

SECOND DIVISION

[G.R. No. 191425, September 07, 2011]

**ATILANO O. NOLLORA, JR., PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

G.R. No. 191425 is a petition for review^[1] assailing the Decision^[2] promulgated on 30 September 2009 as well as the Resolution^[3] promulgated on 23 February 2010 by the Court of Appeals (appellate court) in CA-G.R. CR No. 31538. The appellate court affirmed the 19 November 2007 Decision^[4] of Branch 215 of the Regional Trial Court of Quezon City (trial court) in Criminal Case No. Q-04-129031.

The trial court found accused Atilano O. Nollora, Jr. (Nollora) guilty of bigamy under Article 349 of the Revised Penal Code and sentenced him to suffer imprisonment. Co-accused Rowena Geraldino (Geraldino) was acquitted for the prosecution's failure to prove her guilt beyond reasonable doubt.

The Facts

The appellate court recited the facts as follows:

On August 24, 2004, Assistant City Prosecutor Raymond Jonathan B. Lledo filed an Information against Atilano O. Nollora, Jr. ("Nollora") and Rowena P. Geraldino ("Geraldino") for the crime of Bigamy. The accusatory portion of the Information reads:

"That on or about the 8th day of December 2001 in Quezon City, Philippines, the above-named accused ATILANO O. NOLLORA, JR., being then legally married to one JESUSA PINAT NOLLORA, and as said marriage has not been legally dissolved and still subsisting, did then and there willfully, unlawfully and feloniously contract a subsequent or second marriage with her [sic] co-accused ROWENA P. GERALDINO, who knowingly consented and agreed to be married to her co-accused ATILANO O. NOLLORA, JR. knowing him to be a married man, to the damage and prejudice of the said offended party JESUSA PINAT NOLLORA."

Upon his arraignment on April 18, 2005, accused Nollora assisted by counsel, refused to enter his plea. Hence, a plea of not guilty was entered by the Court for him. Accused Geraldino, on the other hand, entered a plea of not guilty when arraigned on June 14, 2005. On even date, pre-trial conference was held and both the prosecution and defense entered the following stipulation of facts:

- "1. the validity of the first marriage between Atilano O. Nollora, Jr. and Jesusa Pinat Nollora solemnized on April 6, 1999 at Sapang Palay, San Jose del Monte;
2. that Atilano O. Nollora, Jr. contracted the second marriage with Rowena P. Geraldino on December 8, 2001 in Quezon City;
3. that in the Counter-Affidavit of Atilano O. Nollora, Jr., he admitted that he contracted the second marriage to Rowena P. Geraldino;
4. that Rowena P. Geraldino attached to her Counter-Affidavit the Certificate of Marriage with Atilano O. Nollora, Jr. dated December 8, 2001;
5. the fact of marriage of Rowena P. Geraldino with Atilano O. Nollora, Jr. as admitted in her Counter-Affidavit."

The only issue thus proffered by the prosecution for the RTC's resolution is whether or not the second marriage is bigamous. Afterwards, pre-trial conference was terminated and the case was set for initial hearing. Thereafter, trial ensued.

Evidence for the Prosecution

As culled from the herein assailed Decision, the respective testimonies of prosecution witnesses were as follows:

"xxx (W)itness Jesusa Pinat Nollora xxx testified that she and accused Atilano O. Nollora, Jr. met in Saudi Arabia while she was working there as a Staff Midwife in King Abdulah Naval Base Hospital. Atilano O. Nollora, Jr. courted her and on April 6, 1999, they got married at the [IE] MELIF Chruch [sic] in Sapang Palay, San Jose del Monte, Bulacan (Exhibit `A'). While working in said hospital, she heard rumors that her husband has another wife and because of anxiety and emotional stress, she left Saudi Arabia and returned to the Philippines (TSN, October 4, 2005, page 10). Upon arrival in the Philippines, the private complainant learned that indeed, Atilano O. Nollora, Jr. contracted a second marriage with co-accused Rowena P. Geraldino on December 8, 2001 (Exhibit

`B') when she secured a certification as to the civil status of Atilano O. Nollora, Jr. (Exhibit `C') from the National Statistics Office (NSO) sometime in November 2003.

Upon learning this information, the private complainant confronted Rowena P. Geraldino at the latter's workplace in CBW, FTI, Taguig and asked her if she knew of the first marriage between complainant and Atilano O. Nollora, Jr. to which Rowena P. Geraldino allegedly affirmed and despite this knowledge, she allegedly still married Atilano O. Nollora, Jr. because she loves him so much and because they were neighbors and childhood friends. Private complainant also knew that Rowena P. Geraldino knew of her marriage with Atilano O. Nollora, Jr., because when she (private complainant) was brought by Atilano O. Nollora, Jr. at the latter's residence in Taguig, Metro Manila and introduced her to Atilano O. Nollora, Jr.'s parents, Rowena P. Geraldino was there in the house together with a friend and she heard everything that they were talking about.

Because of this case, private complainant was not able to return to Saudi Arabia to work as a Staff Midwife thereby losing income opportunity in the amount of P34,000.00 a month, more or less. When asked about the moral damages she suffered, she declared that what happened to her was a tragedy and she had entertained [thoughts] of committing suicide. She added that because of what happened to her, her mother died and she almost got raped when Atilano O. Nollora, Jr. left her alone in their residence in Saudi Arabia. However, she declared that money is not enough to assuage her sufferings. Instead, she just asked for the return of her money in the amount of P50,000.00 (TSN, July 26, 2005, pages 4-14).

