

ATILANO O. NOLLORA, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 191425. September 07, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

G.R. No. 191425 is a petition for review[1] assailing the Decision[2] promulgated on 30 September 2009 as well as the Resolution[3] promulgated on 23 February 2010 by the Court of Appeals (appellate court) in CA-G.R. CR No. 31538. The appellate court affirmed the 19 November 2007 Decision[4] of Branch 215 of the Regional Trial Court of Quezon City (trial court) in Criminal Case No. Q-04-129031.

The trial court found accused Atilano O. Nollora, Jr. (Nollora) guilty of bigamy under Article 349 of the Revised Penal Code and sentenced him to suffer imprisonment. Co-accused Rowena Geraldino (Geraldino) was acquitted for the prosecution's failure to prove her guilt beyond reasonable doubt.

The Facts

The appellate court recited the facts as follows:

On August 24, 2004, Assistant City Prosecutor Raymond Jonathan B. Lledo filed an Information against Atilano O. Nollora, Jr. ("Nollora") and Rowena P. Geraldino ("Geraldino") for the crime of Bigamy. The accusatory portion of the Information reads:

"That on or about the 8[th] day of December 2001 in Quezon City, Philippines, the above-named accused ATILANO O. NOLLORA, JR., being then legally married to one JESUSA PINAT NOLLORA, and as said marriage has not been legally dissolved and still subsisting, did then and there willfully, unlawfully and feloniously contract a subsequent or second marriage with her [sic] co-accused ROWENA P. GERALDINO, who knowingly consented and agreed to be married to her co-accused ATILANO O. NOLLORA, JR. knowing him to be a married man, to the damage and prejudice of the said offended party JESUSA PINAT NOLLORA."

Upon his arraignment on April 18, 2005, accused Nollora assisted by counsel, refused to enter his plea. Hence, a plea of not guilty was entered by the Court for him. Accused Geraldino, on the other hand, entered a plea of not guilty when arraigned on June 14, 2005. On even date, pre-trial conference was held and both the prosecution and defense entered the following stipulation of facts:

- "1. the validity of the first marriage between Atilano O. Nollora, Jr. and Jesusa Pinat Nollora solemnized on April 6, 1999 at Sapang Palay, San Jose del Monte;
2. that Atilano O. Nollora, Jr. contracted the second marriage with Rowena P. Geraldino on December 8, 2001 in Quezon City;

3. that in the Counter-Affidavit of Atilano O. Nollora, Jr., he admitted that he contracted the second marriage to Rowena P. Geraldino;
4. that Rowena P. Geraldino attached to her Counter-Affidavit the Certificate of Marriage with Atilano O. Nollora, Jr. dated December 8, 2001;
5. the fact of marriage of Rowena P. Geraldino with Atilano O. Nollora, Jr. as admitted in her Counter-Affidavit."

The only issue thus proffered by the prosecution for the RTC's resolution is whether or not the second marriage is bigamous. Afterwards, pre-trial conference was terminated and the case was set for initial hearing. Thereafter, trial ensued.

Evidence for the Prosecution

As culled from the herein assailed Decision, the respective testimonies of prosecution witnesses were as follows:

"xxx (W)itness Jesusa Pinat Nollora xxx testified that she and accused Atilano O. Nollora, Jr. met in Saudi Arabia while she was working there as a Staff Midwife in King Abdulah Naval Base Hospital. Atilano O. Nollora, Jr. courted her and on April 6, 1999, they got married at the [IE] MELIF Chrch [sic] in Sapang Palay, San Jose del Monte, Bulacan (Exhibit `A'). While working in said hospital, she heard rumors that her husband has another wife and because of anxiety and emotional stress, she left Saudi Arabia and returned to the Philippines (TSN, October 4, 2005, page 10). Upon arrival in the Philippines, the private complainant learned that indeed, Atilano O. Nollora, Jr. contracted a second marriage with co-accused Rowena P. Geraldino on December 8, 2001 (Exhibit `B') when she secured a certification as to the civil status of Atilano O. Nollora, Jr. (Exhibit `C') from the National Statistics Office (NSO) sometime in November 2003.

