

## THIRD DIVISION

[ G.R. No. 224742, August 07, 2019 ]

### PRUDENCIO DE GUZMAN Y JUMAQUIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

#### DECISION

##### LEONEN, J.:

A person cannot unilaterally declare his marriage void. The law provides that a judicial declaration of nullity is indispensable for the purposes of remarriage.<sup>[1]</sup>

This resolves a Verified Petition for Review on Certiorari<sup>[2]</sup> assailing the Court of Appeals' June 30, 2015 Decision<sup>[3]</sup> and April 21, 2016 Resolution<sup>[4]</sup> in CA-G.R.CR No. 35209.

On April 8, 1994, Prudencio De Guzman (Prudencio) and Arlene De Guzman (Arlene) were married before Branch 106 of the Regional Trial Court of Quezon City. Their marriage was solemnized by Judge Julieta P. Tabiolo,<sup>[5]</sup> with Marriage License No. 1031606 issued on April 6, 1994.<sup>[6]</sup>

In 2007, Prudencio abandoned his wife and children.<sup>[7]</sup>

In December 2009, a friend informed Arlene that Prudencio contracted a second marriage with a certain Jean Basan (Basan) on December 17, 2009 at the Immaculate Church in Las Pinas City.<sup>[8]</sup>

On January 8, 2010, Arlene went to the Immaculate Church and confirmed that Prudencio had indeed married Basan. Arlene secured a copy of Prudencio and Basan's marriage contract at the City Civil Registrar's Office.<sup>[9]</sup>

Arlene then filed before the Office of the City Prosecutor a Complaint against Prudencio for bigamy under Article 349<sup>[10]</sup> of the Revised Penal Code.<sup>[11]</sup> The Information read:

That sometime in the month of December, 2009 in the City of Las Piñas, Philippines and within the jurisdiction of the Honorable Court, the above-named accused, being then legally married to one Arlene de Guzman y de Jesus which marriage is still existing and has not been legally dissolved, did then and there wilfully, unlawfully and feloniously contract a second marriage with one Jean Basan y Hubilla, which second marriage has all the essential and formal requisites for validity.

CONTRARY TO LAW.<sup>[12]</sup>

On arraignment, Prudencio pleaded not guilty to the crime charged.<sup>[13]</sup> Trial on the merits then ensued.

In his defense, Prudencio argued that his marriage with Arlene was void because the copy of their Marriage Contract, which was secured from the National Statistics Office,<sup>[14]</sup> did not bear the solemnizing officer's signature.<sup>[15]</sup>

In its March 13, 2012 Decision, the trial court did not give weight to Prudencio's defense. It explained that such discrepancy was inadvertent, as it found that a copy of the same Marriage Contract in the Local Civil Registrar bore the solemnizing officer's signature. Moreover, marriage photos, along with Prudencio's own admission in his Counter-Affidavit, were enough evidence for the trial court to find that Prudencio and Arlene were married.<sup>[16]</sup>

The trial court concluded that Prudencio could not unilaterally declare that his marriage with Arlene was void as only courts have the power to do so.<sup>[17]</sup>

The trial court ruled that the prosecution was able to show that all the elements of bigamy were present:

(1) the marriage between the appellant and the private complainant is still existing; (2) the same has not been legally declared to be dissolved; (3) appellant contracted a subsequent marriage with a certain Jean Basan while his first marriage with the private complainant is still subsisting; and (4) the second marriage has all the essential requisites for its validity.<sup>[18]</sup>

The trial court convicted Prudencio of bigamy. The dispositive portion of its Decision read:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding the accused PRUDENCIO DE GUZMAN y JUMAQUIO GUILTY beyond reasonable doubt of the crime of bigamy and is hereby sentenced to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum.

SO ORDERED.<sup>[19]</sup>

Prudencio appealed before the Court of Appeals. During the pendency of his appeal, Arlene executed an Affidavit of Desistance praying that the case be dismissed after she had reconciled with Prudencio.<sup>[20]</sup>

In his Appeal, Prudencio reiterated his previous arguments and added that the case should be dismissed in view of the Affidavit of Desistance executed by Arlene.<sup>[21]</sup>

In its June 30, 2015 Decision,<sup>[22]</sup> the Court of Appeals denied Prudencio's appeal. It affirmed his conviction and modified the penalty:

**WHEREFORE**, the 13 March 2012 Decision of the trial court is **AFFIRMED with MODIFICATION** on the penalty imposed. Appellant

Prudencio De Guzman is sentenced to an indeterminate penalty of imprisonment from four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum. Costs against appellant.

