

JONA BUMATAY, PETITIONER, V. LOLITA BUMATAY, RESPONDENT.

G.R. No. 191320. April 25, 2017

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CAGUIOA, J:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court filed by Petitioner Jona Bumatay (Jona) against herein Respondent Lolita Bumatay (Lolita), assailing the Court of Appeals': (1) Decision[1] dated August 28, 2009, which denied Petitioner's appeal in the case of People of the Philippines v. Lolita F. Bumatay, docketed as CA-G.R. CR. No. 31124; and (2) Resolution[2] dated February 4, 2010 denying Petitioner's Motion for Reconsideration.

The Facts

Lolita allegedly married a certain Amado Rosete (Amado) on January 30, 1968, when she was 16 years old.[3] The marriage was solemnized before Judge Delfin D. Rosario, in Malasiqui, Pangasinan.[4] Prior to the declaration of nullity of her marriage with Amado on September 20, 2005,[5] Lolita married Jona's foster father,[6] Jose Bumatay (Jose), on November 6, 2003.[7]

On August 17, 2004, Jona filed a Complaint-affidavit for Bigamy against Lolita,[8] summarizing the acts complained of as follows:

[i.]

On January 30, 1968, Ms. Lolita Ferrer contracted marriage with a certain Amado Rosete before the Hon. Delfin D. Rosario, municipal judge of Malasiqui Pangasinan;

[ii.]

Again, on November 6, 2003, while her husband Amado Rosete was still alive and her marriage with him was valid and subsisting, Ms. Lolita Ferrer contracted another marriage with Jose M. Bumatay in Malasiqui, Pangasinan;

[iii.]

When Lolita Ferrer contracted her second marriage with Jose Bumatay, she knows fully well that her first marriage with her first husband Mr. Amado Rosete, who is still living up to today, has not been legally dissolved but existing[.][9]

In her Counter-Affidavit, Lolita claims that she learned from her children (with Amado) that Amado had filed a petition for declaration of nullity of their marriage.[10] Subsequently, sometime in 1990, she was informed by her children that Amado had died in Nueva Vizcaya.[11]

Subsequently, an Information for Bigamy was filed by Prosecutor Bernardo S. Valdez of the Office of the Provincial Prosecutor of San Carlos City, with the Regional Trial Court of San Carlos City, Pangasinan, Branch 56 (RTC-San Carlos) on November 8, 2004.[12] The Information alleged:

The undersigned Government Prosecutor, hereby accuses LOLITA BUMATAY y FERRER, of the crime of

BIGAMY, committed as follows:

That on or about November 6, 2003, in the municipality of Malasiqui, province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Lolita F. Bumatay being then legally married to one Amado Rosete, which marriage is still subsisting not having been legally dissolved, did then and there, willfully, unlawfully and feloniously contracted a second marriage with Jose Bumatay, believing that accused has the legal capacity to contract their marriage, to the damage and prejudice of complainant, Jona S. Bumatay.

Contrary to Article 349 of the Revised Penal Code. San Carlos City, Pangasinan, October 7, 2004.[13]

The Proceedings before the RTC-Dagupan City on Lolita's Petition for Declaration of Nullity

Meanwhile, sometime in January 2005 - after the Information for Bigamy against her was filed[14] in the RTC-San Carlos but before her arraignment, Lolita filed with the Regional Trial Court of Dagupan City, Pangasinan, Branch 43[15] (RTC-Dagupan City) a petition for the declaration of nullity of her marriage to Amado.[16]

On September 20, 2005, the RTC-Dagupan City issued a Decision[17] declaring as null and void the marriage between Lolita and Amado, viz:

WHEREFORE, in view of all of the above, judgment is hereby rendered by this Honorable Court as follows:

- Declaring the marriage between the plaintiff Lolita Ferrer and the defendant Amado Rosete void ab initio;
- Ordering the Local Civil Registrar of Malasiqui, Pangasinan to make the proper annotations in the entry of marriage of the parties in their Register of Marriages.