Upon learning this information, the private complainant confronted Rowena P. Geraldino at the latter's workplace in CBW, FTI, Taguig and asked her if she knew of the first marriage between complainant and Atilano O. Nollora, Jr. to which Rowena P. Geraldino allegedly affirmed and despite this knowledge, she allegedly still married Atilano O. Nollora, Jr. because she loves him so much and because they were neighbors and childhood friends. Private complainant also knew that Rowena P. Geraldino knew of her marriage with Atilano O. Nollora, Jr., because when she (private complainant) was brought by Atilano O. Nollora, Jr. at the latter's residence in Taguig, Metro Manila and introduced her to Atilano O. Nollora, Jr.'s parents, Rowena P. Geraldino was there in the house together with a friend and she heard everything that they were talking about.

Because of this case, private complainant was not able to return to Saudi Arabia to work as a Staff Midwife thereby losing income opportunity in the amount of P34,000.00 a month, more or less. When asked about the moral damages she suffered, she declared that what happened to her was a tragedy and she had entertained [thoughts] of committing suicide. She added that because of what happened to her, her mother died and she almost got raped when Atilano O. Nollora, Jr. left her alone in their residence in Saudi Arabia. However, she declared that money is not enough to assuage her sufferings. Instead, she just asked for the return of her money in the amount of P50,000.00 (TSN, July 26, 2005, pages 4-14).

Prosecution witness Ruth Santos testified that she knew of the marriage between the private complainant and Atilano O. Nollora, Jr., because she was one of the sponsors in said wedding. Sometime in November 2003, she was asked by the private complainant to accompany the latter to the workplace of Rowena P. Geraldino in FTI, Taguig, Metro Manila. She declared that the private complainant and Rowena P. Geraldino had a confrontation and she heard that Rowena P. Geraldino admitted that she (Rowena) knew of the first marriage of Atilano O. Nollora, Jr. and the private complainant but she still went on to marry Atilano O. Nollora, Jr. because she loves him very much (TSN, October 24, 2005, pages 3-5).

Evidence for the Defense

The defense's version of facts, as summarized in the herein assailed Decision, is as follows:

"Accused Atilano O. Nollora, Jr. admitted having contracted two (2) marriages, the first with private complainant Jesusa Pinat and the second with Rowena P. Geraldino. He, however, claimed that he was a Muslim convert way back on January 10, 1992, even before he contracted the first marriage with the private complainant. As a [M]uslim convert, he is allegedly entitled to marry four (4) wives as allowed under the Muslim or Islam belief.

To prove that he is a Muslim convert even prior to his marriage to the private complainant, Atilano O. Nollora, Jr. presented a Certificate of Conversion dated August 2, 2004 issued by one Hadji Abdul Kajar Madueño and approved by one Khad Ibrahim A. Alyamin wherein it is stated that Atilano O. Nollora, Jr. allegedly converted as a Muslim since January 19, 1992 (Exhibit `2,' `3' and `4'). Aside from said certificate, he also presented a Pledge of Conversion dated January 10, 1992 issued by the same Hadji Abdul Kajar Madueño and approved by one Khad Ibrahim A. Alyamin (Exhibit `7').

He claimed that the private complaint knew that he was a Muslim convert prior to their marriage because she [sic] told this fact when he was courting her in Saudi Arabia and the reason why said private complainant filed the instant case was due to hatred having learned of his second marriage with Rowena P. Geraldino. She [sic] further testified that Rowena P. Geraldino was not aware of his first marriage with the private complainant and he did not tell her this fact because Rowena P. Geraldino is a Catholic and he does not want to lose her if she learns of his first marriage.

He explained that in his Marriage Contract with Jesusa Pinat, it is indicated that he was a `Catholic Pentecostal' but that he was not aware why it was placed as such on said contract. In his Marriage Contract with Rowena P. Geraldino, the religion `Catholic' was also indicated because he was keeping as a secret his being a Muslim since the society does not approve of marrying a Muslim. He also indicated that he was `single' despite his first marriage to keep said first marriage a secret (TSN, January 30, 2006, pages 2-13).

