

ATTY. MARIETTA D. ZAMORANOS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SAMSON R. PACASUM, SR., RESPONDENTS.*G.R. No. 193902. June 01, 2011*

Ponente: NACHURA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-193902/>**NACHURA, J.:**

These are three (3) consolidated petitions for review on certiorari under Rule 45 of the Rules of Court, assailing the Decision[1] dated July 30, 2010 of the Court of Appeals (CA) in CA-G.R. SP No. 03525-MIN, dismissing the petition for certiorari filed by petitioner Atty. Marietta D. Zamoranos (Zamoranos) in G.R. No. 193902, thus, affirming the Order[2] of the Regional Trial Court (RTC), Branch 6, Lanao del Norte, in Criminal Case No. 06-12305 for Bigamy filed by petitioner Samson R. Pacasum, Sr. in G.R. No. 194075.

Before anything else, we disentangle the facts.

On May 3, 1982, Zamoranos wed Jesus de Guzman, a Muslim convert, in Islamic rites. Prior thereto, Zamoranos was a Roman Catholic who had converted to Islam on April 28, 1982. Subsequently, on July 30, 1982, the two wed again, this time, in civil rites before Judge Perfecto Laguio (Laguio) of the RTC, Quezon City.

A little after a year, on December 18, 1983, Zamoranos and De Guzman obtained a divorce by talaq. The dissolution of their marriage was confirmed by the Shari'a Circuit District Court, 1[st] Circuit, 3[rd] District, Isabela, Basilan, which issued a Decree of Divorce on June 18, 1992, as follows:

DECREE OF DIVORCE

This is a case for divorce filed by the herein complainant Marietta (Mariam) D. Zamoranos de Guzman against her husband, the herein respondent, on the ground that the wife, herein complainant, was previously given by her husband the authority to exercise Talaq, as provided for and, in accordance with Presidential Decree No. 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines.

When this case was called for hearing[,] both parties appeared and herein respondent, Jesus (Mohamad) de Guzman[,] interposes no objection to confirm their divorce, which they have freely entered into on December 18, 1983.

This Court, after evaluating the testimonies of the herein parties is fully convinced that both the complainant and the respondent have been duly converted to the faith of Islam prior to their Muslim wedding and finding that there is no more possibility of reconciliation by and between them, hereby issues this decree of divorce.

WHEREFORE, premises considered and pursuant to the provisions of the Code of Muslim Personal Laws of the Philippines, this petition is hereby granted. Consequently, the marriage between Marietta (Mariam) D. Zamoranos de Guzman and Jesus (Mohamad) de Guzman is hereby confirmed dissolved.

Issued this 18[th] day of June, 1992, at Isabela, Basilan Province, Philippines.

(signed)

HON. KAUDRI L. JAINUL

Presiding Judge[3]

Now it came to pass that Zamoranos married anew on December 20, 1989. As she had previously done in her first nuptial to De Guzman, Zamoranos wed Samson Pacasum, Sr. (Pacasum), her subordinate at the Bureau of Customs where she worked, under Islamic rites in Balo-i, Lanao del Norte. Thereafter, on December 28, 1992, in order to strengthen the ties of their marriage, Zamoranos and Pacasum renewed their marriage vows in a civil ceremony before Judge Valerio Salazar of the RTC, Iligan City. However, unlike in Zamoranos' first marriage to De Guzman, the union between her and Pacasum was blessed with progeny, namely: Samson, Sr., Sam Jean, and Sam Joon.

Despite their three children, the relationship between Zamoranos and Pacasum turned sour and, in 1998, the two were de facto separated. The volatile relationship of Zamoranos and Pacasum escalated into a bitter battle for custody of their minor children. Eventually, on October 18, 1999, Zamoranos and Pacasum arrived at a compromise agreement which vested primary custody of the children in the former, with the latter retaining visitatorial rights thereto.

