

## FIRST DIVISION

[ G.R. No. 159031, June 23, 2014 ]

**NOEL A. LASANAS, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**BERSAMIN, J.:**

Any person who contracts a second marriage without first having a judicial declaration of the nullity of his or her first marriage, albeit on its face void and inexistent for lack of a marriage license, is guilty of bigamy as defined and penalized by Article 349 of the *Revised Penal Code*.

#### The Case

The accused seeks the reversal of the decision promulgated on August 29, 2002,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed his conviction for bigamy under the judgment rendered on October 30, 2000 in Criminal Case No. 49808 by the Regional Trial Court (RTC), Branch 38, in Iloilo City.

#### Antecedents

On February 16, 1968,<sup>[2]</sup> Judge Carlos B. Salazar of the Municipal Trial Court of San Miguel, Iloilo solemnized the marriage of accused Noel Lasanas and Socorro Patingo<sup>[3]</sup> without the benefit of a marriage license.<sup>[4]</sup> The records show that Lasanas and Patingo had not executed any affidavit of cohabitation to excuse the lack of the marriage license.<sup>[5]</sup> On August 27, 1980, Lasanas and Patingo reaffirmed their marriage vows in a religious ceremony before Fr. Rodolfo Tamayo at the San Jose Church in Iloilo City.<sup>[6]</sup> They submitted no marriage license or affidavit of cohabitation for that purpose.<sup>[7]</sup> Both ceremonies were evidenced by the corresponding marriage certificates.<sup>[8]</sup> In 1982, Lasanas and Patingo separated *de facto* because of irreconcilable differences.<sup>[9]</sup>

On December 27, 1993, the accused contracted marriage with Josefa Eslaban in a religious ceremony solemnized by Fr. Ramon Sequito at the Sta. Maria Church in Iloilo City. Their marriage certificate reflected the civil status of the accused as single.<sup>[10]</sup>

On July 26, 1996, the accused filed a complaint for annulment of marriage and damages against Socorro in the RTC in Iloilo City,<sup>[11]</sup> which was docketed as Civil Case No. 23133 and raffled to Branch 39 of the RTC. The complaint alleged that Socorro had employed deceit, misrepresentations and fraud in securing his consent to their marriage; and that subsequent marital breaches, psychological

incompatibilities and her infidelity had caused him to suffer mental anguish, sleepless nights and social humiliation warranting the award of damages. In support of his complaint, he further alleged, among others, that:

He was married to the defendant on February 16, 1968 which marriage was officiated by Hon. Carlos B. Salazar, Municipal Judge of San Miguel, Iloilo. Machine copy of the Marriage Contract is herewith attached as Exhibit "A" and made part hereof; which marriage was ratified by a wedding at San Jose Church, Iloilo City on August 27, 1980 and registered at the office of Iloilo City Registrar. Machine copy of the Marriage Contract is herewith attached as Annex "B";

Plaintiff and defendant have no children and have no properties except some personal belongings;

Plaintiff met the defendant sometime in the middle of 1967 at the house of Mr. Raul L. Cataloctocan in Burgos Street, Lapaz, Iloilo City wherein the purpose of their meeting was for the plaintiff to consult and seek treatment by the defendant because the latter was a "babaylan":

Plaintiff was treated by the defendant and the subsequent treatments were performed by the defendant at her residence in Barangay, Banga, Mina, Iloilo, the treatment made being on a continuing basis;

x x x x

On February 16, 1968, defendant asked the plaintiff to come with her to Iloilo City. They went to Dainty Restaurant at J.M. Basa Street. Plaintiff saw several persons therein. After eating plaintiff was made to sign the marriage contract, which was null and void for lack of marriage license and based on a false affidavit of cohabitation. After their marriage, they went home to Barangay Bangac, Mina, Iloilo, which marked the start of a married life rocked with marital differences, quarrels and incompatibilities, without love, but under the uncontrollable fear of harm that should befall him should he not follow her;

x x x x

During the period the parties are living together defendant would nag the plaintiff, fabricate stories against him and displayed her fit of jealousy, neglect her marital obligations even committed infidelity, which psychological incompatibilities and marital breaches have forced the petitioner to live separately from defendant since 1982 up to the present.

[12]

In October 1998, Socorro charged the accused with bigamy in the Office of the City Prosecutor of Iloilo City.<sup>[13]</sup> After due proceedings, the accused was formally indicted for bigamy under the information filed on October 20, 1998 in the RTC, viz:

That on or about the 27th day of December, 1993 in the City of Iloilo, Philippines and within the jurisdiction of this Court, said accused, Noel Lasanas being previously united in a lawful marriage with Socorro Patingo and without the said marriage having been legally dissolve (sic) or annulled, did then and there willfully, unlawfully and feloniously contract a second or subsequent marriage with Josefa Eslaban.

CONTRARY TO LAW. <sup>[14]</sup>

The criminal case, docketed as Criminal Case No. 49808, was raffled to Branch 38 of the RTC in Iloilo City. The accused pleaded not guilty at his arraignment,<sup>[15]</sup> and trial ensued in due course.

