones who claimed to be the legal wife of Edwin.

Upon receipt of the letter, she verified from the NSO [National Statistics Office] and found out that Edwin and Ester got married in November, 1994 (Exh."A").

She [Romelyn] thus filed the instant case. She likewise filed a petition for declaration of nullity of her marriage to Edwin which was granted by this Court (Exh. "D"^[10]).

"REMEDIOS CALDITO, mother of the private complainant, testified that her daughter Romelyn was married to Edwin Guevarra. She identified their Certificate of Marriage (Exh. "B") showing that they were married on April 24, 1996. Edwin and Romelyn have a child, Rowen Carl, who was born on July 18, 1996. She averred that three (3) months after the birth of Rowen Carl, Romelyn confided to her that Edwin is also married to another woman."

"xxxx JOSIE LUSTINA, Local Civil Registrar of Villasis, Pangasinan, presented a certification regarding the fact of marriage of Edwin B. Guevarra and Romelyn Caldito as appearing in the Register of Marriages of the Office of the Civil Registrar of Villasis, Pangasinan. She likewise presented the registry book of the Office of the Civil Registrar showing the marriage between Edwin Guevarra and Romelyn Caldito on April 24, 1996."

"xxxx ROMULO TRESVALLES, Administrative Officer I of the City Civil Registrar of Pasay City, presented in court the original copy of the Certificate of Marriage of Edwin Guevarra and Ester Briones under

Registry No. 94-3973 of the Civil Registry of Pasay City (Exh. "A"). He testified that based on the records of the City Civil Registrar of Pasay City, the marriage between Edwin Guevarra and Ester Briones is still subsisting."^[11]

When the case was called for the reception of the defense's evidence, Atty. Baby Ruth Torre, collaborating counsel for the Accused-Appellant, manifested that the defense has no evidence to present and is submitting the case for decision.^[12]

On February 9, 2011, the court *a quo* promulgated its assailed Decision convicting the Accused-Appellant of Bigamy under Article 349 of the Revised Penal Code. The dispositive portion of which states, to wit:

"WHEREFORE, in light of the foregoing consideration, this Court finds accused Edwin B. Guevarra GUILTY beyond reasonable doubt of the crime of bigamy and is hereby sentenced to an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum, and to indemnify the private complainant, Romelyn Caldito-Borja (sic), in the amount of P1000,000.00 by way of moral damages.

SO ORDERED."^[13]

Aggrieved by the above Decision, Accused-Appellant interposed this appeal.^[14]

In his Brief, Accused-Appellant raises the sole issue of whether or not he can be held liable for Bigamy.^[15]

Accused-Appellant avers that the prosecution failed to prove that his marriage with Ester Briones was valid. He contends that the validity of his first marriage cannot be presumed by its being registered with the Civil Registry of Pasay City.

The appeal is not meritorious.

Article 349 of the Revised Penal Code under which Accused-Appellant has been charged and convicted provides:

Art. 349. *Bigamy*. - The penalty of *prison 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.

The elements of this crime are: 1) That the offender has been legally married; 2) That the marriage has not been legally dissolved or, in case his or her spouse is absent, the absent spouse could not yet be presumed dead according to the Civil Code; 3) That he contracts a second or subsequent marriage; and 4) That the second or subsequent marriage has all the requisites for validity. The felony is consummated on the celebration of the second 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.^[16]