

VICTORIA S. JARILLO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 164435. June 29, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

This resolves petitioner's Motion for Reconsideration[1] dated November 11, 2009 and respondent's Comment[2] thereto dated March 5, 2010.

In the Decision dated September 29, 2009, the Court affirmed petitioner's conviction for bigamy. Petitioner is moving for reconsideration of the Decision, arguing that since petitioner's marriages were entered into before the effectivity of the Family Code, then the applicable law is Section 29 of the Marriage Law (Act 3613), instead of Article 40 of the Family Code, which requires a final judgment declaring the previous marriage void before a person may contract a subsequent marriage.

Petitioner's argument lacks merit.

As far back as 1995, in *Atienza v. Brillantes, Jr.*,[3] the Court already made the declaration that Article 40, which is a rule of procedure, should be applied retroactively because Article 256 of the Family Code itself provides that said "Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights." The Court went on to explain, thus:

The fact that procedural statutes may somehow affect the litigants' rights may not preclude their retroactive application to pending actions. The retroactive application of procedural laws is not violative of any right of a person who may feel that he is adversely affected. The reason is that as a general rule, no vested right may attach to, nor arise from, procedural laws.[4]

In *Marbella-Bobis v. Bobis*,[5] the Court pointed out the danger of not enforcing the provisions of Article 40 of the Family Code, to wit:

In the case at bar, respondent's clear intent is to obtain a judicial declaration of nullity of his first marriage and thereafter to invoke that very same judgment to prevent his prosecution for bigamy. He cannot have his cake and eat it too. Otherwise, all that an adventurous bigamist has to do is disregard Article 40 of the Family Code, contract a subsequent marriage and escape a bigamy charge by simply claiming that the first marriage is void and that the subsequent marriage is equally void for lack of a prior judicial declaration of nullity of the first. A party may even enter into a marriage aware of the absence of a requisite - usually the marriage license - and thereafter contract a subsequent marriage without obtaining a declaration of nullity of the first on the assumption that the first marriage is void. Such scenario would render nugatory the provision on bigamy. x x x [6]

The foregoing scenario is what petitioner seeks to obtain in her case, and this, the Court shall never sanction. Clearly, therefore, petitioner's asseveration, that Article 40 of the Family Code should not be applied to her case, cannot be upheld.

IN VIEW OF THE FOREGOING, the Motion for Reconsideration dated November 11, 2009 is DENIED with FINALITY.

SO ORDERED.

Velasco, Jr., (Chairperson), Nachura, Leonardo-De Castro, and Villarama, JJ., concur.

[1] Rollo, pp. 255-268.

[2] Id. at 276-280.

[3] A.M. No. MTJ-92-706, March 29, 1995, 243 SCRA 32.

[4] Id. at 35. (Emphasis supplied; citations omitted.)

[5] 391 Phil. 648 (2000).

[6] Id. at 654.

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