

THIRD DIVISION

[G.R. No. 183805, July 03, 2013]

JAMES WALTER P. CAPILI, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SHIRLEY TISMO-CAPILI, RESPONDENTS.

DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking the reversal of the Decision^[1] dated February 1, 2008 and Resolution^[2] dated July 24, 2008 of the Court of Appeals (CA) in CA-G.R. CR No. 30444.

The factual antecedents are as follows:

On June 28, 2004, petitioner was charged with the crime of bigamy before the Regional Trial Court (RTC) of Pasig City in an Information which reads:

On or about December 8, 1999, in Pasig City, and within the jurisdiction of this Honorable Court, the accused being previously united in lawful marriage with Karla Y. Medina-Capili and without said marriage having been legally dissolved or annulled, did then and there willfully, unlawfully and feloniously contract a second marriage with Shirley G. Tismo, to the damage and prejudice of the latter.

Contrary to law.^[3]

Petitioner thereafter filed a Motion to Suspend Proceedings alleging that: (1) there is a pending civil case for declaration of nullity of the second marriage before the RTC of Antipolo City filed by Karla Y. Medina-Capili; (2) in the event that the marriage is declared null and void, it would exculpate him from the charge of bigamy; and (3) the pendency of the civil case for the declaration of nullity of the second marriage serves as a prejudicial question in the instant criminal case.

Consequently, the arraignment and pre-trial were reset by the RTC of Pasig City, in view of the filing of the Motion to Suspend Proceedings filed by petitioner.

In the interim, the RTC of Antipolo City rendered a decision declaring the voidness or incipient invalidity of the second marriage between petitioner and private respondent on the ground that a subsequent marriage contracted by the husband during the lifetime of the legal wife is void from the beginning.

Thereafter, the petitioner accused filed his Manifestation and Motion (to Dismiss) praying for the dismissal of the criminal case for bigamy filed against him on the

ground that the second marriage between him and private respondent had already been declared void by the RTC.

In an Order^[4] dated July 7, 2006, the RTC of Pasig City granted petitioner's Manifestation and Motion to Dismiss, to wit:

The motion is anchored on the allegation that this case should be dismissed as a decision dated December 1, 2004 had already been rendered by the Regional Trial Court of Antipolo City, Branch 72 in Civil Case No. 01-6043 (entitled: "Karla Medina-Capili versus James Walter P. Capili and Shirley G. Tismo," a case for declaration of nullity of marriage) nullifying the second marriage between James Walter P. Capili and Shirley G. Tismo and said decision is already final.

In the opposition filed by the private prosecutor to the motion, it was stated, among others, that the issues raised in the civil case are not similar or intimately related to the issue in this above-captioned case and that the resolution of the issues in said civil case would not determine whether or not the criminal action may proceed.

WHEREFORE, after a judicious evaluation of the issue and arguments of the parties, this Court is of the humble opinion that there is merit on the Motion to dismiss filed by the accused as it appears that the second marriage between James Walter P. Capili and Shirley G. Tismo had already been nullified by the Regional Trial Court, Branch 72 of Antipolo City which has declared "the voidness, non-existent or incipient invalidity" of the said second marriage. As such, this Court submits that there is no more bigamy to speak of.

SO ORDERED.

Aggrieved, private respondent filed an appeal before the CA.

Thus, in a Decision^[5] dated February 1, 2008, the CA reversed and set aside the RTC's decision. The *fallo* reads:

WHEREFORE, premises considered, the Order dated 07 July 2006 of the Regional Trial Court of Pasig City, Branch 152 in Crim. Case No. 128370 is **REVERSED** and **SET ASIDE**. The case is remanded to the trial court for further proceedings. No costs.

SO ORDERED.^[6]

Petitioner then filed a Motion for Reconsideration against said decision, but the same was denied in a Resolution^[7] dated July 24, 2008.

