

SECOND DIVISION

[G.R. No. 188775, August 24, 2011]

**CENON R. TEVES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES
AND DANILO R. BONGALON, RESPONDENTS.**

DECISION

PEREZ, J.:

This Petition for Review seeks the reversal of the 21 January 2009 decision^[1] of the Court of Appeals (CA) in CA-G.R. CR No. 31125 affirming in *toto* the decision of the Regional Trial Court (RTC), Branch 20, Malolos City in Criminal Case No. 2070-M-2006. The RTC decision^[2] found petitioner Cenon R. Teves guilty beyond reasonable doubt of the crime of Bigamy penalized under Article 349 of the Revised Penal Code.

THE FACTS

On 26 November 1992, a marriage was solemnized between Cenon Teves (Cenon) and Thelma Jaime-Teves (Thelma) at the Metropolitan Trial Court of Muntinlupa City, Metro Manila.^[3]

After the marriage, Thelma left to work abroad. She would only come home to the Philippines for vacations. While on a vacation in 2002, she was informed that her husband had contracted marriage with a certain Edita Calderon (Edita). To verify the information, she went to the National Statistics Office and secured a copy of the Certificate of Marriage^[4] indicating that her husband and Edita contracted marriage on 10 December 2001 at the Divine Trust Consulting Services, Malhacan, Meycauayan, Bulacan.

On 13 February 2006, Danilo Bongalon, uncle of Thelma, filed before the Office of the Provincial Prosecutor of Malolos City, Bulacan a complaint^[5] accusing petitioner of committing bigamy.

Petitioner was charged on 8 June 2006 with bigamy defined and penalized under Article 349 of the Revised Penal Code, as amended, in an Information^[6] which reads:

That on or about the 10th day of December, 2001 up to the present, in the municipality of Meycauayan, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the said Cenon R. Teves being previously united in lawful marriage on November 26, 1992 with Thelma B. Jaime and without the said marriage having legally dissolved, did then and there willfully, unlawfully and feloniously contract a second

marriage with one Edita T. Calderon, who knowing of the criminal design of accused Cenon R. Teves to marry her and in concurrence thereof, did then and there willfully, unlawfully and feloniously cooperate in the execution of the offense by marrying Cenon R. Teves, knowing fully well of the existence of the marriage of the latter with Thelma B. Jaime.

During the pendency of the criminal case for bigamy, the Regional Trial Court , Branch 130, Caloocan City, rendered a decision^[7] dated 4 May 2006 declaring the marriage of petitioner and Thelma null and void on the ground that Thelma is physically incapacitated to comply with her essential marital obligations pursuant to Article 36 of the Family Code. Said decision became final by virtue of a Certification of Finality^[8] issued on 27 June 2006.

On 15 August 2007, the trial court rendered its assailed decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused Cenon R. Teves, also known as Cenon Avelino R. Teves, guilty beyond reasonable doubt of the crime of Bigamy penalized under Article 349 of the Revised Penal Code, as charged in the Information dated June 8, 2006. Pursuant to the provisions of the Indeterminate Sentence Law, he is hereby sentenced to suffer the penalty of imprisonment 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.^[9]

Refusing to accept such verdict, petitioner appealed the decision before the Court of Appeals contending that the court *a quo* erred in not ruling that his criminal action or liability had already been extinguished. He also claimed that the trial court erred in finding him guilty of Bigamy despite the defective Information filed by the prosecution.^[10]

On 21 January 2009, the CA promulgated its decision, the dispositive portion of which reads:

WHEREFORE, the appeal is DISMISSED and the Decision dated August 15, 2007 in Criminal Case No. 2070-M-2006 is AFFIRMED in TOTO.^[11]

On 11 February 2009, petitioner filed a motion for reconsideration of the decision.^[12] This however, was denied by the CA in a resolution issued on 2 July 2009.^[13]

Hence, this petition.

Petitioner claims that since his previous marriage was declared null and void, "there is in effect no marriage at all, and thus, there is no bigamy to speak of."^[14] He differentiates a previous valid or voidable marriage from a marriage null and void *ab initio*, and posits that the former requires a judicial dissolution before one can validly

contract a second marriage but a void marriage, for the same purpose, need not be judicially determined.

Petitioner further contends that the ruling of the Court in *Mercado v. Tan*^[15] is inapplicable in his case because in the *Mercado* case the prosecution for bigamy was initiated before the declaration of nullity of marriage was filed. In petitioner's case, the first marriage had already been legally dissolved at the time the bigamy case was filed in court.

We find no reason to disturb the findings of the CA. There is nothing in the law that would sustain petitioner's contention.

Article 349 of the Revised Penal Code states:

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 this crime 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 contracts a second or subsequent marriage; and
4. That the second or subsequent marriage has all the essential requisites for validity.^[16]

The instant case has all the elements of the crime of bigamy. Thus, the CA was correct in affirming the conviction of petitioner.

Petitioner was legally married to Thelma on 26 November 1992 at the Metropolitan Trial Court of Muntinlupa City. He contracted a second or subsequent marriage with Edita on 10 December 2001 in Meycauayan, Bulacan. At the time of his second marriage with Edita, his marriage with Thelma was legally subsisting. It is noted that the finality of the decision declaring the nullity of his first marriage with Thelma was only on 27 June 2006 or about five (5) years after his second marriage to Edita. Finally, the second or subsequent marriage of petitioner with Edita has all the essential requisites for validity. Petitioner has in fact not disputed the validity of such subsequent marriage.^[17]

It is evident therefore that petitioner has committed the crime charged. His contention that he cannot be charged with bigamy in view of the declaration of nullity of his first marriage is bereft of merit. The Family Code has settled once and for all the conflicting jurisprudence on the matter. A declaration of the absolute