As it turned out, the agreement rankled on Pacasum. He filed a flurry of cases against Zamoranos, to wit:

1. Petition for Annulment of Marriage filed on March 31, 2003 before the RTC, Branch 2, Iligan City, docketed as Civil Case No. 6249. Subsequently, on May 31, 2004, Pacasum amended the petition into one for Declaration of a Void Marriage, alleging, among other things, that: (a) Zamoranos, at the time of her marriage to Pacasum, was already previously married to De Guzman on July 30, 1982; (b) Zamoranos' first marriage, solemnized before the RTC, Quezon City, presided over by Judge Laguio, subsisted at the time of the celebration of Zamoranos and Pacasum's marriage; (c) Zamoranos and Pacasum's marriage was bigamous and void ab initio; and (d) thus, Zamoranos, as the guilty spouse, should forfeit: (i) custody of her minor children to their father, who should have sole and exclusive custody; (ii) her share in the community property in favor of the children; and (iii) her inheritance from Pacasum by testate or intestate succession.
2. Criminal complaint for Bigamy under Article 349 of the Revised Penal Code (RPC), filed on October 25, 2004.
3. Separate administrative cases for Zamoranos' dismissal from service and disbarment before the Civil Service Commission (CSC), the Integrated Bar of the Philippines, and the Bureau of Finance Revenue Integrity Protection Service, respectively. Parenthetically, the administrative cases were dismissed in due course. However, as of the date of the assailed CA Decision, Pacasum's appeal from the CSC's dismissal of the administrative case was still pending resolution.

Quite ironically, soon after amending his petition in Civil Case No. 6249, Pacasum contracted a second marriage with Catherine Ang Dignos on July 18, 2004.[4]

Meanwhile, on the criminal litigation front, the Office of the City Prosecutor, through Prosecutor Leonor Quiñones, issued a resolution dated February 2, 2005, finding prima facie evidence to hold Zamoranos liable for Bigamy.[5] Consequently, on February 22, 2006, an Information for Bigamy was filed against Zamoranos before the RTC, Branch 6, Iligan City, docketed as Criminal Case No. 06-12305.[6]

Zamoranos filed a motion for reconsideration of the City Prosecutor's February 2, 2005 resolution. As a result, the proceedings before the RTC, Branch 6, Iligan City, were temporarily suspended. On April 29, 2005, the City Prosecutor of Ozamis City, the acting City Prosecutor of Iligan City at the time, issued a resolution granting Zamoranos' motion for reconsideration and dismissing the charge of Bigamy against Zamoranos.[7]

Not unexpectedly, Pacasum moved for reconsideration of the April 29, 2005 resolution of the City Prosecutor,

which was denied in a resolution dated August 15, 2005.[8] Posthaste, Pacasum filed a Petition for Review before the Office of the Secretary of Justice, assailing the dismissal of his criminal complaint for Bigamy against Zamoranos.[9]

In yet another turn of events, the Secretary of Justice, on February 7, 2006, issued a resolution granting Pacasum's Petition for Review and reversed the February 2, 2005 and April 29, 2005 resolutions of the City Prosecutor.[10] Zamoranos immediately filed an Omnibus Motion and Supplement to the Urgent Omnibus Motion: (1) for Reconsideration; (2) to Hold in Abeyance Filing of the Instant Case; and (3) to Hold in Abeyance or Quash Warrant of Arrest, respectively dated February 20, 2006 and February 24, 2006, before the Secretary of Justice.[11] Unfortunately for Zamoranos, her twin motions were denied by the Secretary of Justice in a resolution dated May 17, 2006.[12]

Zamoranos' second motion for reconsideration, as with her previous motions, was likewise denied.