Defense witness Hadji Abdul Qasar Madueño testified that he is the founder and president of Balik Islam Tableegh Foundation of the Philippines and as such president, he has the power and authority to convert any applicant to the Muslim religion. He alleged that sometime in 1992, he met accused Atilano O. Nollora, Jr. in Mabini (Manila) who was then going abroad. Atilano O. Nollora, Jr. applied to become a Muslim (Exhibit `14') and after receiving the application, said accused was indoctrinated regarding his obligations as a Muslim. On January 10, 1992, Atilano O. Nollora, Jr. embraced the Muslim faith. He was then directed to report every Sunday to monitor his development.

In the year 2004, Atilano O. Nollora, Jr. visited him and asked for a certification because of the filing of the instant case. On October 2, 2004, he issued a Certificate of Conversion wherein it is stated that Atilano O. Nollora, Jr. is a Muslim convert since January 10, 1992. Apart from the above-mentioned document, their `Imam' also issued a Pledge of Conversion (Exhibit `7'). He declared that a Muslim convert could marry more than one according to the Holy Koran. However, before marrying his second, third and fourth wives, it is required that the consent of the first Muslim wife be secured. Thus, if the first wife is not a Muslim, there is no necessity to secure her consent (TSN, October 9, 2006, pages 2-12).

During his cross-examinations, he declared that if a Muslim convert gets married not in accordance with the Muslim faith, the same is contrary to the teachings of the Muslim faith. A Muslim also can marry up to four times but he should be able to treat them equally. He claimed that he was not aware of the first marriage but was aware of the second. Since his second marriage with Rowena P. Geraldino was not in accordance with the Muslim faith, he advised Atilano O. Nollora, Jr. to re-marry Rowena P. Geraldino in accordance with Muslim marriage celebration, otherwise, he will not be considered as a true Muslim (TSN, June 25, 2007, pages 3-7).

Accused Rowena P. Geraldino alleged that she was only a victim in this incident of bigamous marriage. She claimed that she does not know the private complainant Jesusa Pinat Nollora and only came to know her when

this case was filed. She insists that she is the one lawfully married to Atilano O. Nollora, Jr., having been married to the latter since December 8, 2001. Upon learning that Atilano O. Nollora, Jr. contracted a first marriage with the private complainant, she confronted the former who admitted the said marriage. Prior to their marriage, she asked Atilano O. Nollora, Jr. if he was single and the latter responded that he was single. She also knew that her husband was a Catholic prior to their marriage but after she learned of the first marriage of her husband, she learned that he is a Muslim convert. She also claimed that after learning that her husband was a Muslim convert, she and Atilano O. Nollora, Jr., also got married in accordance with the Muslim rites. She also belied the allegations of the private complainant that she was sought by the private complainant and that they had a confrontation where she admitted that she knew that Atilano O. Nollora, Jr. was married to the private complainant and despite this knowledge, she went on to marry him because she loved him very much. She insisted that she only came to know the private complainant when she (private complainant) filed this case (TSN, August 14, 2007, pages 2-8)."[5]

The Trial Court's Ruling

In its Decision[6] dated 19 November 2007, the trial court convicted Nollora and acquitted Geraldino.

The trial court stated that there are only two exceptions to prosecution for bigamy: Article 41[7] of the Family Code, or Executive Order No. 209, and Article 180[8] of the Code of Muslim Personal Laws of the Philippines, or Presidential Decree No. 1083. The trial court also cited Article 27 of the Code of Muslim Personal Laws of the Philippines, which provides the qualifications for allowing Muslim men to have more than one wife: "[N]o Muslim male can have more than one wife unless he can deal with them in equal companionship and just treatment as enjoined by Islamic Law and only in exceptional cases."

In convicting Nollora, the trial court's Decision further stated thus:

The principle in Islam is that monogamy is the general rule and polygamy is allowed only to meet urgent needs. Only with the permission of the court can a Muslim be permitted to have a second wife subject to certain requirements. This is because having plurality of wives is merely tolerated, not encouraged, under certain circumstances (Muslim Law on Personal Status in the Philippines by Amer M. Bara-acal and Abdulmajid J. Astir, 1998 First Edition, Pages 64-65). Arbitration is necessary. Any Muslim husband desiring to contract subsequent marriages, before so doing, shall notify the Shari'a Circuit Court of the place where his family resides. The clerk of court shall serve a copy thereof to the wife or wives. Should any of them objects [sic]; an Agama Arbitration Council shall be constituted. If said council fails to secure the wife's consent to the proposed marriage, the Court shall, subject to Article 27, decide whether on [sic] not to sustain her objection (Art. 162, Muslim Personal Laws of the Philippines).