SO ORDERED.<sup>[23]</sup> (Emphasis in the original)

The Court of Appeals agreed with the trial court that the prosecution had sufficiently proved that all the elements of bigamy were present. It ruled that the prosecution's failure to offer Prudencio and Arlene's marriage license as evidence of their marriage does not strengthen Prudencio's claim that his marriage with Arlene was void.<sup>[24]</sup>

The Court of Appeals held that the presentation of the marriage license was not essential to establish the existence of marriage. The certified true copy of the Marriage Certificate, it ruled, was enough.<sup>[25]</sup>

Similarly, the Court of Appeals found that the solemnizing officer's signature in the Marriage Certificate is not an essential requirement for marriage. Hence, its absence in the Marriage Certificate issued by the National Statistics Office does not invalidate the marriage.<sup>[26]</sup>

The Court of Appeals declared that Prudencio could not unilaterally declare his marriage with Arlene void. Citing Article 40<sup>[27]</sup> of the Family Code, it explained that before he can remarry, a competent court must first issue a final judgment declaring his marriage void.<sup>[28]</sup>

Likewise, the Court of Appeals held that Arlene's Affidavit of Desistance would not free Prudencio from liability since it did not cancel out the established elements of bigamy.<sup>[29]</sup> It noted that the Affidavit of Desistance, which was executed 13 months after the trial court's judgment, should be considered an afterthought and given no probative value by the courts.<sup>[30]</sup>

The Court of Appeals applied the Indeterminate Sentence Law and modified the penalty imposed by the trial court to four (4) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, absent any attendant circumstances.<sup>[31]</sup>

Prudencio filed a Motion for Reconsideration,<sup>[32]</sup> claiming that the issuance of a Certificate of No Marriage Record by the National Statistics Office made him believe that there was no legal impediment for him to remarry.<sup>[33]</sup>

In its April 21, 2016 Resolution,<sup>[34]</sup> the Court of Appeals denied his Motion for Reconsideration.

Hence, Prudencio filed this Petition.

For this Court's resolution is the issue of whether or not the Court of Appeals erred in affirming Prudencio De Guzman y Jumaquio's guilt for the crime of bigamy.

The Petition is denied.

The law provides that a judicial declaration of nullity is indispensable for the purposes of remarriage.<sup>[35]</sup> In *Teves v. People*.<sup>[36]</sup>

The Family Code has settled once and for all the conflicting jurisprudence on the matter. A declaration of the absolute nullity of a marriage is now explicitly required either as a cause of action or a ground for defense. Where the absolute nullity of a previous marriage is sought to be invoked for purposes of contracting a second marriage, the sole basis acceptable in law for said projected marriage to be free from legal infirmity is a final judgment declaring the previous marriage void.<sup>[37]</sup> (Citation omitted)

Prudencio cannot claim to have been in good faith in assuming that there was no legal impediment for him to remarry based merely on the National Statistics Office's issuance of a Certificate of No Marriage Record. Based on Prudencio and Arlene's Marriage Certificate, along with the photos of the wedding ceremony, they were married on April 8, 1994.<sup>[38]</sup> Thus, the Certificate of No Marriage Record is not enough for Prudencio to assume that his previous marriage with Arlene has been voided.

Moreover, Prudencio claims that the prosecution's failure to offer a copy of the marriage license is fatal to its case. This contention lacks merit. As the Court of Appeals noted, "[t]he presentation of the marriage license is not a *sine qua non* requirement to establish the existence of a marriage as the certified true copy of the [M]arriage [Certificate is sufficient for such purpose]."<sup>[39]</sup>

Prudencio also claims that the absence of the solemnizing officer's signature in the Marriage Certificate renders the marriage void. It is worth noting that based on the trial court's findings, the discrepancy was merely inadvertent since a copy of the Marriage Certificate under the Local Civil Registry had been signed.<sup>[40]</sup> The trial court explained:

The marriage contract between the accused and the complainant that was presented by the prosecution bears the signature of the solemnizing officer (Exhibit "C"). Upon the other hand, the NSO copy of the marriage contract secured by the accused does not have the signature of the solemnizing officer but after a careful scrutiny, it is shown that the two (2) marriage contracts contain the same details of the civil wedding ceremony between the accused and the complainant. Even the signatures of the parties and their witnesses have a striking resemblance to the naked eye. The only logical explanation for this is that the duplicate original that must have been forwarded by the local civil registry to the NSO was not signed by the solemnizing officer but the other duplicate original on file with the local civil registry is duly signed.<sup>[41]</sup>

Lastly, Prudencio's argument that the case should be dismissed due to Arlene's Affidavit of Desistance is unavailing. Affidavits of desistance that were executed after judgments of conviction had been promulgated by trial courts are generally received with extensive caution.<sup>[42]</sup> Arlene's Affidavit of Desistance provides that she filed the Complaint due to a misunderstanding, which both she and Prudencio had agreed to reconcile.<sup>[43]</sup> This Affidavit of Desistance cannot prove the