

MERARDO L. ZAPANTA, PETITIONER, VS. THE HON. AGUSTIN P. MONTESA, ETC., ET AL., RESPONDENTS.*G. R. No. 14534. February 28, 1962*

Ponente: DIZON, J.

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This is a petition for prohibition filed by Merardo L. Zapanta against the Hon. Agustin P. Montesa, Judge of the Court of First Instance of Bulacan, Fernando A. Cruz, Provincial Fiscal of Bulacan, and Olimpia A. Yco, to enjoin the former from proceeding with the trial of Criminal Case No. 3405 pending the final determination of Civil Case No. 1446 of the Court of First Instance of Pampanga.

Upon complaint filed by respondent Olimpia A. Yco on May 20, 1958, an information for Bigamy was filed by respondent Provincial Fiscal against petitioner in the Court of First Instance of Bulacan (Criminal Case No. 3405), alleging that the latter, having previously married one Estrella Guarin, and without said marriage having been dissolved, contracted a second marriage with said complainant.

On June 16, 1958, petitioner filed in the Court of First Instance of Pampanga Civil Case No. 1446 against respondent Olimpia A. Yco for the annulment of their marriage on the ground of duress, force and intimidation. On the 30th of the same month respondent Yco, as defendant in said case, filed a motion to dismiss the complaint upon the ground that it stated no cause of action, but the same was denied on July 7 of the same year.

On September 2, 1958, petitioner, in turn, filed a motion in Criminal Case No. 3405 to suspend proceedings therein, on the ground that the determination of the issue involved in Civil Case No. 1446 of the Court of First Instance of Pampanga was a prejudicial question. Respondent judge denied the motion on September 20, 1958 as well as petitioner's motion for reconsideration, and ordered his arraignment. After entering a plea of not guilty, petitioner filed the present action.

We have heretofore defined a prejudicial question as that which arises in a case, the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal (*People vs. Aragon*, 94 Phil., 357; 50 Off. Gaz., [10] 4863). The prejudicial question—we further said— must be determinative of the case before the court, and jurisdiction to try the same must be lodged in another court (*People vs. Aragon*, *supra*). These requisites are present in the case at bar. Should the question for annulment of the second marriage pending in the Court of First Instance of Pampanga prosper on the ground that, according to the evidence, petitioner's consent thereto was obtained by means of duress, force and intimidation, it is obvious that his act was involuntary and can not be the basis of his conviction for the crime of bigamy with which he was charged in the Court of First Instance of Bulacan. Thus the issue involved in the action for the annulment of the second marriage is determinative of petitioner's guilt or innocence of the crime of bigamy. On the other hand, there can be no question that the annulment of petitioner's marriage with respondent Yco on the grounds relied upon in the complaint filed in the Court of First Instance of Pampanga is within the jurisdiction of said court.

In the *Aragon* case already mentioned (*supra*) we held that if the defendant in a case for bigamy claims that the

first marriage is void and the right to decide such validity is vested in another court, the civil action for annulment must first be decided before the action for bigamy can proceed. There is no reason not to apply the same rule when the contention of the accused is that the second marriage is void on the ground that he entered into it because of duress, force and intimidation.

Wherefore, the writ prayed for in the petition is hereby granted. Without costs.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, and De Leon, JJ., concur.

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