

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ABELO ARAGON, DEFENDANT AND APPELLANT.*G.R. No. L-5930. February 17, 1954*

Ponente: LABRADOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4beeea5332c4/>**LABRADOR, J.:**

The defendant in the above-entitled case is charged in the Court of First Instance of Cebu with the crime of bigamy, for having contracted a second marriage with one Efigenia C. Palomer on September 21, 1947, while his previous valid marriage with Martina Godinez was still subsisting and had not been dissolved. The information is dated May 22, 1951. On October 11, 1951, while the case was pending trial, Efigenia C. Palomer filed a civil action in the same Court of First Instance of Cebu against the defendant-appellant, alleging that the latter "by means of force, threats and intimidation of bodily harm, forced plaintiff to marry him", and praying that their marriage on September 21, 1947 be annulled (Annex A). Thereupon and on April 30, 1952, defendant-appellant filed a motion in the criminal case for bigamy, praying that the criminal charge be provisionally dismissed, on the ground that the civil action for annulment of the second marriage is a prejudicial question. The court denied this motion on the ground that the validity of the second marriage may be determined in the very criminal action for bigamy. Against this order this appeal has been presented to this court.

It is contended that as the marriage between the defendant-appellant and Efigenia C. Palomer is merely a voidable marriage, and not an absolutely void marriage, it can not be attacked in the criminal action and, therefore, it may not be considered therein; consequently, that the civil action to annul the second marriage should first be decided and the criminal action, dismissed. It is not necessary to pass upon this question because we believe that the order of denial must be sustained on another ground.

Prejudicial question has been defined to be that which arises in a case, the resolution of which (question) is a logical antecedent of the issue involved in said case, and the cognizance of which pertains to another tribunal (Cuestion prejudicial, es la que surge en un pleito o causa, cuya resolucio sea antecedents logico de la cuestion objeto del pleito o causa y cuyo conocimiento corresponda a los Tribunales de otro orden o jurisdiccion — X Enciclopedia Juridica Española, p. 228). The prejudicial question must be determinative of the case before the court; this is its first element. Jurisdiction to try said question must be lodged in another tribunal; this is the second element. In an action for bigamy, for example, if the accused claims that the first marriage is null and void and the right to decide such validity is vested in another tribunal, the civil action for nullity must first be decided before the action for bigamy can proceed; hence, the validity of the first marriage is a prejudicial question.

There is no question that if the allegations of the complaint on time the marriage contracted by defendant-appellant with Efigenia C. Palomer is illegal and void (Sec. 29, Act 3613 otherwise known as the Marriage Law). Its nullity, however, is no defense to the criminal action for bigamy filed against-him. The supposed use of force and intimidation against the woman, Palomer, even if it were true, is not a bar or defense to said action. Palomer, were she the one charged with bigamy, could perhaps raise said force or intimidation as a defense, because she may not be considered as having freely and voluntarily committed the act if she was forced

to the marriage by intimidation. But not the other party, who used the force or intimidation. The latter may not use his own malfeasance to defeat the action based on his criminal act.

It follows that the pendency of the civil action for the annulment of the marriage filed by Efigenia C. Palomer, is absolutely immaterial to the criminal action filed against defendant-appellant. This civil action does not decide that defendant-appellant did not enter the marriage against his will and consent, because the complaint does not allege that he was the victim of force and intimidation in the second marriage; it does not determine the existence of any of the elements of the charge of bigamy. A decision thereon is not essential to the determination of the criminal charge. It is, therefore, not a prejudicial question.

There is another reason for dismissing the appeal. The order appealed from is one denying a motion to dismiss and is not a final judgment. It is, therefore, not appealable (Rule 118, secs. 1 and 2).

The order appealed from is hereby affirmed, with costs against defendant-appellant. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.