SO ORDERED.[18]

Based on the evidence submitted, including the testimonies from Lolita herself and her sister Erlinda,[19] the RTC-Dagupan City found that no marriage ceremony took place between Lolita and Amado as it was Lolita's sister who had married Amado and that, in fact, the signature appearing on the marriage certificate was not Lolita's signature but that of her sister's.[20] Thus, to the RTC-Dagupan City, there being no marriage ceremony that actually took place between Amado and Lolita,[21] their marriage was void from the very beginning.[22]

The Bigamy Proceedings before the RTC-San Carlos

In the bigamy case in RTC-San Carlos involving Criminal Case No. SCC-4357, Lolita sought a deferment of the arraignment for bigamy. On November 2, 2005,[23] she filed a Motion to Quash[24] the Information. Her motion was hinged on the argument that the first element of the crime of bigamy - that is, that the offender has been previously legally married - is not present. In support, Lolita attached a copy of the RTC-Dagupan City Decision[25] declaring the marriage between her and Amado void ab initio on the ground that there was no marriage ceremony between them and what transpired was a marriage by proxy.[26]

Subsequently, in its Order[27] dated March 20, 2006, the RTC-San Carlos granted Lolita's Motion to Quash and dismissed the complaint for bigamy, relying on *Morigo v. People*,[28] thus:

Due to the significant resemblance of this case to the *Morigo* case, this Court is constrained to adopt and apply the ruling and principles laid down in *Morigo*. As succinctly put by the Supreme Court in the case aforementioned[:]

"The first element of bigamy as a crime requires that the accused must have been legally married, but in this case, legally speaking, the petitioner was never married to Lucia Barrete. Thus, there is no first marriage to

speak of. Under the principle of retroactivity of a marriage being declared void ab initio, the two were never married from the beginning. The contract of marriage is null; it bears no legal effect. Taking this argument to its logical conclusion, for legal purposes, petitioner was not married to Lucia Barrete at the time he contracted the marriage with Maria Lumbago. The petitioner, must perforce, be acquitted of the charge.

Since the first marriage has been declared void ab initio, there is no first marriage to begin with in determining the foremost element of bigamy. Such declaration of nullity retroacts to the date of the first marriage. The accused in this case was, under the eyes of the law, never married to Amado Rosete at the time she contracted the marriage with Jose Bumatay. Following this judicial fiat, the defense of good faith and lack of criminal intent has been rendered moot and academic."^[29]

The RTC-San Carlos concluded that there were "glaring material similarities"^[30] between Morigo and the case against Lolita. Thus, in dismissing the bigamy case against Lolita, the RTC-San Carlos held that since the first marriage has been declared void ab initio, then, pursuant to the ruling in Morigo, there is no first marriage to begin with in determining the foremost element of bigamy. Such declaration of nullity retroacts to the date of the first marriage.^[31] Thus, accused Lolita in this case was, for all intents and purposes, never married to Amado at the time she contracted the marriage with Jose. Based on the foregoing, the RTC-San Carlos dismissed the Bigamy charge against Lolita. Aggrieved, Jona appealed the RTC-San Carlos' Order to the CA.

The CA Decision

In its Decision dated August 28, 2009,^[32] the CA affirmed the RTC-San Carlos' Order dated March 20, 2006 granting the Motion to Quash and dismissed Jona's appeal. The CA resolved the issue of whether the RTC-San Carlos erred in ordering the quashal of the Information for Bigamy on the ground that the criminal liability of the accused had been extinguished when her first marriage was declared null and void ab initio.^[33]

In upholding the RTC-San Carlos' decision, the CA held that:

First, a motion to quash is the mode by which an accused assails, before entering his plea, the validity of the criminal complaint or information filed against him for insufficiency on its face in point of law, or for a defect apparent on the face of the Information.^[34] Under Rule 117, Section 3 of the Rules of Court, in the hearing of a motion to quash, only such facts as are alleged in the information, and those admitted by the prosecutor, should be taken into account in the resolution thereof unless the Rules expressly permit the investigation of the facts alleged in the motion to quash. However, the Supreme Court has held that under Rule 117, Section 2 of the Rules of Court, a motion to quash may be based on factual and legal grounds and that it necessarily follows that facts outside the Information itself may be introduced to prove such grounds.^[35]

