

Title:

Mercado vs. Tan: Judicial Declaration of Nullity of Marriage and Bigamy in Philippine Law

Facts:

- On June 27, 1991, Dr. Vincent Paul G. Mercado married Ma. Consuelo Tan in Bacolod City, declaring himself as single in the marriage contract. This occurred while he was still lawfully married to Ma. Thelma Oliva since April 10, 1976, in Cebu City—a marriage further affirmed in a church ceremony on October 10, 1976.
- A child was born from each marriage. On October 5, 1992, Tan filed a letter-complaint for bigamy against Mercado. Over a month after the bigamy case initiation, on November 13, 1992, Mercado sought a nullity of marriage declaration against Oliva in RTC-Cebu City. The declaration was granted on May 6, 1993.
- The trial court convicted Mercado of bigamy, emphasizing that all elements under Article 349 of the Revised Penal Code were present since Mercado's first marriage was neither legally dissolved nor declared null before his marriage to Tan.

Issues:

1. Whether the element of previous legal marriage existed to convict Mercado of bigamy.
2. Whether Article 349 of the Revised Penal Code, in relation to Articles 36 and 40 of the Family Code, could negate Mercado's guilt through liberal interpretation.
3. Whether Mercado could be acquitted based on reasonable doubt due to the judicial declaration that nullified his first marriage.

Court's Decision:

The Supreme Court denied Mercado's petition, affirming his conviction of bigamy. The justices emphasized that:

- A judicial declaration of nullity of a prior marriage is imperative before contracting a subsequent one. Failing to secure such declaration means a person can be guilty of bigamy, even if the previous marriage is deemed void by statutes.
- The legal requirement for a judicial declaration is not influenced by the excessive nature of a void marriage but serves to safeguard marital statutes and parties' rights.
- Mercado's procuring of a nullity declaration for his first marriage after marrying Tan and after the initiation of the bigamy case was inconsequential to his guilt.

Doctrine:

A judicial declaration of nullity of a prior marriage is essential before engaging in a

subsequent marriage to avoid charges of bigamy. This requirement stands even if the previous marriage is legally considered “void.”

Class Notes:

- **Bigamy** under Article 349 of the Revised Penal Code requires:

1. Legally married status of the offender.
 2. The first marriage has not been legally dissolved or the absent spouse not declared presumptively dead.
 3. The contracting of a second or subsequent marriage.
 4. The second or subsequent marriage has all the essential requisites for validity.
- **Articles 36 and 40 of the Family Code** clarifies the necessity of a judicial declaration to declare a marriage null and avoid complications in subsequent marriages.
- The ruling emphasizes the importance of following procedural protocol in family law to ensure marriages’ legality and protect involved parties’ rights.

Historical Background:

The Mercado vs. Tan case highlights the evolving interpretation and application of family law in the Philippines, particularly concerning the necessity of a judicial declaration of nullity of a preceding marriage before contracting a new one. This case consolidates the jurisprudence on the requirement under Article 40 of the Family Code, addressing previous conflicting decisions and underscoring the legislative shift towards protecting marital and family relations by necessitating such declarations to avoid the implications of bigamy.