

THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. DIONISIO ENRIQUEZ, DEFENDANT AND APPELLANT.

G.R. No. 10533. November 11, 1915

Ponente: ARAULLO, J.

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ARAULLO, J.:

In a judgment rendered by the Court of First Instance of Bataan on September 30, 1914, the herein defendant was sentenced for the crime of illegal marriage to six years and one day of prision mayor, with the accessory penalties of the law and costs. From that judgment he has appealed.

It was proved that the defendant was united in marriage to Juliana Marcelo before the parish priest of Binondo of this city of Manila on July 21, 1886; that without this marriage having been legally dissolved he contracted another marriage, on February 1, 1905, with Joaquina Trajano, before the parish priest of Orion, Province of Bataan. But from the other evidence presented at the trial, the following facts also appear, as set forth in the judgment appealed from:

"It appears by the record that the defendant, Dionisio Enriquez, contracted a canonical marriage with Juliana Marcelo in the parish of Binondo, Manila, on July 21, 1886. He left his wife and children in the barrio of Bantan, municipality of Orion, Province of Bataan, in the year 1895, going to the Province of Laguna as a postal employee; and, after experiencing various vicissitudes during the revolution of '96 and '98, on returning to the said pueblo of Orion in 1901 he did not find his wife, nor could he obtain the slightest information of her or her whereabouts, notwithstanding his persistent and diligent search. Therefore, believing her dead, he determined to contract a canonical marriage with Joaquina Trajano, in the parish of Orion, Bataan, on February 1, 1905. In December, 1913, his first wife, Juliana Marcelo, made her appearance in the pueblo of Orion. In her testimony she stated that she was actually absent and in Manila, Tarlac and Victoria, from 1895 to 1913, when she returned to the pueblo of Orion, and that during this period she had had no news of her husband."

The trial court recognized that the defendant, when he contracted his second marriage with Joaquina Trajano, acted on the reasonable and well founded belief that his first wife, Juliana Marcelo, was dead, in view of the fact that for 19 years he had had no news whatever of her whereabouts and in view of the fruitless result of his endeavors to find her. In other words, he believed in good faith that his marriage with his first wife, Juliana Marcelo, had been dissolved by her death, consequently fraudulent intent, which constitutes one of the essential elements of the crime of illegal marriage, cannot be charged to the defendant and he cannot, therefore, be considered guilty of the said crime.

The fact that, on contracting his second marriage, he stated to the priest who solemnized it that he was single cannot be considered sufficient proof of bad faith on the part of defendant if we take into account, on the one hand, that the defendant satisfactorily explained that statement, and on the other, that he could not have intended to deceive the said priest, for it was proved at the trial that the defendant's children by his first marriage, in company with the defendant's mother, had resided for a long time in the barrio of Bantan of the said municipality of Orion, when the second marriage took place, and that after they were married, these children had houses of

their own in Limay, also a barrio of Orion. Moreover, it was also shown, by the testimony of the priest who celebrated the second marriage, that it was solemnized after due information and the publication of banns.

Therefore, in conformity with the recommendation made by the Attorney-General in his brief, we hereby reverse the judgment appealed from and freely acquit the defendant, with the costs of both instances de oficio.

Arellano, C. J., Torres, Johnson, Carson, and Trent, JJ., concur.

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