Here, the trial court anchored its acquittal on the Declaration of Nullity issued by the RTC-Dagupan City, on the ground that no actual marriage ceremony took place.^[36] The RTC-Dagupan City reasoned that there being no first marriage to speak of, there was no legal impediment at the time the accused married Jose Bumatay; and as a consequence, the accused is not guilty of bigamy. Consequently, according to the CA, it is crystal clear that in granting the motion to quash, the RTC-Dagupan City took into consideration the factual findings of the RTC-Dagupan City which led to the latter's declaration that the marriage of Lolita and Amado was null and void ab initio.^[37]

Finally, the CA was not persuaded by Jona's contention that the RTC-San Carlos erred in granting the motion to quash on the basis of the decision declaring the nullity of the first marriage since it is not among the grounds for extinction of criminal liability. The CA agreed with the RTC-San Carlos' conclusion that the extinction of criminal liability presupposes the existence of such liability in the first place, which is later totally obliterated by virtue of a certain circumstance that eventually happens. In the present case, criminal liability never existed from

the beginning as the first marriage never validly occurred due to the fact that a marriage ceremony never took place. Hence, there was no criminal liability to extinguish in the first place.[38]

Jona's Motion for Reconsideration was likewise denied by the CA in its Resolution dated February 4, 2010,[39] finding that the arguments raised in the Motion for Reconsideration are substantially a reiteration of those already passed upon and considered by the CA in its Decision. Jona received a copy of said CA Resolution on February 17, 2010.[40]

On April 5, 2010, Jona filed, in her personal capacity, the instant petition. In a Resolution dated April 28, 2010, the Court required Lolita to file her comment.[41] Lolita filed her Comment[42] on June 11, 2010, while Jona filed her Reply (with Compliance) on March 9, 2011.[43]

The Issue

The sole issue brought before this Court is whether the CA committed any reversible error in upholding the RTC-San Carlos' Order granting Lolita's motion to quash the Information for the crime of Bigamy.

The Court's Ruling

The petition is denied.

Based on the records, it appears undisputed that Petitioner has no legal personality to assail the dismissal of the criminal case. Rule 110, Section 5[44] of the Revised Rules of Criminal Procedure,[45] dictates that all criminal actions commenced by complaint or by information shall be prosecuted under the direction and control of a public prosecutor. In appeals of criminal cases before the Supreme Court, the authority to represent the State is vested solely in the Office of the Solicitor General (OSG).[46]

This authority is codified in Section 35(1), Chapter 12, Title III, Book IV of the 1987 Administrative Code, which provides:

SECTION 35. Powers and Functions. — The Office of the Solicitor General shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer. When authorized by the President or head of the office concerned, it shall also represent government-owned or controlled corporations. The Office of the Solicitor General shall constitute the law office of the Government and, as such, shall discharge duties requiring the services of a lawyer. It shall have the following specific powers and functions:

(1)

Represent the Government in the Supreme Court and the Court of Appeals in all criminal proceedings; represent the Government and its officers in the Supreme Court, the Court of Appeals, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. (Emphasis supplied)

Thus, in criminal cases, the People is the real party-in-interest and only the OSG can represent the People in criminal proceedings before this Court. Inasmuch as the private offended party is but a witness in the prosecution of offenses,[47] the interest of the private offended party is limited only to the aspect of civil liability.[48] It follows therefore that in criminal cases, the dismissal of the case against an accused can only be appealed by the Solicitor General, acting on behalf of the State.[49]

In *Beams Philippine Export Corp. v. Castillo*,[50] a similar appeal by a private party of a criminal case, the Court cogently disposed, thus:

"The purpose of a criminal action, in its purest sense, is to determine the penal liability of the accused for having outraged the state with his crime and, if he be found guilty, to punish him for it. In this sense, the parties to the action are the People of the Philippines and the accused. The offended party is regarded merely as a witness for the state."

