

PEOPLE OF THE PHILIPPINES PLAINTIFF-APPELLEE, VS. EDWIN B. GUEVARRA, ACCUSED-APPELLANT.

Ponente: TIJAM, J.

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TIJAM, J.:

Before Us on appeal is the Decision[1] promulgated on February 9, 2011 by the Regional Trial Court (RTC), Branch 50, Villasis, Pangasinan, in Criminal Case No. V-1234 finding Accused-Appellant Edwin B. Guevarra (Accused-Appellant) guilty beyond reasonable doubt of the crime of Bigamy, sentencing him to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum, and to indemnify private complainant Romelyn Caldito-Guevarra[2] moral damages in the amount of P100,000.00.

The facts of the case are as follows:

On February 24, 2005, Accused-Appellant was charged with the crime of Bigamy before the RTC, Branch 50, Villasis Pangasinan, in an Information[3] that reads:

“That on or about April 24, 1996, at Villasis, Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused, being then previously united in lawful marriage with Ester M. Briones and without said marriage having been legally dissolved, did, then and there willfully, unlawfully and feloniously contract a second marriage with Romelyn C. Guevarra, to the damage and prejudice of said Romelyn C. Guevarra.

CONTRARY to Art. 349, of the Revised Penal Code.”

After the filing of the Information, a warrant[4] for the arrest of the Accused-Appellant was issued by the court a quo.

On March 17, 2005, Accused-Appellant posted bail.

A notice was sent to the Accused-Appellant for his arraignment, but the same was returned unserved with the notation “RTS addressee moved”.

On June 1, 2005, the court a quo ordered the confiscation of Accused-Appellant's bail bond[5] and issued another warrant[6] for his arrest. Since the warrant of arrest was not implemented, the case was archived.

On January 24, 2006, an alias warrant of arrest[7] was issued.

On October 29, 2009, Accused-Appellant voluntarily surrendered and simultaneously posted bail.[8]

Upon his arraignment on November 6, 2009, Accused-Appellant, assisted by counsel, entered a plea of not guilty.[9]

A pre-trial conference was held. After it was terminated, trial thus ensued.

To establish the guilt of the Accused-Appellant, the prosecution presented several witnesses, to wit: private complainant Romelyn V. Caldito; Remedios Caldito, Romelyn's mother; Josie Lustina, Local Civil Registrar of

Villasis, Pangasinan; and Romulo Tresvalles, Administrative Officer I of the City Civil Registry of Pasay City.

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

ROMELYN BORJA (sic) testified that “[s]he and Edwin Guevarra were board mates and went to the same school in Dagupan City when the latter courted her. She was seven (7) months pregnant with their child, Rowen Carl, when they got married in Villasis, Pangasinan, on April 24, 1996 (Exh. “B”).

Before their marriage, Edwin represented himself to be single. However, she learned later that he is married to another woman when she received a letter from a certain Ester Briones who claimed to be the legal wife of Edwin.

Upon receipt of the letter, she verified from the NSO [National Statistics Office] and found out that Edwin and Ester got married in November, 1994 (Exh. “A”).

She [Romelyn] thus filed the instant case. She likewise filed a petition for declaration of nullity of her marriage to Edwin which was granted by this Court (Exh. “D”[10]).

“REMEDIOS CALDITO, mother of the private complainant, testified that her daughter Romelyn was married to Edwin Guevarra. She identified their Certificate of Marriage (Exh. “B”) showing that they were married on April 24, 1996. Edwin and Romelyn have a child, Rowen Carl, who was born on July 18, 1996. She averred that three (3) months after the birth of Rowen Carl, Romelyn confided to her that Edwin is also married to another woman.”

“xxxx JOSIE LUSTINA, Local Civil Registrar of Villasis, Pangasinan, presented a certification regarding the fact of marriage of Edwin B. Guevarra and Romelyn Caldito as appearing in the Register of Marriages of the Office of the Civil Registrar of Villasis, Pangasinan. She likewise presented the registry book of the Office of the Civil Registrar showing the marriage between Edwin Guevarra and Romelyn Caldito on April 24, 1996.”