Accused Atilano Nollora, Jr., in marrying his second wife, co-accused Rowena P. Geraldino, did not comply with the above-mentioned provision of the law. In fact, he did not even declare that he was a Muslim convert in both marriages, indicating his criminal intent. In his converting to the Muslim faith, said accused entertained the mistaken belief that he can just marry anybody again after marrying the private complainant. What is clear, therefore, is [that] a Muslim is not given an unbridled right to just marry anybody the second, third or fourth time. There are requirements that the Shari'a law imposes, that is, he should have notified the Shari'a Court where his family resides so that copy of said notice should be furnished to the first wife. The argument that notice to the first wife is not required since she is not a Muslim is of no moment. This obligation to notify the said court rests upon accused Atilano Nollora, Jr. It is not for him to interpret the Shari'a law. It is the Shari'a Court that has this authority.

In an apparent attempt to escape criminal liability, the accused recelebrated their marriage in accordance with the Muslim rites. However, this can no longer cure the criminal liability that has already been violated.

The Court, however, finds criminal liability on the person of accused Atilano Nollora, Jr., only. There is no

sufficient evidence that would pin accused Rowena P. Geraldino down. The evidence presented by the prosecution against her is the allegation that she knew of the first marriage between private complainant and Atilano Nollora, Jr., is insufficient[,] being open to several interpretations. Private complainant alleged that when she was brought by Atilano Nollora, Jr., to the latter's house in Taguig, Metro Manila, Rowena P. Geraldino was there standing near the door and heard their conversation. From this incident, private complainant concluded that said Rowena P. Geraldino was aware that she and Atilano Nollora, Jr., were married. This conclusion is obviously misplaced since it could not be reasonably presumed that Rowena P. Geraldino understands what was going on between her and Atilano Nollora, Jr. It is axiomatic that "(E)very circumstance favoring accused's innocence must be taken into account, proof against him must survive the test of reason and the strongest suspicion must not be permitted to sway judgment" (People vs. Austria, 195 SCRA 700). This Court, therefore, has to acquit Rowena P. Geraldino for failure of the prosecution to prove her guilt beyond reasonable doubt.

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

- a) Finding accused ATILANO O. NOLLORA, JR. guilty beyond reasonable doubt of the crime of Bigamy punishable under Article 349 of the Revised Penal Code. This court hereby renders judgment imposing upon him a prison term of two (2) years, four (4) months and one (1) day of prision correccional, as minimum of his indeterminate sentence, to eight (8) years and one (1) day of prision mayor, as maximum, plus accessory penalties provided by law.
- b) Acquitting accused ROWENA P. GERALDINO of the crime of Bigamy for failure of the prosecution to prove her guilt beyond reasonable doubt.

Costs against accused Atilano O. Nollora, Jr.

SO ORDERED.[9]

Nollora filed a notice of appeal and moved for the allowance of his temporary liberty under the same bail bond pending appeal. The trial court granted Nollora's motion.

Nollora filed a brief with the appellate court and assigned only one error of the trial court:

The trial court gravely erred in finding the accused-appellant guilty of the crime charged despite the prosecution's failure to establish his guilt beyond reasonable doubt.[10]

The Appellate Court's Ruling

On 30 September 2009, the appellate court dismissed Nollora's appeal and affirmed the trial court's decision.[11]

The appellate court rejected Nollora's defense that his second marriage to Geraldino was in lawful exercise of his Islamic religion and was allowed by the Qur'an. The appellate court denied Nollora's invocation of his religious beliefs and practices to the prejudice of the non-Muslim women who married him pursuant to Philippine civil laws. Nollora's two marriages were not conducted in accordance with the Code of Muslim Personal Laws, hence the Family Code of the Philippines should apply. Nollora's claim of religious freedom will not immobilize the State and render it impotent in protecting the general welfare.

In a Resolution[12] dated 23 February 2010, the appellate court denied Nollora's motion for reconsideration. The allegations in the motion for reconsideration were a mere rehash of Nollora's earlier arguments, and there was no reason for the appellate court to modify its 30 September 2009 Decision.