Consequently, the sole authority to institute proceedings before the CA or the SC is vested only on the OSG. Under Presidential Decree No. 478, among the specific powers and functions of the OSG was to "represent the Government in the [SC] and the [CA] in all criminal proceedings x x x." This provision has been carried over to the Revised Administrative Code particularly in Book IV, Title III, Chapter 12 thereof. Clearly, the OSG is the appellate counsel of the People of the Philippines in all criminal cases.

Moreover, in *Bautista v. Cuneta-Pangilinan*, this Court held that in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the OSG, acting on behalf of the State. The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.

In the present case, a perusal of the petition for certiorari filed by the petitioner before the CA discloses that it sought reconsideration of the criminal aspect of the decision of the RTC, not the civil aspect of the case. xxx

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Clearly, the petition is bereft of any claim for civil liability. In fact, the petitioner did not even briefly discuss the alleged civil liability of the respondents. As such, it is apparent that the petitioner's only desire was to appeal the dismissal of the criminal case against the respondents. Since estafa, however, is a criminal offense, only the OSG has the power to prosecute the case on appeal. Therefore, the petitioner lacked the personality or legal standing to question the RTC decision.[51]

While this Court is mindful of cases[52] where the private offended party was allowed to pursue a criminal action on his or her own behalf — such as when there is a denial of due process - such exceptional circumstances do not exist in this case. The OSG, in its Manifestation,[53] expressly stated that it will not file a reply to Lolita's comment on the petition for review on certiorari considering that it did not file the present petition.[54]

To be sure, Jona's personality to even institute the bigamy case and thereafter to appeal the RTC-San Carlos' Order[55] dismissing the same is nebulous, at best. Settled is the rule that "every action must be prosecuted or defended in the name of the real party in interest[,]" who, in turn, is one "who stands to be benefited or injured by the judgment in the suit, or by the party entitled to the avails of the suit." [56] Within this context, "interest" means material interest or an interest in issue to be affected by the decree or judgment of the case, as distinguished from mere interest in the question involved.[57] To be clear, real interest refers to a present substantial interest, and not a mere expectancy, or a future, contingent, subordinate or consequential interest.[58]

Here, the record is replete with indications[59] that Jona's natural parents are unknown and she was merely raised as the "foster daughter" of Jose Bumatay, without having undergone the process of legal adoption.[60] It likewise does not escape the Court's attention that in the Petition for the Issuance of Letters of Administration filed by Rodelio Bumatay (Jose Bumatay's nephew), Jona was described as "claiming to be the adopted [child] of [Jose] but cannot present legal proof to this effect".[61] Finally, even in her own Reply[62] (to the comment to the petition for review), Jona merely denotes herself as "the only child of the late Jose Bumatay,"[63] without, however, presenting or even indicating any document or proof to support her claim of personality or legal standing.

Based on the foregoing, the Court does not see the need and will not waste its precious time in even delving into the question of whether or not the CA decision upholding the dismissal of the Bigamy case was erroneous or not.

Indeed, in view of the lack of personality of the party who filed the petition, any such discourse by the Court would be obiter and correctly characterized as an advisory opinion.

WHEREFORE, premises considered, this Court resolves to DENY the instant petition for lack of merit and AFFIRM the Court of Appeals' Decision dated August 28, 2009 and Resolution dated February 4, 2010.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Del Castillo, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 33-43. Penned by Associate Justice Portia Aliño-Hormachuelos, with Associate Justices Fernanda Lampas-Peralta and Ramon R. Garcia concurring.

[2] Id. at 31-32.

[3] Id. at 8, 57.

[4] Id. at 35, 57.

[5] Decision in Civil Case No. 2005-0023-D, penned by Judge Silverio Q. Castillo of RTC, Branch 43 of Dagupan City; rollo, pp. 78-84.

[6] Rollo, p. 59.

[7] Id. at 58.