In the meanwhile, on November 24, 1998, the RTC (Branch 39) rendered its judgment in Civil Case No. 23133 dismissing the accused's complaint for annulment of marriage, and declaring the marriage between him and Socorro valid and legal, as follows:

WHEREFORE, premises considered, judgment is hereby rendered dismissing the complaint filed by the plaintiff Noel Arenga Lasanas against the defendant, Socorro Patingo, considering that the marriage between them is valid and legal.

The plaintiff Noel Lasanas is hereby ordered to give monthly support to his wife, the defendant in this case, Ma. Socorro Patingo in the amount of P3,000.00 a month, from the time that she filed her answer with counterclaim on February 3, 1997, pursuant to Article 203 of the Family Code and every month thereafter. Costs against the plaintiff.

SO ORDERED.<sup>[16]</sup>

The accused appealed to the CA.<sup>[17]</sup>

### **Ruling of the RTC**

On October 30, 2000, the RTC (Branch 38) rendered its assailed decision in Criminal Case No. 49808, disposing thusly:

WHEREFORE, finding accused NOEL LASANAS guilty beyond reasonable doubt of the offense of BIGAMY punishable under Art. 349 of the Revised Penal Code, judgment is hereby entered ordering him to serve an indeterminate penalty of imprisonment of two (2) years and four (4) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor as maximum.

The accused is entitled to the privileges extended to him under Art. 29 of the Revised Penal Code.

SO ORDERED.<sup>[18]</sup>

### **Decision of the CA**

Aggrieved, the accused appealed his conviction to the CA, insisting that the RTC thereby erred in finding that he had legally married Socorro despite the absence of the marriage license, affidavit of cohabitation and affidavit of the solemnizing officer.

The accused contended that because he had not been legally married to Socorro, the first element of bigamy was not established; that his good faith and the absence of criminal intent were absolatory in his favor; and that he had been of the honest belief that there was no need for a judicial declaration of the nullity of the first marriage before he could contract a subsequent marriage.<sup>[19]</sup>

On August 29, 2002, however, the CA promulgated its challenged decision, decreeing:

WHEREFORE, for lack of merit, the Court DISMISSES the appeal and AFFIRMS the appealed Decision.

SO ORDERED.<sup>[20]</sup>

### **Issues**

Hence, the accused has appealed by petition for review on *certiorari*.<sup>[21]</sup> He argues that the RTC and the CA incorrectly applied the provisions of Article 349 of the *Revised Penal Code*,<sup>[22]</sup> asserting that the civil law rule embodied in Article 40 of the *Family Code* requiring a judicial declaration of nullity before one could contract a subsequent marriage should not apply in this purely criminal prosecution;<sup>[23]</sup> that even if Article 40 of the *Family Code* was applicable, he should still be acquitted because his subsequent marriage was null and void for being without a recorded judgment of nullity of marriage, as provided in Article 53 in relation to Article 52 of the *Family Code*;<sup>[24]</sup> that, consequently, an essential element of the crime of bigamy, *i.e.* that the subsequent marriage be valid, was lacking;<sup>[25]</sup> and that his good faith and lack of criminal intent were sufficient to relieve him of criminal liability.<sup>[26]</sup>

### **Ruling**

The appeal lacks merit.

The law on bigamy is found in Article 349 of the *Revised Penal Code*, which provides:

Article 349. *Bigamy*. — 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.

The elements of the crime of bigamy are as follows: (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 or she contracts a second or subsequent marriage; and (4) that the second or subsequent marriage has all the essential requisites for validity.<sup>[27]</sup>

The CA specifically observed:

This Court concedes that the marriage between accused-appellant Lasanas and private complainant Patingo was void because of the absence of a marriage license or of an affidavit of cohabitation. The ratificatory religious wedding ceremony could not have validated the void marriage. Neither can the church wedding be treated as a marriage in itself for to do so, all the essential and formal requisites of a valid marriage should be present. One of these requisites is a valid marriage license except in those instances when this requirement may be excused. There having been no marriage license nor affidavit of cohabitation presented to the priest who presided over the religious rites, the religious wedding cannot be treated as a valid marriage in itself.

But then, as the law and jurisprudence say, petitioner should have first secured a judicial declaration of the nullity of his void marriage to private complainant Patingo before marrying Josefa Eslaban. Actually, he did just that but after his marriage to Josefa Eslaban. Consequently, he violated the law on bigamy.

Accused's reliance on the cases of *People v. Mendoza*, 95 Phil. 845 and *People v. Aragon*, 100 Phil. 1033 is misplaced because the ruling in these cases have already been abandoned per *Relova v. Landico*, supra, and *Wiegel v. Sempio-Diy*, 143 SCRA 499. The petitioner also cited *Yap v. Court of Appeals*, 145 SCRA 229 which resurrected the *Aragon* and *Mendoza* doctrine but *Yap's* ruling too had been overtaken by Art. 40 of the Family Code and by *Domingo v. Court of Appeals* and *Te v. Court of Appeals*, supra.

Regarding accused-appellant's defense of good faith, the same is unavailing pursuant to *Mañozca v. Domagas*, 248 SCRA 625.

This Court, therefore concludes that the appealed Decision is correct in all respect.<sup>[28]</sup>

Based on the findings of the CA, this case has all the foregoing elements attendant.

The first and second elements of bigamy were present in view of the absence of a