Prosecution witness Ruth Santos testified that she knew of the marriage between the private complainant and Atilano O. Nollora, Jr., because she was one of the sponsors in said wedding. Sometime in November 2003, she was asked by the private complainant to accompany the latter to the workplace of Rowena P. Geraldino in FTI, Taguig, Metro Manila. She declared that the private complainant and Rowena P. Geraldino had a confrontation and she heard that Rowena P. Geraldino admitted that she (Rowena) knew of the first marriage of Atilano O. Nollora, Jr. and the private complainant but she still went on to marry Atilano O. Nollora, Jr. because she loves him very much (TSN, October 24, 2005, pages 3-5).

Evidence for the Defense

The defense's version of facts, as summarized in the herein assailed

Decision, is as follows:

"Accused Atilano O. Nollora, Jr. admitted having contracted two (2) marriages, the first with private complainant Jesusa Pinat and the second with Rowena P. Geraldino. He, however, claimed that he was a Muslim convert way back on January 10, 1992, even before he contracted the first marriage with the private complainant. As a [M]uslim convert, he is allegedly entitled to marry four (4) wives as allowed under the Muslim or Islam belief.

To prove that he is a Muslim convert even prior to his marriage to the private complainant, Atilano O. Nollora, Jr. presented a Certificate of Conversion dated August 2, 2004 issued by one Hadji Abdul Kajar Madueño and approved by one Khad Ibrahim A. Alyamin wherein it is stated that Atilano O. Nollora, Jr. allegedly converted as a Muslim since January 19, 1992 (Exhibit `2,' `3' and `4'). Aside from said certificate, he also presented a Pledge of Conversion dated January 10, 1992 issued by the same Hadji Abdul Kajar Madueño and approved by one Khad Ibrahim A. Alyamin (Exhibit `7').

He claimed that the private complaint knew that he was a Muslim convert prior to their marriage because she [sic] told this fact when he was courting her in Saudi Arabia and the reason why said private complainant filed the instant case was due to hatred having learned of his second marriage with Rowena P. Geraldino. She [sic] further testified that Rowena P. Geraldino was not aware of his first marriage with the private complainant and he did not tell her this fact because Rowena P. Geraldino is a Catholic and he does not want to lose her if she learns of his first marriage.

He explained that in his Marriage Contract with Jesusa Pinat, it is indicated that he was a `Catholic Pentecostal' but that he was not aware why it was placed as such on said contract. In his Marriage Contract with Rowena P. Geraldino, the religion `Catholic' was also indicated because he was keeping as a secret his being a Muslim since the society does not approve of marrying a Muslim. He also indicated that he was `single' despite his first marriage to keep said first marriage a secret (TSN, January 30, 2006, pages 2-13).

Defense witness Hadji Abdul Qasar Madueño testified that he is the founder and president of Balik Islam Tableegh Foundation of the Philippines and as such president, he has the power and authority to convert any applicant to the Muslim religion. He alleged that sometime in 1992, he met accused Atilano O. Nollora, Jr. in Mabini (Manila) who was then going abroad. Atilano O. Nollora, Jr. applied to become a Muslim (Exhibit `14') and after receiving the application, said

accused was indoctrinated regarding his obligations as a Muslim. On January 10, 1992, Atilano O. Nollora, Jr. embraced the Muslim faith. He was then directed to report every Sunday to monitor his development.

In the year 2004, Atilano O. Nollora, Jr. visited him and asked for a certification because of the filing of the instant case. On October 2, 2004, he issued a Certificate of Conversion wherein it is stated that Atilano O. Nollora, Jr. is a Muslim convert since January 10, 1992. Apart from the above-mentioned document, their 'Imam' also issued a Pledge of Conversion (Exhibit '7'). He declared that a Muslim convert could marry more than one according to the Holy Koran. However, before marrying his second, third and fourth wives, it is required that the consent of the first Muslim wife be secured. Thus, if the first wife is not a Muslim, there is no necessity to secure her consent (TSN, October 9, 2006, pages 2-12).

During his cross-examinations, he declared that if a Muslim convert gets married not in accordance with the Muslim faith, the same is contrary to the teachings of the Muslim faith. A Muslim also can marry up to four times but he should be able to treat them equally. He claimed that he was not aware of the first marriage but was aware of the second. Since his second marriage with Rowena P. Geraldino was not in accordance with the Muslim faith, he advised Atilano O. Nollora, Jr. to re-marry Rowena P. Geraldino in accordance with Muslim marriage celebration, otherwise, he will not be considered as a true Muslim (TSN, June 25, 2007, pages 3-7).

Accused Rowena P. Geraldino alleged that she was only a victim in this incident of bigamous marriage. She claimed that she does not know the private complainant Jesusa Pinat Nollora and only came to know her when this case was filed. She insists that she is the one lawfully married to Atilano O. Nollora, Jr., having been married to the latter since December 8, 2001. Upon learning that Atilano O. Nollora, Jr. contracted a first marriage with the private complainant, she confronted the former who admitted the said marriage. Prior to their marriage, she asked Atilano O. Nollora, Jr. if he was single and the latter responded that he was single. She also knew that her husband was a Catholic prior to their marriage but after she learned of the first marriage of her husband, she learned that he is a Muslim convert. She also claimed that after learning that her husband was a Muslim convert, she and Atilano O. Nollora, Jr., also got married in accordance with the Muslim rites. She also belied the allegations of the private complainant that she was sought by the private complainant and that they had a confrontation where she admitted that she knew that Atilano O. Nollora, Jr. was married to the private complainant and despite this knowledge, she went on to marry him because she loved him very much. She insisted