[8] Id. at 12.

[9] Id.

[10] Id. at 35.

[11] Id.

[12] Id. at 14.

[13] Id. at 14, 70.

[14] November 8, 2004.

[15] Presided by Judge Silverio Q. Castillo; the case was docketed as Civil Case No. 2005-0023-D.

[16] Rollo, p. 35.

[17] Id. at 78-84.

[18] Id. at 84.

[19] Id. at 81.

[20] Id. at 83.

[21] Id.

[22] Id.

[23] Id. at 36.

[24] Id. at 72-77. Denominated as Motion to Dismiss/Quash.

[25] Dated September 20, 2005; supra note 17.

[26] Rollo, p. 15.

[27] Id. at 85-89.

[28] 466 Phil. 1013 (2004).

[29] Rollo, p. 88.

[30] Id. at 87.

[31] Id. at 88.

[32] Id. at 33-43.

[33] Id. at 39.

[34] Id.

[35] Id. at 40-41, citing *Garcia v. CA*, 334 Phil. 621, 634 (1997), further citing *People v. De la Rosa*, 187 Phil. 118 (1980).

[36] Id. at 41.

[37] Id.

[38] Id. at 42.

[39] Id. at 31-32.

[40] Id. at 3, 10.

[41] Id. at 90.

[42] Id. at 92-98.

[43] Id. at 109-115.

[44] Section 5. Who must prosecute criminal actions. — All criminal actions either commenced by a complaint or information shall be prosecuted under the direction and control of a public prosecutor. In case of heavy work schedule of the public prosecutor or in the event of lack of public prosecutors, the private prosecutor may be authorized in writing by the Chief of the Prosecution Office or the Regional State Prosecutor to prosecute the case subject to the approval of the court. Once so authorized to prosecute the criminal action, the private prosecutor shall continue to prosecute the case up to the end of the trial even in the absence of a public prosecutor, unless the authority is revoked or otherwise withdrawn.

[45] As amended by A.M. No. 02-2-07-SC, April 10, 2002.

[46] See *Cariño v. De Castro*, 576 Phil. 634, 639 (2008); see also *Macasaet v. People*, 492 Phil. 355, 375 (2005).

[47] See *People v. Santiago*, 255 Phil. 851, 861 (1989).

[48] Id.; *Palu-ay v. CA*, 355 Phil. 94, 99-100 (1998); *Rodriguez v. Gadiane*, 527 Phil. 691, 698-699 (2006).

[49] *Bautista v. Cuneta-Pangilinan*, 698 Phil. 110, 123 (2012); see also *Villareal v. Aliga*, 724 Phil. 47, 57- 58

(2014).

[50] G.R. No. 188372, November 25, 2015, 775 SCRA 489.

[51] *Id.* at 492-493; citations omitted.

[52] See *Jimenez v. Sorongon*, 700 Phil. 316, 325 (2012), citing *Merciales v. Court of Appeals*, 429 Phil. 70, 77 (2002); see *People v. CA*, 676 Phil. 330, 336 (2011).

[53] Dated August 31, 2010; rollo pp. 102-103.

[54] *Id.* at 102.

[55] *Id.* at 85-89.

[56] *Jimenez v. Sorongon*, *supra* note 52, at 324, citing 1997 RULES OF CIVIL PROCEDURE, Rule 3, Sec. 2.

[57] *Id.*, citing *Ang v. Sps. Ang*, 693 Phil. 106, 115 (2012); and *Goco v. Court of Appeals*, 631 Phil. 394, 403 (2010).

[58] *Id.*, citing *United Church of Christ in the Philippines, Inc. v. Bradford United Church of Christ, Inc.*, 688 Phil. 408, 428 (2012); and *Galicto v. H.E. President Aquino III*, 683 Phil. 141, 171 (2012).

[59] Rollo, p. 59, par. 3; *id.* at 45, par. 6.

[60] *Id.*

[61] *Id.* at 45, par. 6.

[62] *Id.* at 109-115.

[63] *Id.* at 110.

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