

THIRD DIVISION

[G.R. No. 191566, July 17, 2013]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. EDGARDO V. ODTUHAN, RESPONDENT.

D E C I S I O N

PERALTA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioner People of the Philippines, represented by the Office of the Solicitor General, against respondent Edgardo V. Odtuhan assailing the Court of Appeals Decision^[1] dated December 17, 2009 and Resolution^[2] dated March 4, 2010 in CA-G.R. SP No. 108616. The assailed decision granted the petition for *certiorari* filed by respondent, and ordered the Regional Trial Court (RTC) of Manila, Branch 27, to give due course to and receive evidence on respondent's motion to quash and resolve the case with dispatch, while the assailed resolution denied petitioner's motion for reconsideration.

The facts of the case follow:

On July 2, 1980, respondent married Jasmin Modina (Modina).^[3] On October 28, 1993, respondent married Eleanor A. Alagon (Alagon).^[4] Sometime in August 1994, he filed a petition for annulment of his marriage with Modina.^[5] On February 23, 1999, the RTC of Pasig City, Branch 70 granted respondent's petition and declared his marriage with Modina void *ab initio* for lack of a valid marriage license.^[6] On November 10, 2003, Alagon died. In the meantime, in June 2003, private complainant Evelyn Abesamis Alagon learned of respondent's previous marriage with Modina.^[7] She thus filed a Complaint-Affidavit^[8] charging respondent with Bigamy.

On April 15, 2005, respondent was indicted in an Information^[9] for Bigamy committed as follows:

That on or about October 28, 1993, in the City of Manila, Philippines, the said accused being then legally married to JASMIN MODINA and without such marriage having been legally dissolved, did then and there willfully, unlawfully and feloniously contract a second or subsequent marriage with ELEANOR A. ALAGON, which second/subsequent marriage has all the essential requisites for validity.

Contrary to law.^[10]

On February 5, 2008, respondent filed an Omnibus Motion^[11] praying that he be allowed to present evidence to support his motion; that his motion to quash be granted; and that the case be dismissed. Respondent moved for the quashal of the information on two grounds, to wit: (1) that the facts do not charge the offense of bigamy; and (2) that the criminal action or liability has been extinguished.^[12]

On September 4, 2008, the RTC^[13] issued an Order^[14] denying respondent's Omnibus Motion. The RTC held that the facts alleged in the information – that there was a valid marriage between respondent and Modina and without such marriage having been dissolved, respondent contracted a second marriage with Alagon – constitute the crime of bigamy. The trial court further held that neither can the information be quashed on the ground that criminal liability has been extinguished, because the declaration of nullity of the first marriage is not one of the modes of extinguishing criminal liability. Respondent's motion for reconsideration was likewise denied in an Order^[15] dated February 20, 2009.

Aggrieved, respondent instituted a special civil action on *certiorari* under Rule 65 of the Rules of Court^[16] before the CA, assailing the denial of his motion to quash the information despite the fact that his first marriage with Modina was declared null and void *ab initio* prior to the filing of the bigamy case.^[17]

On December 17, 2009, the CA rendered the assailed decision, the dispositive portion of which reads:

WHEREFORE, premises considered, the instant petition for certiorari is hereby **GRANTED**. The RTC, Branch 27, Manila is hereby ordered to give due course to and receive evidence on the petitioner's motion to quash and resolve the case with dispatch.

SO ORDERED.^[18]

The CA applied the conclusion made by the Court in *Morigo v. People*,^[19] and held that there is cogent basis in looking into the motion to quash filed by respondent, for if the evidence would establish that his first marriage was indeed void *ab initio*, one essential element of the crime of bigamy would be lacking.^[20] The appellate court further held that respondent is even better off than Morigo which thus calls for the application of such doctrine, considering that respondent contracted the second marriage after filing the petition for the declaration of nullity of his first marriage and he obtained the favorable declaration before the complaint for bigamy was filed against him.^[21] The CA thus concluded that the RTC gravely abused its discretion in denying respondent's motion to quash the information, considering that the facts alleged in the information do not charge an offense.^[22]

With the denial of the motion for reconsideration before the CA, petitioner filed a petition before the Court in this petition for review on *certiorari* under Rule 45 of the Rules of Court based on the following grounds:

THE COURT OF APPEALS COMMITTED REVERSIBLE ERROR WHEN IT RENDERED ITS DECISION DATED DECEMBER 17, 2009 GRANTING RESPONDENT'S PETITION FOR CERTIORARI AND THE RESOLUTION DATED MARCH 4, 2010 DENYING PETITIONER'S MOTION FOR RECONSIDERATION, CONSIDERING THAT:

I.