“xxxx ROMULO TRESVALLES, Administrative Officer I of the City Civil Registrar of Pasay City, presented in court the original copy of the Certificate of Marriage of Edwin Guevarra and Ester Briones under Registry No. 94-3973 of the Civil Registry of Pasay City (Exh. “A”). He testified that based on the records of the City Civil Registrar of Pasay City, the marriage between Edwin Guevarra and Ester Briones is still subsisting.”[11]

When the case was called for the reception of the defense's evidence, Atty. Baby Ruth Torre, collaborating counsel for the Accused-Appellant, manifested that the defense has no evidence to present and is submitting the case for decision.[12]

On February 9, 2011, the court a quo promulgated its assailed Decision convicting the Accused-Appellant of Bigamy under Article 349 of the Revised Penal Code. The dispositive portion of which states, to wit:

“WHEREFORE, in light of the foregoing consideration, this Court finds accused Edwin B. Guevarra GUILTY beyond reasonable doubt of the crime of bigamy and is hereby sentenced to an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum, and to indemnify the private complainant, Romelyn Caldito-Borja (sic), in the amount of P1000,000.00 by way of moral damages.

SO ORDERED.”[13]

Aggrieved by the above Decision, Accused-Appellant interposed this appeal.[14]

In his Brief, Accused-Appellant raises the sole issue of whether or not he can be held liable for Bigamy.[15]

Accused-Appellant avers that the prosecution failed to prove that his marriage with Ester Briones was valid. He

contends that the validity of his first marriage cannot be presumed by its being registered with the Civil Registry of Pasay City.

The appeal is not meritorious.

Article 349 of the Revised Penal Code under which Accused-Appellant has been charged and convicted provides:

Art. 349. Bigamy. - The penalty of prison 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: 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 requisites for validity. The felony is consummated on the celebration of the second or subsequent marriage. It is essential in the prosecution for bigamy that the alleged second marriage, having all the essential requirements, would be valid were it not for the subsistence of the first marriage.[16]

In the present case, when the Information was filed on February 24, 2005, all the elements of Bigamy are present.

The accusation in the Information – that a prior valid marriage was subsisting at the time the Accused-Appellant contracted a subsequent marriage was established by the following pieces of documentary evidence: 1) The Certificate of Marriage of Accused-Appellant and Ester Briones (Exh. “A”)[17] states that they were married at Pasay City on November 28, 1994 and that the marriage was solemnized by Hon. Sofronio G. Sayo, Presiding Judge of the Regional Trial Court of Pasay City; 2) The Certificate of Marriage (Exh. “B”)[18] of Accused-Appellant and Romelyn V. Caldito states that they were married at Villasis, Pangasinan on April 24, 1996 and that the marriage was officiated by Hon. Saturnino D. Bautista, Municipal Circuit Trial Judge of Villasis, Pangasinan; and 3) The testimony of Romulo Tresvalles that based on records, the marriage between Accused-Appellant and Ester Briones is still subsisting.

Clearly, the prosecution was able to prove that Accused-Appellant committed the crime of Bigamy. Accused-Appellant was legally married to Ester Briones at the time he contracted a second or subsequent marriage with private complainant Romelyn V. Caldito on April 24, 1996 in Villasis, Pangasinan. Accused-Appellant failed to present evidence to prove that his first marriage to Ester Briones under Registry No. 94-3973[19] of the Civil Registry of Pasay City has been legally dissolved, annulled or declared void by a court of competent authority. Likewise, Accused-Appellant and Romelyn's marriage has all the essential requisites and would be valid were it not for the existence of Accused-Appellant's first marriage with Ester Briones. In fact, Accused-Appellant has not disputed the validity of his second marriage.

In the absence therefore of any iota of evidence to show that the first marriage was legally dissolved, Accused-Appellant is liable for bigamy when he contracted a second marriage with Romelyn V. Caldito. A plain reading of Article 349 of the Revised Penal Code would indicate that the provision penalizes the mere act of contracting a second or subsequent marriage during the subsistence of a valid marriage.[20]

In *People vs. Jarillo*,[21] it was held that the moment the accused contracted a second marriage without the previous one having been judicially declared null and void, the crime of bigamy was already consummated because at the time of the celebration of the second marriage, the accused's first marriage which had not yet been declared null and void by a court of competent jurisdiction was deemed valid and subsisting.

Indeed, in Special Proceedings No. V-0691 (Exh. “E”) a Decision was rendered by the a quo declaring Accused-Appellant's marriage with Romelyn V. Caldito as null and void for being bigamous.[22] Under Registry

No. 96-346 of the Office of the Civil Registrar of Villasis, Pangasinan, an annotation was made on the Register of Marriages declaring the said marriage as null and void.[23] As correctly ruled by the court a quo, Accused-Appellant's failure to adduce evidence to prove his innocence in this case, and in Special Proceedings No. V-0691, is proof of admission of guilt on his part.

As to the penalty imposed on Accused-Appellant, We find the same proper.