On the other civil litigation front on the Declaration of a Void Marriage, docketed as Civil Case No. 6249, the RTC, Branch 2, Iligan City, rendered a decision in favor of Zamoranos, dismissing the petition of Pacasum for lack of jurisdiction. The RTC, Branch 2, Iligan City, found that Zamoranos and De Guzman are Muslims, and were such at the time of their marriage, whose marital relationship was governed by Presidential Decree (P.D.) No. 1083, otherwise known as the Code of Muslim Personal Laws of the Philippines:

From the foregoing uncontroverted facts, the Court finds that the allegation of [Pacasum] to the effect that his marriage with [Zamoranos] on December 28, 1992 is a bigamous marriage due to the alleged subsisting previous marriage between [Zamoranos] and Jesus de Guzman is misplaced. The previous marriage between Jesus de Guzman and [Zamoranos] has long been terminated [and] has gone with the wind. The fact that divorce by Talaq was entered into by [Zamoranos] and her first husband in accordance with PD 1083, x x x their marriage is dissolved and consequently thereof, [Zamoranos] and Jesus de Guzman can re-marry. Moreover, the second marriage entered into by [Zamoranos] and her first husband Jesus de Guzman under the Family Code on July 30, 1982 is merely ceremonial, being unnecessary, it does not modify/alter or change the validity of the first marriage entered into by them under PD 1083.

Likewise, in the case of [Pacasum] and [Zamoranos], their second marriage on December 28, 1992 under the Family Code does not in any way modify, alter or change the validity of the first marriage on December 20, 1989 entered into by [Pacasum] and [Zamoranos] under PD 1083, as amended. In fact, according to Ghazali, one of the renowned Muslim author and jurist in Islamic Law and Jurisprudence and concurred in by retired Justice Ra[s]ul of the Court of Appeals and also a Professor on Islamic Law and Jurisprudence, in the case of combined marriage[s], the first marriage is to be considered valid and effective as between the parties while the second marriage is merely ceremonial, being a surplusage and unnecessary. Therefore, the divorce by Talaq dissolved the marriage between [Zamoranos] and her first husband[,de Guzman,] being governed by PD 1083, x x x.

Article 13, Chapter I, Title II of the Code of Muslim Personal Laws, provides x x x:

"Application

The provisions of this title shall apply to marriage and divorce wherein both parties are Muslims[, or wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines."

Accordingly, matters relating to the marriages and divorce of [Zamoranos] and her first husband, Jesus de Guzman[, shall be governed by the Muslim Code and divorce proceedings shall be properly within the exclusive original jurisdiction of the Shari'a Circuit Court.

Art. 155, Chapter 2, Title II, Book 4 of the Muslim code, provides x x x:

"Jurisdiction - The Shari'a Circuit Courts shall have exclusive original jurisdiction over:

x x x x

2. All civil actions and proceedings between parties who are Muslims or have been married in accordance with Article 13 involving disputes relating to:

a) Marriage;

b) Divorce recognized under this Code;

x x x x"

The above provision of law clearly shows no concurrent jurisdiction with any civil courts or other courts of law. And any divorce proceeding undertaken before the Shari'[a] Court is valid, recognized, binding and sufficient divorce proceedings.

Moreover, the instant case is one of the several cases filed by [Pacasum] against [Zamoranos] such as complaints for disbarment, for immorality, for bigamy and misconduct before the Integrated Bar of the Philippines (IBP) and in the Civil Service Commission which were all similar or [based on] the same set of facts. A pure and simple harassment.

In the light of the foregoing findings, the Court is of the considered view and so hold that this Court has no jurisdiction to hear and decide the above-entitled case for annulment of marriage entered into under PD 1083, x x x. It is the Shari'a Circuit Court that has the exclusive original jurisdiction.

WHEREFORE, premises considered, the affirmative defenses which are in the nature of motion to dismiss is hereby granted.

The above-entitled case is hereby dismissed for lack of jurisdiction.