THE INFORMATION CHARGING RESPONDENT OF BIGAMY SUFFICIENTLY ALLEGES ALL THE ELEMENTS CONSTITUTING SAID OFFENSE.

II.

THE SUBSEQUENT COURT JUDGMENT DECLARING RESPONDENT'S FIRST MARRIAGE VOID *AB INITIO* DID NOT EXTINGUISH RESPONDENT'S CRIMINAL LIABILITY WHICH ALREADY ATTACHED PRIOR TO SAID JUDGMENT.^[23]

The petition is meritorious.

The issues are not novel and have been squarely ruled upon by this Court in *Montañez v. Cipriano*,^[24] *Teves v. People*,^[25] and *Antone v. Beronilla*.^[26]

In *Montañez*, respondent Cipriano married Socrates in April 1976, but during the subsistence of their marriage on January 24, 1983, respondent married Silverio. In 2001, respondent filed a petition for the annulment of her marriage with Socrates on the ground of psychological incapacity which was granted on July 18, 2003. On May 14, 2004, petitioner filed a complaint for bigamy against respondent. The latter, however, moved for the quashal of the information and dismissal of the criminal complaint alleging that her first marriage had already been declared void *ab initio* prior to the filing of the bigamy case.

In *Teves*, petitioner married Thelma on November 26, 1992. During the subsistence of their marriage on December 10, 2001, he again married Edita. On May 4, 2006, petitioner obtained a declaration of her marriage with Thelma null and void on the ground that the latter is physically incapacitated to comply with her marital obligations. On June 8, 2006, an Information for Bigamy was filed against petitioner. The court eventually convicted petitioner of the crime charged.

In *Antone*, petitioner married respondent in 1978, but during the subsistence of their marriage, respondent contracted a second marriage in 1991. On April 26, 2007, respondent obtained a declaration of nullity of her first marriage which decision became final and executory on May 15, 2007. On June 21, 2007, the prosecution filed an information for bigamy against respondent which the latter sought to be quashed on the ground that the facts charged do not constitute an offense.

The present case stemmed from similar procedural and factual antecedents as in the above cases. As in *Antone* and *Montañez*, respondent moved to quash the

information on the grounds that the facts do not charge the offense of bigamy and that his criminal liability has been extinguished both because of the declaration of nullity of the first marriage. The RTC refused to quash the information. On petition for certiorari, the CA, however, reached a different conclusion.

As defined in *Antone*, "a motion to quash information is the mode by which an accused assails the validity of a criminal complaint or information filed against him for insufficiency on its face in point of law, or for defects which are apparent in the face of the information." It is a hypothetical admission of the facts alleged in the information. The fundamental test in determining the sufficiency of the material averments in an Information is whether or not the facts alleged therein, which are hypothetically admitted, would establish the essential elements of the crime defined by law. Evidence *aliunde* or matters extrinsic of the information are not to be considered.^[27] To be sure, a motion to quash should be based on a defect in the information which is evident on its fact.^[28] Thus, if the defect can be cured by amendment or if it is based on the ground that the facts charged do not constitute an offense, the prosecution is given by the court the opportunity to correct the defect by amendment.^[29] If the motion to quash is sustained, the court may order that another complaint or information be filed^[30] except when the information is quashed on the ground of extinction of criminal liability or double jeopardy.^[31]

An examination of the information filed against respondent, however, shows the sufficiency of the allegations therein to constitute the crime of bigamy as it contained all the elements of the crime as provided for in Article 349^[32] of the Revised Penal Code, to wit:

- (1) That the offender has been legally married;
- (2) That the first 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 essential requisites for validity.^[33]

Here, the information contained the following allegations: (1) that respondent is legally married to Modina; (2) that without such marriage having been legally dissolved; (3) that respondent willfully, unlawfully, and feloniously contracted a second marriage with Alagon; and (4) that the second marriage has all the essential requisites for validity. Respondent's evidence showing the court's declaration that his marriage to Modina is null and void from the beginning because of the absence of a marriage license is only an evidence that seeks to establish a fact contrary to that alleged in the information that a first valid marriage was subsisting at the time he contracted the second marriage. This should not be considered at all, because matters of defense cannot be raised in a motion to quash.^[34] It is not proper, therefore, to resolve the charges at the very outset without the benefit of a full blown trial. The issues require a fuller examination and it would be unfair to shut off the prosecution at this stage of the proceedings and to quash the information on the basis of the document presented by respondent.^[35] With the presentation of the court decree, no facts have been brought out which destroyed the *prima facie* truth