Nollora filed the present petition for review before this Court on 6 April 2010.

The Issue

The issue in this case is whether Nollora is guilty beyond reasonable doubt of the crime of bigamy.

The Court's Ruling

Nollora's petition has no merit. We affirm the rulings of the appellate court and of the trial court.

Elements of Bigamy

Article 349 of the Revised Penal Code provides:

Art. 349. Bigamy. - The penalty of prision mayor shall be imposed upon any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

The elements of the crime of bigamy are:

- That the offender has been legally married.
- That the marriage has not been legally dissolved or, in case his or her spouse is absent, the absent spouse could not yet be presumed dead according to the Civil Code.
- That he contracts a second or subsequent marriage.
- That the second or subsequent marriage has all the essential requisites for validity.[13]

The circumstances in the present case satisfy all the elements of bigamy. (1) Nollora is legally married to Pinat;[14] (2) Nollora and Pinat's marriage has not been legally dissolved prior to the date of the second marriage; (3) Nollora admitted the existence of his second marriage to Geraldino;[15] and (4) Nollora and Geraldino's marriage has all the essential requisites for validity except for the lack of capacity of Nollora due to his prior marriage.[16]

The marriage certificate[17] of Nollora and Pinat's marriage states that Nollora and Pinat were married at Sapang Palay IEMELIF Church, Sapang Palay, San Jose del Monte, Bulacan on 6 April 1999. Rev. Jonathan De Mesa, Minister of the IEMELIF Church officiated the ceremony. The marriage certificate[18] of Nollora and Geraldino's marriage states that Nollora and Geraldino were married at Max's Restaurant, Quezon Avenue, Quezon City, Metro Manila on 8 December 2001. Rev. Honorato D. Santos officiated the ceremony.

A certification dated 4 November 2003 from the Office of the Civil Registrar General reads:

We certify that ATILANO JR O. NOLLORA who is alleged to have been born on February 22, 1968 from ATILANO M. NOLLORA SR and FLAVIANA OCLARIT, 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) April 06, 1999

b) SAN JOSE DEL MONTE, BULACAN

a) December 08, 2001

b) QUEZON CITY, METRO MANILA (2nd District)[19]

Before the trial and appellate courts, Nollora put up his Muslim religion as his sole defense. He alleged that his religion allows him to marry more than once. Granting *arguendo* that Nollora is indeed of Muslim faith at the time

of celebration of both marriages,[20] Nollora cannot deny that both marriage ceremonies were not conducted in accordance with the Code of Muslim Personal Laws, or Presidential Decree No. 1083. The applicable Articles in the Code of Muslim Personal Laws read:

Art. 14. Nature. - Marriage is not only a civil contract but a civil institution. Its nature, consequences and incidents are governed by this Code and the Shari'a and not subject to stipulation, except that the marriage settlements to a certain extent fix the property relations of the spouses.

Art. 15. Essential Requisites. - No marriage contract shall be perfected unless the following essential requisites are complied with:

- (a) Legal capacity of the contracting parties;
- (b) Mutual consent of the parties freely given;
- (c) Offer (ijab) and acceptance (qabul) duly witnessed by at least two competent persons after the proper guardian in marriage (wali) has given his consent; and
- (d) Stipulation of the customary dower (mahr) duly witnessed by two competent persons.

Art. 16. Capacity to contract marriage. - (1) Any Muslim male at least fifteen years of age and any Muslim female of the age of puberty or upwards and not suffering from any impediment under the provisions of this Code may contract marriage. A female is presumed to have attained puberty upon reaching the age of fifteen.

x x x.

Art. 17. Marriage Ceremony. - No particular form of marriage ceremony is required but the ijab and the qabul in marriage shall be declared publicly in the presence of the person solemnizing the marriage and the two competent witnesses. The declaration shall be set forth in an instrument in triplicate, signed or marked by the contracting parties and said witnesses, and attested by the person solemnizing the marriage. One copy shall be given to the contracting parties and another sent to the Circuit Registrar by the solemnizing officer who shall keep the third.

