

FIRST DIVISION

[CA-G.R. CV NO. 98795, June 19, 2014]

**VIVIANNE PASETES ESTARIS, PETITIONER-APPELLANT, VS.
GENARO C. ESTARIS, RESPONDENT-APPELLEE.**

DECISION

BARRIOS, M. M., J.:

This is an appeal from the Decision^[1] dated 06 February 2012 of the Regional Trial Court (RTC), Branch 43, Manila in Civil Case No. 10-124341 that denied appellant's petition for declaration of nullity of her marriage to the appellee.

THE FACTS

In a ceremony held on 28 December 2007, respondent-appellee Genaro C. Estaris and petitioner-appellant Vivianne Pasetes-Estaris were married^[2] before Church of God Minister Eduardo Del Rosario in Caloocan City. Thereafter, the couple resided at 616 Gastambide Street, Sampaloc, Manila. Out of this union, a child named Geann Wil Estaris was born^[3] on 26 July 2008.

In September 2010, after living together as spouses for two (2) years, petitioner-appellant was shocked to receive a subpoena^[4] from the Caloocan Prosecutor's Office directing her to respond to a criminal charge as an accomplice to bigamy that was filed by Adelaida Esquerra-Estaris who claimed to be respondent-appellee's first wife. Appellant would later discover that Adelaida was married^[5] to appellee on 23 December 1969 in Cainta, Rizal.

Faced with this predicament, appellant filed the instant petition for declaration of nullity of marriage with appellee on 22 September 2010 before the RTC of Manila on the ground that said marriage is void for having been contracted during the existence of a first and subsisting marriage by appellee and Adelaida Esquerra.

In her petition, appellant averred that she agreed to marry appellee on the latter's representation and assurance that he was a widower for some time already. Appellee had declared in the application for marriage license that he was a widower and presented a Death Certificate^[6] and Burial Permit^[7] stating that his first wife, Adelaida, purportedly died on 10 December 2007.

To show that the first wife – Adelaida Esquerra – was still alive at the time their second marriage was entered, appellant presented the Complaint-Affidavit,^[8] Supplemental Complaint-Affidavit^[9], Supplemental Complaint-Affidavit^[10] and Reply-Affidavit^[11] of Adelaida that charged her and appellee of bigamy. Appellant likewise testified^[12] that she actually saw the person of Adelaida Esquerra signing and swearing said affidavits before the investigating prosecutor. Baltazar Miranda

also declared^[13] that he always see Adelaida in their neighborhood since November 2008.

Despite notice, respondent-appellee did not file an Answer, and neither did he participate in the proceedings. On the other hand, the State – through the Trial Prosecutor – appeared to oppose the petition and to guard against collusion between the parties. The Trial Prosecutor cross-examined the petitioner-appellant and her witnesses and also reported^[14] that no collusion exists between the parties. However, just like appellee, the Trial Prosecutor did not present evidence for the State.

After trial, the court a quo rendered the Decision dated 06 February 2012 denying the petition due to insufficiency of evidence. It opined that when the second marriage was contracted, the prior marriage between appellee and Adelaida Esguerra appeared to have been dissolved already by the death of Adelaida. This is shown by her Death Certificate and Burial Permit. The affidavits supposedly executed by Adelaida before the Caloocan City Prosecutor's Office and the apparently self-serving testimonial evidence of witnesses cannot overcome the veracity of Death Certificate showing that Adelaida died on 10 December 2007. Consequently, respondent-appellee was already a widower and thus, qualified to marry at the time the second marriage was entered with appellee. The assertion of being a bigamous marriage was not established.

Petitioner-appellant moved to reconsider the verdict, but the motion was denied in the Order^[15] dated 23 March 2012.

In this appeal, it is argued that:

I.

THE TRIAL COURT FAILED TO APPRECIATE THAT THE PIECES OF EVIDENCE PRESENTED BY THE PETITIONER-APPELLANT PROVES HER CASE BY PREPONDERANCE OF EVIDENCE; AND

II.

THE TRIAL COURT ERRED IN HOLDING THAT THE DEATH CERTIFICATE OF ADELAIDA ESGUERRA-ESTARIS HOLDS THE GREATER WEIGHT OF EVIDENCE COMPARED TO THE AGGREGATE EVIDENCE OF THE PETITIONER-APPELLANT.

OUR RULING

The appeal has no merit. Indeed, the evidence has not established convincingly that the marriage between petitioner-appellant and respondent-appellee was bigamous.

Under Article 35 of the Family Code,^[16] bigamy is one of the grounds to declare a marriage null and void *ab initio*. Thus,

"x x x

ART. 35. The following marriages shall be void from the beginning:

x x x

(4) Those bigamous or polygamous marriages not falling under Article 41.

x x x.”

Bigamous marriage is defined as a second or subsequent marriage before the former one is legally dissolved or before the absent spouse is declared presumptively dead.^[17] Stated differently, it is a marriage subsequently contracted by any person during the lifetime of his/her spouse with any person other than his/her spouse.^[18] A bigamous marriage is illegal and void, unless the prior marriage is annulled or dissolved, or the first spouse is considered as presumptively dead before the second marriage was celebrated.^[19] To prove bigamy, the following elements must be proven, to wit: a) that offender has been legally married; b) that such marriage has not been legally dissolved or, in case his/her spouse is absent, the absent spouse could not yet be presumed dead according to Civil Code; c) that the offender contracts second or subsequent marriage; and d) the second or subsequent marriage has all the essential requisites for its validity.^[20]

From the facts established by the evidence, it appears that respondent-appellee had contracted two (2) valid marriages, viz: a) his first marriage with Adelaida Esguerra-Estaris on 23 December 1969; and b) his second marriage with appellant Vivianne Pasetes-Estaris on 28 December 2007, it having been shown that the first wife died on 10 December 2007. Said marriages are validated by the respective Marriage Certificates^[21] issued by the Office of Civil Registrar General. Notably, these were not disclaimed nor denied by the parties.

The court a quo was correct in concluding that the second marriage of appellee to appellant is not bigamous. From appellant's own evidence, specifically the Certificate of Death^[22] and Burial Permit,^[23] it shows that Adelaida Esguerra – the first wife – died of heart failure on 10 December 2007 or just eighteen (18) days before the second marriage was celebrated. Absent any credible proof to the contrary, the date or information stated in those official documents are presumed true and accurate considering that they emanated from the files in the Office of the Civil Registry as well as in the Manila Health Department, in the course of official business.^[24] As ruled by the Supreme Court, death certificates as well as notes by municipal health officers prepared in the regular performance of his/her duties are prima facie evidence of the facts therein stated.^[25] Thus, a duly-registered Death Certificate is considered a public document, and the entries therein are presumed correct, unless the party who contests its accuracy can produce positive evidence establishing otherwise.^[26]

Relative thereto, We cannot sustain petitioner-appellant's assertion that the Death Certificate and Burial Permit of Adelaida were fakes or falsified. Other than her bare testimony and that of Baltazar Miranda, no documentary or other proof was adduced to contradict the data appearing in the aforesaid certified official records nor to assail the veracity and correctness of the latter. Mere allegations of fraud could not substitute for the full and convincing evidence that is required to prove it.^[27]

Consequently, on account of said Death Certificate and Burial Permit, it can be safely concluded that Adelaida Esguerra was already dead at the time appellee contracted a second marriage with the appellant, and that appellee was a widower and qualified