SO ORDERED.[13]

On separate appeals, the CA and the Supreme Court affirmed the dismissal of Civil Case No. 6249 by the RTC, Branch 2, Iligan City. On April 3, 2009, the denial by the Supreme Court of Pacasum's appeal became final and executory and was recorded in the Book of Entries of Judgments.[14]

In the meantime, on August 7, 2009, the RTC, Branch 6, Iligan City, upon motion of Pacasum, issued an Order reinstating Criminal Case No. 06-12305 for Bigamy against Zamoranos.[15]

Not surprisingly, Zamoranos filed a Motion to Quash the Information, arguing that the RTC, Branch 6, Iligan City, had no jurisdiction over her person and over the offense charged. Zamoranos asseverated, in the main, that the decision of the RTC, Branch 2, Iligan City, in Civil Case No. 6249 categorically declared her and Pacasum as Muslims, resulting in the mootness of Criminal Case No. 06-12305 and the inapplicability of the RPC provision on Bigamy to her marriage to Pacasum. In all, Zamoranos claimed that Criminal Case No. 06-12305 ought to be dismissed.[16]

On December 21, 2009, the RTC, Branch 6, Iligan City, denied Zamoranos' Motion to Quash the Information. Zamoranos' motion for reconsideration thereof was likewise denied.[17]

Undaunted, Zamoranos filed a petition for certiorari for the nullification and reversal of the December 21, 2009 Order of the RTC, Branch 6, Iligan City. As previously adverted to, the CA dismissed Zamoranos' petition. The

CA dwelt on the propriety of a petition for certiorari to assail the denial of a Motion to Quash the Information:

A petition for certiorari alleging grave abuse of discretion is an extraordinary remedy. As such, it is confined to extraordinary cases wherein the action of the inferior court is wholly void. The aim of certiorari is to keep the inferior court within the parameters of its jurisdiction. Hence, no grave abuse of discretion may be imputed to a court on the basis alone of an alleged misappreciation of facts and evidence. To prosper, a petition for certiorari must clearly demonstrate that the lower court blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice.

Simply put, in a petition for certiorari, the jurisdiction of the appellate court is narrow in scope. It is limited to resolving only errors of jurisdiction. It is not to stray at will and resolve questions or issues beyond its competence, such as an error of judgment which is defined as one in which the court or quasi-judicial body may commit in the exercise of its jurisdiction; as opposed to an error of jurisdiction where the acts complained of were issued without or in excess of jurisdiction.

x x x x

In the present case, [w]e have circumspectly examined [Zamoranos'] Motion to Quash Information and the action taken by the [RTC, Branch 6, Iligan City] in respect thereto, and [w]e found nothing that may constitute as grave abuse of discretion on the part of the [RTC, Branch 6, Iligan City]. The Order dated December 21, 2009, which first denied [Zamoranos'] [M]otion to [Q]uash Information meticulously explained the factual and legal basis for the denial of the issues raised by [Zamoranos] in said motion. We find the [RTC, Branch 6, Iligan City's] stance in upholding the sufficiency of the Information for bigamy and taking cognizance of Criminal Case No. 06-12305 to be well within the bounds of its jurisdiction. Even assuming arguendo that the denial of petitioner's motion to quash is erroneous, such error was, at worst, an error of judgment and not of jurisdiction.[18]

Interestingly, even Pacasum was not satisfied with the CA's dismissal of Zamoranos' petition for certiorari. Hence, these separate appeals by Zamoranos and Pacasum.

We note that Zamoranos is petitioner in two separate cases, filed by her two counsels, docketed as G.R. Nos. 193902 and 193908, respectively, which assail the same CA Decision. However, upon motion of counsel for Zamoranos, to obviate confusion and superfluity, we have allowed Zamoranos to withdraw her petition in G.R. No. 193908 and for her earlier petition in G.R. No. 193902 to remain.