Accordingly, petitioner filed the present petition for review on *certiorari* alleging

that:

1. THERE IS NO LEGAL BASIS FOR THE COURT OF APPEALS TO DISREGARD EXISTING JURISPRUDENCE PRONOUNCED BY THIS HONORABLE SUPREME COURT AND TO REVERSE THE ORDER DATED JULY 7, 2006 OF THE TRIAL COURT (REGIONAL TRIAL COURT, PASIG CITY, BRANCH 152) ISSUED IN CRIMINAL CASE NO. 128370 GRANTING THE MOTION TO DISMISS THE CASE OF BIGAMY AGAINST PETITIONER, INASMUCH AS THE ISSUANCE OF THE SAID ORDER IS BASED ON THE FINDINGS AND/OR FACTS OF THE CASE IN THE DECISION OF THE REGIONAL TRIAL COURT OF ANTIPOLLO CITY, BRANCH 72, IN CIVIL CASE NO. 01-6043 AND THE CONCLUDING AND DISPOSITIVE PORTION IN THE SAID DECISION WHICH STATES THAT, AFTER PERUSAL OF THE EVIDENCE ON RECORD AND THE TESTIMONIES OF WITNESSES X X X, THE MARRIAGE BETWEEN PETITIONER JAMES WALTER P. CAPILI AND PRIVATE RESPONDENT SHIRLEY G. TISMO, IS HEREBY NULL AND VOID.
2. THE COURT OF APPEALS GRAVELY ERRED AND ABUSED ITS DISCRETION AMOUNTING TO LACK OF JURISDICTION IN HOLDING THAT THE DECLARATION OF NULLITY OF MARRIAGE BETWEEN PETITIONER JAMES WALTER P. CAPILI AND SHIRLEY G. TISMO BY THE REGIONAL TRIAL COURT OF ANTIPOLLO CITY, BRANCH 72 IN ITS DECISION IN CIVIL CASE NO. 01-6043, IS ON THE GROUND THAT IT IS BIGAMOUS IN NATURE, DESPITE THE ABSENCE OF ANY SUCH FINDINGS OR FACTS ON WHICH IT IS BASED IN VIOLATION OF ARTICLE VIII, SECTION 14 OF THE 1987 CONSTITUTION, AND IN CONCLUDING THAT THE SAID DECLARATION OF NULLITY OF MARRIAGE IS NOT A GROUND FOR DISMISSAL OF THE BIGAMY CASE AGAINST THE PETITIONER, WHICH RULING IS NOT IN ACCORDANCE WITH THE FACTS OF THE CASE OF THE SAID DECISION AND WHICH IS CONTRARY TO APPLICABLE LAWS AND ESTABLISHED JURISPRUDENCE.
3. THE CASE OF TENEBRO V. COURT OF APPEALS SPEAKS FOR ITSELF. IT IS AN EXCEPTION TO EXISTING JURISPRUDENCE INVOLVING DECLARATION OF NULLITY OF MARRIAGE AND IS APPLICABLE ONLY TO THE SET OF FACTS IN THE SAID CASE, AND THE GROUND FOR DECLARATION OF NULLITY OF MARRIAGE IS PSYCHOLOGICAL INCAPACITY, HENCE, THERE IS NO LEGAL BASIS FOR ABANDONING EXISTING JURISPRUDENCE AS WHERE IN THE INSTANT CASE THE GROUND FOR DECLARATION OF NULLITY OF MARRIAGE IS VIOLATIVE OF ARTICLE 3 IN RELATION TO ARTICLE 4 OF THE FAMILY CODE.
4. THE COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT THE USE BY RESPONDENT SHIRLEY G. TISMO OF THE SURNAME "CAPILI" IS ILLEGAL INASMUCH AS THE DECISION OF THE REGIONAL TRIAL COURT OF ANTIPOLLO CITY, BRANCH 72 IN CIVIL CASE NO. 01-6043 DECLARING NULL AND VOID THE MARRIAGE