

PEOPLE OF THE PHILIPPINES, PLAINTIFF- APPELLEE, VS. RODELIO CONCEPCION Y MADARANG, ACCUSED-APPELLANT,

Ponente: LOPEZ, J.

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LOPEZ, J.:

Accused Rodelio M. Concepcion (Rodelio), in this appeal, seeks the reduction of the penalty imposed upon him by the Regional Trial Court (RTC) of Angeles City, Branch 58, for bigamy.

The facts are undisputed.

On May 20, 1981, Rodelio married Alicia D. Concepcion (Alicia) at the Pius XII Catholic Center, U.N. Avenue, Manila. They begot two children namely Christian and Christabel. Sometime in 2003, Alicia discovered that Rodelio was keeping a mistress. This caused their separation.

In February 2004, Alicia found that Rodelio had two marriages: the first marriage was contracted on May 20, 1981 in Manila; and the second was celebrated on April 18, 1988 in Mabalacat, Pampanga. Feeling betrayed, Alicia obtained a copy of the marriage contract[1] that Rodelio had on April 18, 1988. She learned that the second union was with a woman named Nova Sanguyu (Nova). He claimed to be “single” despite his existing marriage with Alicia. She also discovered that three children[2] were born out of his second marriage.

All these revelations prompted Alicia to file a complaint[3] against her husband. After due proceedings, an information was filed charging Rodelio with the crime of bigamy, committed as follows:

That on or about the 18[th] day of April 1988 in the Municipality of Mabalacat, Province of Pampanga, Philippines and within the jurisdiction of this Honorable Court, the above-named accused RODELIO M. CONCEPCION being then united in lawful marriage with private complainant Alicia D. Concepcion and without the said marriage having been legally dissolved did then and there willfully, unlawfully and feloniously contract a second marriage with Nova Sanguyu which the latter only discovered the existence of the second marriage sometime in February 2004 to her damage and prejudice.

CONTRARY TO LAW. [4]

Rodelio pleaded not guilty at his arraignment,[5] and trial ensued.

For the prosecution, Alicia claimed that Rodelio was still validly married to her when he contracted a second marriage with Nova.[6] In her direct examination, she identified pertinent public records to support her allegations.[7] Among the documents presented are Alicia and Rodelio's marriage contract,[8] the birth certificates[9] of their two children, the CENOMAR[10] of Rodelio indicating that he had two marriages, the marriage contract[11] of Rodelio and Nova, as well as the birth certificates[12] of the three children Rodelio had with his second wife. She also testified that sometime in February 2010, she received a copy of annulment papers that Rodelio initiated.[13] However, after filing her counter-affidavit, he withdrew the annulment case.[14]

On the other hand, the defense raised that Rodelio's marriage with Nova has been declared void from the beginning in a Decision[15] dated November 23, 2010 rendered in Civil Case No.3840-10 by the RTC of

Dasmariñas, Cavite, Branch 90. Thus, there is no bigamy to speak of.[16] However, in Rodelio's cross-examination, he admitted that on April 18, 1988, he contracted a second marriage with Nova, with whom, he has three children.[17] He also confessed that prior to his second marriage, he has a subsisting marriage with Alicia.[18]

The trial court rendered a decision finding the accused guilty beyond reasonable doubt of the crime of bigamy, the dispositive portion of which reads:

WHEREFORE, the Court finds accused RODELIO M. CONCEPCION GUILTY beyond reasonable doubt of the crime of BIGAMY. Applying the Indeterminate Sentence Law, he is hereby sentenced to suffer an imprisonment of four (4) years and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum.

Let a warrant of arrest be immediately issued against the accused for the service of his sentence.

SO ORDERED.[19]

Hence, this appeal. The accused prays that his admission during trial be appreciated as modifying circumstance to warrant the reduction of his penalty.

The appeal lacks merit.

Article 349 of the Revised Penal Code, prescribes the penalty of prision mayor for the crime of bigamy. Applying Section 1[20] of the Indeterminate Sentence Law,[21] the trial court imposed upon the accused-appellant the indeterminate penalty of four (4) years and one (1) day of prision correccional as minimum to six (6) years and one (1) day of prision mayor as maximum; thereby disqualifying him from probation.

The claim of the accused that his admission of contracting a second marriage is a mitigating circumstance that would reduce his penalty to one covered by the Probation Law[22] is untenable. Article 13, paragraph 7 of the Revised Penal Code (RPC)[23] requires that voluntary confession of guilt must be made before the presentation of the prosecution-evidence. The reason is to save the precious time and expense of the government during the trial to prove the guilt of the accused. In this case, accused-appellant's admission was not voluntary as it was given out as an answer to the question of the prosecution during his cross-examination. It was made after the prosecution has already presented their evidence and did not serve the purpose of the law to mitigate his responsibility. Thus, it cannot be considered as a mitigating circumstance to reduce his penalty.