Article 349 of the Revised Penal Code imposes the penalty of Prison Mayor for Bigamy. Under the Indeterminate Sentence Law, the accused shall be sentenced to an indeterminate penalty, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the Revised Penal Code, and the minimum of which shall be within the range of the penalty next lower than that prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.[24]

Applying the above rule, the penalty next lower to prison mayor is prison correccional, which ranges from 6 months and 1 day to 6 years. Hence, the minimum penalty of 2 years, 4 months and 1 day imposed by the court a quo is, without doubt, correct, as it is within the duration of prison correccional. Considering that no mitigating or aggravating circumstance was proven in this case, the prescribed penalty of prison mayor (6 years and 1 day to 12 years) should be imposed in its medium period, which is from 8 years and 1 day to 10 years. Similarly, the court a quo correctly imposed a maximum penalty of 10 years.

We also find the award of moral damages in the amount of P100,000.00 legally justified.

It is undisputed that Accused-Appellant courted private complainant and they became sweethearts. Their relationship was known to private complainant's mother, Remedios Caldito. Accused-appellant got her pregnant and married her.[25] Before their marriage, Accused-Appellant falsely represented himself to be unmarried or single.[26] He even indicated in the Certificate of Marriage that he was single.[27] Believing that she was lawfully married to the Accused-Appellant, Romelyn had lived with him until she was informed by Ester Briones that she is the legal wife of the Accused-Appellant.[28] Under the circumstances, the acts of fraud and deceit employed by the Accused-Appellant before, during and after her marriage with Romelyn V. Caldito warrants the award of damages in favor of Romelyn.

Pertinent is the case of Manuel vs. People of the Philippines,[29] where it was categorically ruled that the collective acts of fraud and deceit by the offender before, during and after marriage were willful and caused injury to the private complainant that justifies the award of moral damages, thus:

T]he private complainant was an innocent victim of the petitioner's chicanery and heartless deception, the fraud consisting not of a single act alone, but a continuous series of acts. Day by day, he maintained the appearance of being a lawful husband to the private complainant, who changed her status from a single woman to a married woman, lost the consortium, attributes and support of a single man she could have married lawfully and endured mental pain and humiliation, being bound to a man who it turned was not her lawful husband.

Petitioner's collective acts of fraud and deceit before, during and after his marriage with the private complainant were willful, deliberate and with malice and caused injury to the latter.

All told, We find no reversible error committed by the court a quo in convicting the Accused-Appellant for the crime of Bigamy and awarding private complainant moral damages.

WHEREFORE, the foregoing considered, the February 9, 2011 Decision of the RTC, Branch 50, Villasis Pangasinan in Criminal Case No. V-1234, finding Accused-Appellant guilty beyond reasonable doubt of the crime of Bigamy, sentencing him to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor, as maximum, and to indemnify Romelyn Caldito-Guevarra the amount of P100,000.00 as moral damages, is AFFIRMED.

SO ORDERED.

Baltazar-Padilla and Sorongon,[*] JJ., concur.

[*] Vice J. Agnes Reyes-Carpio, per Office Order No. 200-14-ABR.

[1] Rollo, pp. 10-13.

[2] Referred to as Romelyn Caldito-Borja in the assailed February 9, 2011 Decision of the RTC, Rollo, p. 13 (Page 4 of the Decision).

[3] Original Records, p. 8.

[4] Original Records, p. 9.

[5] Original Records, p. 40.

[6] Original Records, p. 39.

[7] Original Records, p. 45.

[8] Original Records, p. 54.

[9] Original Records, p. 59.

[10] Referred to as Exhibit “E” in the Index of Exhibits for the Prosecution. Exhibit “E” was taken judicial notice of by the RTC.

[11] Page 2 of Decision, Rollo, p. 11.

[12] Order dated December 6, 2010, Original Records, p. 132.

[13] Rollo, p. 13.

[14] Rollo, pp. 14-15.

[15] Rollo, p. 19.

[16] Merlinda Cipriano Montanez vs. Lourdes Tajolosa Cipriano, G.R. No. 181089, October 22, 2012.

[17] Original Records, pp. 10.

[18] Original Records, p. 6.

[19] Original Records, p. 10.

[20] Tenebro vs. Court of Appeals, G.R. No. 150758, February 18, 2004.

[21] G.R. No. 164435, September 29, 2009.

[22] TSN, June 23, 2010, pp. 5-9 (Exhibit “E” for the Prosecution).

[23] Original Records, p. 102.

[24] Jarillo vs. People of the Philippines G.R. No. 164435, September 29, 2009.

[25] TSN, June 23, 2010, pp. 7-8.

[26] TSN, June 23, 2010, p. 12.

[27] Exhibit “B”, Original Records, p. 6.

[28] TSN, June 23, 2010, p. 4.

[29] Manuel vs. People of the Philippines, G.R. No. 165842, November 29, 2005.

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