Art. 18. Authority to solemnize marriage. - Marriage maybe solemnized:

- (a) By the proper wali by the woman to be wedded;
- (b) Upon the authority of the proper wali, by any person who is competent under Muslim law to solemnize marriage; or
- (c) By the judge of the Shari'a District Court or Shari'a Circuit Court or any person designated by the judge, should the proper wali refuse without justifiable reason, to authorize the solemnization.

Art. 19. Place of solemnization. - Marriage shall be solemnized publicly in any mosque, office of the Shari'a judge, office of the Circuit Registrar, residence of the bride or her wali, or at any other suitable place agreed upon by the parties.

Art. 20. Specification of dower. - The amount or value of dower may be fixed by the contracting parties (mahr-musamma) before, during or after the celebration of marriage. If the amount or the value thereof has not been so fixed, a proper dower (mahr- mithl) shall, upon petition of the wife, be determined by the court according to the social standing of the parties.

Indeed, Article 13(2) of the Code of Muslim Personal Laws states that "[i]n case of a marriage between a Muslim and a non-Muslim, solemnized not in accordance with Muslim law or this Code, the [Family Code of the Philippines, or Executive Order No. 209, in lieu of the Civil Code of the Philippines] shall apply." Nollora's religious affiliation is not an issue here. Neither is the claim that Nollora's marriages were solemnized according to Muslim law. Thus, regardless of his professed religion, Nollora cannot claim exemption from liability for the

crime of bigamy.[21]

Nollora asserted in his marriage certificate with Geraldino that his civil status is "single." Moreover, both of Nollora's marriage contracts do not state that he is a Muslim. Although the truth or falsehood of the declaration of one's religion in the marriage certificate is not an essential requirement for marriage, such omissions are sufficient proofs of Nollora's liability for bigamy. Nollora's false declaration about his civil status is thus further compounded by these omissions.

[ATTY. CALDINO:]

Q: In your marriage contract, Mr. Witness, with Jesusa Pinat, you indicated here as your religion, Catholic Pentecostal, and you were saying that since January 10, 1992, you are already a [M]uslim convert. . . you said, Mr. Witness, that you are already a [M]uslim convert since January 10, 1992. However, in your marriage contract with Jesusa Pinat, there is no indication here that you have indicated your religion. Will you please go over your marriage contract?

[NOLLORA:]

A: When we got married, they just placed there Catholic but I didn't know why they did not place any Catholic there.

x x x

Q: Now, Mr. Witness, I would like to call your attention with respect to your marriage contract with your co-accused in this case, Rowena Geraldino, x x x will you please tell us, Mr. Witness, considering that you said that you are already a [M]uslim convert on January 10, 1992, why in the marriage contract with Rowena Geraldino, you indicated there your religion as Catholic, Mr. Witness?

A: Since I was a former Catholic and since I was then keeping, I was keeping it as a secret my being my Balik-Islam, that's why I placed there Catholic since I know that the society doesn't approve a Catholic to marry another, that's why I placed there Catholic as my religion, sir.

Q: How about under the column, "civil status," why did you indicate there that you're single, Mr. Witness?

A: I also kept it as a secret that I was married, earlier married. [22] (Emphasis supplied)

x x x

[PROSECUTOR TAYLOR:]

Q: Would you die for your new religion, Mr. Nollora?

A: Yes, ma'am.

Q: If you would die for your new religion, why did you allow that your faith be indicated as Catholic when in fact you were already as you alleged [M]uslim to be put in your marriage contract?

x x x

[A:] I don't think there is anything wrong with it, I just signed it so we can get married under the Catholic rights [sic] because after that we even got married under the [M]uslim rights [sic], your Honor.

x x x

Q: Under your Muslim faith, if you marry a second wife, are you required under your faith to secure the permission of your first wife to get married?

A: Yes, ma'am.

Q: Did you secure that permission from your first wife, Jesusa Nollora?

A: I was not able to ask any permission from her because she was very mad at me, at the start, she was always very mad, ma'am.[23]

In his petition before this Court, Nollora casts doubt on the validity of his marriage to Geraldino. Nollora may not impugn his marriage to Geraldino in order to extricate himself from criminal liability; otherwise, we would be opening the doors to allowing the solemnization of multiple flawed marriage ceremonies. As we stated in *Tenebro v. Court of Appeals*:^[24]

There is therefore a recognition written into the law itself that such a marriage, although void ab initio, may still produce legal consequences. Among these legal consequences is incurring criminal liability for bigamy. To hold otherwise would render the State's penal laws on bigamy completely nugatory, and allow individuals to deliberately ensure that each marital contract be flawed in some manner, and to thus escape the consequences of contracting multiple marriages, while beguiling throngs of hapless women with the promise of futurity and commitment.