Besides, the penalty prescribed for bigamy is prision mayor. There being neither aggravating nor mitigating circumstance present in this case, the maximum term imposable is prision mayor in its medium period,[24] or an equivalent imprisonment of eight (8) years and one (1) day to ten (10) years. Thus, the maximum penalty of six (6) years and one (1) day imposed by the trial court is erroneous and must be corrected to eight (8) years and one (1) day. Applying the indeterminate sentence law, the minimum term may be any period within the range of the penalty next lower to prision mayor, which is prision correccional.[25] The trial court correctly imposed the penalty of four (4) years and one (1) day as minimum of the sentence.

FOR THESE REASONS, the appeal is DENIED. The indeterminate penalty of the accused-appellant Rodelio M. Concepcion is MODIFIED. He shall serve a sentence of four (4) years and one (1) day of prision coreccional as minimum to eight (8) years and one (1) day of prision mayor as maximum.

SO ORDERED.

Tijam, N.G., Chairperson and Garcia-Fernandez, JJ., concur.

[1] Records, p. 12.

[2] As per the Affidavit-Complaint of Alicia D. Concepcion, Rodelio M. Concepcion fathered three children namely Jorge Rendell Sanguyu Concepcion, Jem Sanguyu Concepcion, and Jelo Sanguyu Concepcion, with Nova Sanguyu. Records, p. 7.

[3] Records, Affidavit-Complaint, pp. 6-7.

[4] Id., Information, p. 2.

[5] Id., Certificate of Arraignment dated November 8, 2011, p. 37.

[6] Id., p. 27.

[7] Id., TSN dated October 16, 2012, p. 7-8, 10, 17-20,22, and 24-27.

[8] Id., p. 8.

[9] Id., pp. 9 and 10.

[10] Id., p. 11.

The pertinent portion of which reads: We certify that RODELIO M. CONCEPCION who is alleged to have been born on December 07, 1958 from PACIFICO CONCEPCION and AURORA MADARANG, appears in our National Indices of Marriage for Groom for the years 1973 to 2002 with the following information:

Date of Marriage Place of Marriage

a) May 20, 1981 b) MANILA, MANILA

a) April 18, 1988 b) MABALACAT, PAMPANGA

xxx

[11] Id., p. 12.

[12] Id., pp. 13-14, 15, and 16.

[13] Testimony of Alicia De Jesus Concepcion, TSN dated October 16, 2012, p. 27.

[14] Id., TSN dated December 11, 2012, pp. 7-8.

[15] Records, pp. 79-80.

The dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the marriage of petitioner NOVA B. SANGUYU-CONCEPCION and respondent RODELIO M. CONCEPCION as NULL AND VOID from the beginning upon the ground already aforesated.

xxx

SO ORDERED.

[16] Manifestation of Atty. Westremundo Y. De Guzman, TSN dated August 13, 2013, p. 12

[17] Testimony of Rodelio M. Concepcion, Id., p. 9.

The pertinent portion of which reads:

CROSS EXAMINATION ON RODELIO CONCEPCION BY FISCAL RONALD LEO T. HABAN:

Q

You admit having married the petitioner here in the said decision Nova Sanguyu Concepcion, correct?

A

Yes, sir.

Q

In fact, you gathered (sic) three children?

A

Yes, sir.

Q

Prior to your marriage to Nova Sanguyu, you are married to Alicia de Jesus, correct?

A

Yes, sir.

Q

And you were married with Alicia de Jesus Concepcion?

A

Yes, sir.

Q

While the said marriage is subsisting, you married Nova Sanguyu on April 18, 1980?

A

Yes, sir.

Q

And it is precisely because of the reason that RTC, Branch 90, Dasmariñas, Cavite granted the petition filed by your second wife Nova B. Sanguyu Concepcion because your second marriage to her was bigamous on account of this first marriage with private complainant Alicia de Jesus Concepcion, correct?

A

Yes, sir.

[18] Ibid.

[19] Records, RTC Decision dated November 4, 2013, p. 98.

[20] Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

[21] Republic Act No. 4103, as amended, or otherwise known as Indeterminate Sentence Law.

[22] P. D. No. 968, as amended, otherwise known as Probation Law of 1976.

[23] Article 13, paragraph 7 of the Revised Penal Code, as amended, to wit:

“7. That the offender had voluntarily surrendered himself to a person in authority or his agents, or that he had voluntarily confessed his guilt before the court prior to the presentation of the evidence for the prosecution;”

[24] Article 64, paragraph 1, Id., to wit:

“1. When there are neither aggravating nor mitigating circumstances, they shall impose the penalty prescribed by law in its medium period.”

[25] Article 71. Graduated scales. — In the case in which the law prescribed a penalty lower or higher by one or more degrees than another given penalty, the rules prescribed in Article 61 shall be observed in graduating such penalty.

The lower or higher penalty shall be taken from the graduated scale in which is comprised the given penalty.

The courts, in applying such lower or higher penalty, shall observe the following graduated scales:

SCALE NO. 1

1. Death,
2. Reclusion perpetua,
3. Reclusion temporal,
4. Prision mayor,
5. Prision correccional,

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