Zamoranos posits that it was grievous error for the CA to ignore the conclusions made by the RTC, Branch 2, Iligan City, and affirmed by the CA and this Court, to wit:

1. Zamoranos is a Muslim and was validly married to another Muslim, De Guzman, under Islamic rites;
2. Zamoranos and De Guzman's marriage ceremony under civil rites before Judge Laguio did not remove their marriage from the ambit of P.D. No. 1083;
3. Corollary to paragraph 1, Zamoranos' divorce by talaq to De Guzman severed their marriage ties;
4. "Accordingly, matters relating to the marriages and divorce of [Zamoranos] and her first husband, Jesus de Guzman[, are] governed by the Muslim Code and [the] divorce proceedings properly within the exclusive original jurisdiction of the Shari'a Circuit Court."
5. Zamoranos remarried Pacasum, another Muslim, under Islamic rites; and
6. On the whole, regular courts, in particular, RTC, Branch 6, Iligan City, have no jurisdiction to hear and decide the case for declaration of nullity of marriage entered into under P.D. No. 1083 because it is the Shari'a Circuit Court that has original jurisdiction over the subject matter.

For his part, Pacasum, although he agrees with the dismissal of Zamoranos' petition, raises a quarrel with the aforementioned conclusions of the CA. Pacasum vehemently denies that Zamoranos is a Muslim, who was previously married and divorced under Islamic rites, and who entered into a second marriage with him, likewise under Islamic rites.

We impale the foregoing issues into the following:

1. Whether the CA correctly dismissed Zamoranos' petition for certiorari; and
2. Whether the RTC's, Branch 2, Iligan City and the CA's separate factual findings that Zamoranos is a Muslim are correct.

As a rule, certiorari lies when: (1) a tribunal, board, or officer exercises judicial or quasi-judicial functions; (2) the tribunal, board, or officer has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction; and (3) there is no appeal, or any plain, speedy, and adequate remedy in the ordinary course of law.[19]

The writ of certiorari serves to keep an inferior court within the bounds of its jurisdiction or to prevent it from committing such a grave abuse of discretion amounting to excess or lack of jurisdiction, or to relieve parties from arbitrary acts of courts--acts which courts have no power or authority in law to perform.[20]

The denial of a motion to quash, as in the case at bar, is not appealable. It is an interlocutory order which cannot be the subject of an appeal.[21]

Moreover, it is settled that a special civil action for certiorari and prohibition is not the proper remedy to assail the denial of a motion to quash an information. The established rule is that, when such an adverse interlocutory order is rendered, the remedy is not to resort forthwith to certiorari or prohibition, but to continue with the case in due course and, when an unfavorable verdict is handed down, to take an appeal in the manner authorized by law.[22]

However, on a number of occasions, we have recognized that in certain situations, certiorari is considered an appropriate remedy to assail an interlocutory order, specifically the denial of a motion to quash. We have recognized the propriety of the following exceptions: (a) when the court issued the order without or in excess of jurisdiction or with grave abuse of discretion; (b) when the interlocutory order is patently erroneous and the remedy of appeal would not afford adequate and expeditious relief; (c) in the interest of a "more enlightened and substantial justice";[23] (d) to promote public welfare and public policy;[24] and (e) when the cases "have attracted nationwide attention, making it essential to proceed with dispatch in the consideration thereof." [25] The first four of the foregoing exceptions occur in this instance.

Contrary to the asseverations of the CA, the RTC, Branch 6, Iligan City, committed an error of jurisdiction, not simply an error of judgment, in denying Zamoranos' motion to quash.

First, we dispose of the peripheral issue raised by Zamoranos on the conclusiveness of judgment made by the RTC, Branch 2, Iligan City, which heard the petition for declaration of nullity of marriage filed by Pacasum on the ground that his marriage to Zamoranos was a bigamous marriage. In that case, the decision of which is already final and executory, the RTC, Branch 2, Iligan City, dismissed the petition for declaration of nullity of marriage for lack of jurisdiction over the subject matter by the regular civil courts. The RTC, Branch 2, Iligan City, declared that it was the Shari'a Circuit Court which had jurisdiction over the subject matter thereof.