WHEREFORE, we DENY the petition. The Decision of the Court of Appeals in CA-G.R. CR No. 31538 promulgated on 30 September 2009 and the Resolution promulgated on 23 February 2010 are AFFIRMED. Petitioner Atilano O. Nollora, Jr. is guilty beyond reasonable doubt of Bigamy in Criminal Case No. Q-04-129031 and is sentenced to suffer the penalty of imprisonment with a term of two years, four months and one day of prision correccional as minimum to eight years and one day of prision mayor as maximum of his indeterminate sentence, as well as the accessory penalties provided by law.

Costs against petitioner Atilano O. Nollora, Jr.

SO ORDERED.

Brion, Peralta,[*] Perez, and Mendoza,**] JJ., concur.

[*] Designated Acting Member per Special Order No. 1074 dated 6 September 2011.

[**] Designated Acting Member per Special Order No. 1066 dated 23 August 2011.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 21-37. Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Andres B. Reyes, Jr. and Marlene Gonzales-Sison, concurring.

[3] Id. at 38. Penned by Associate Justice Vicente S.E. Veloso, with Associate Justices Andres B. Reyes, Jr. and Marlene Gonzales- Sison, concurring.

[4] CA rollo, pp. 26-33. Penned by Judge Ma. Luisa C. Quijano- Padilla.

[5] Rollo, pp. 22-27.

[6] CA rollo, pp. 26-33.

[7] Art. 41. A marriage contracted by any person during the subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present had a well-founded belief that the absent spouse was already dead. In

case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

[8] Article 180. Law applicable. The provisions of the Revised Penal Code relative to the crime of bigamy shall not apply to a person married in accordance with the provisions of this Code or, before its effectivity, under Muslim law.

[9] CA rollo, pp. 31-33.

[10] Id. at 52.

[11] Rollo, pp. 21-37.

[12] Id. at 38.

[13] Luis B. Reyes, *The Revised Penal Code: Criminal Law* 907 (1998).

[14] Exhibit "A," Records, p. 117.

[15] TSN, 30 January 2006, p. 4.

[16] Exhibit "B," Records, p. 118. Also Article 2 of the Family Code of the Philippines, Executive Order No. 209 (1988).

Art. 2. No marriage shall be valid, unless these essential requisites are present:

- (1) Legal capacity of the contracting parties who must be a male and a female; and
- (2) Consent freely given in the presence of the solemnizing officer.

[17] Exhibit "A," Records, p. 117.

[18] Exhibit "B," id. at 118.

[19] Exhibit "C," id. at 119.

[20] Id. at 195-198, 201, 206-207. Nollora presented various proofs of his Muslim affiliation:

Exhibit "1" and submarkings - Balik Islam Tableegh Foundation of the Philippines' Membership Application Form accomplished in handwritten form, dated 10 January 1992;

Exhibit "2" and submarkings - Certificate of Conversion to Islam dated 2 October 2004 issued by Hadji Abdul Hai Qahar Madueño, President of Balik Islam Tableegh Foundation of the Philippines;

Exhibit "3" and submarkings - Certificate of Conversion to Islam dated 17 December 2003 issued by Abdullah M. Al-Hamid, Director General of the Riyadh branch of the Ministry of Islamic Affairs, Endowments, Call and Guidance, Kingdom of Saudi Arabia;

Exhibits "4," "12" and "13" - Certificate of Conversion to Islam dated 17 December 2003 issued by the Civil Registry of Zamboanga City, Zamboanga del Sur; and

Exhibit "7" and submarkings - Nollora's Pledge of Conversion dated 10 January 1992 issued by Hadji Abdul Hai Qahar Madueño, President of Balik Islam Tableegh Foundation of the Philippines.

[21] Supra note 8.

[22] TSN, 30 January 2006, pp. 11-12.

[23] TSN, 29 May 2006, pp. 6, 9-10.

[24] 467 Phil. 723, 744 (2004).

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