Section 47, Rule 39 of the Rules of Court provides for the principle of res judicata. The provision reads:

SEC. 47. Effect of judgments or final orders. - The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

(a) In case of a judgment or final order against a specific thing, or in respect to the probate of a will, or the administration of the estate of a deceased person, or in respect to the personal, political, or legal condition or status of a particular person or his relationship to another, the judgment or final order is conclusive upon the title to the thing, the will or administration, or the condition, status or relationship of the person; however, the probate of a will or granting of letters of administration shall only be prima facie evidence of the death of the testator or intestate.

The requisites for res judicata or bar by prior judgment are:

- (1) The former judgment or order must be final;
- (2) It must be a judgment on the merits;
- (3) It must have been rendered by a court having jurisdiction over the subject matter and the parties; and
- (4) There must be between the first and second actions, identity of parties, subject matter, and cause of action.[26]

The second and fourth elements of res judicata are not present in this case. Suffice it to state that the judgment rendered by RTC, Branch 2, Iligan City, was not a judgment on the merits. The lower court simply dismissed the petition for declaration of nullity of marriage since it found that the Shari'a Circuit Court had jurisdiction to hear the dissolution of the marriage of Muslims who wed under Islamic rites.

Nonetheless, the RTC, Branch 6, Iligan City, which heard the case for Bigamy, should have taken cognizance of the categorical declaration of the RTC, Branch 2, Iligan City, that Zamoranos is a Muslim, whose first marriage to another Muslim, De Guzman, was valid and recognized under Islamic law. In fact, the same court further declared that Zamoranos' divorce from De Guzman validly severed their marriage ties. Apart from that, Zamoranos presented the following evidence:

1. Affidavit of Confirmation[27] executed by the Ustadz, Abdullah Ha-Ja-Utto, who solemnized the marriage of Zamoranos and De Guzman under Islamic rites, declaring under oath that:

1. I am an Ustadz, in accordance with the Muslim laws and as such, authorized to solemnize the marriages among Muslims;
2. On May 3, 1982, after I was shown the documents attesting that both parties are believers of Islam, I solemnized the marriage of Jesus (Mohamad) de Guzman and Marietta (Mariam) Zamoranos in accordance with Muslim Personal Laws in Isabela, Basilan;
3. Sometime in 1992[,] Mr. Mohamad de Guzman and his former wife, Mariam Zamoranos came to see me and asked my assistance to have their marriage and the subsequent Talaq by the wife, which divorce became irrevocable pursuant to the provisions of Presidential Decree No. 1083; registered [by] the Shari'a Circuit Court in the province of Basilan; and, after I was convinced that their divorce was in order, I accompanied them to the [C]lerk of [C]ourt of the Shari'a Circuit Court;
4. Satisfied that their marriage and the subsequent divorce were in accordance with Muslim personal laws, the Clerk of Court registered their documents;
5. In June of 1993, the old Capitol building, where the Shari'a Circuit Court was housed, was razed to the ground; and, I found out later that all the records, effects and office equipments of the Shari'a Circuit Court were totally lost [in] the fire;
6. This is executed freely and voluntarily in order to establish the above statements of fact; and
7. This is issued upon the request of Mr. De Guzman for whatever legal purposes it may serve.

2. Certification[28] issued by Judge Kaudri L. Jainul (Judge Jainul), which confirmed the divorce agreement between Zamoranos and De Guzman.

3. Affidavit[29] executed by Judge Uyag P. Usman (Judge Usman), former Clerk of Court of Judge Jainul at the time of the confirmation of Zamoranos and De Guzman's divorce agreement by the latter. Judge Usman's affidavit reads, in pertinent part:

- I am the presiding Judge of the Sharia's Circuit Court in the City of Pagadian;
- The first time that a Sharia's Circuit court was established in the Island Province of Basilan was in 1985, with the Honorable Kaudri L. Jainul, as the Presiding Judge, while I was then the First Clerk of Court of the Basilan Sharia's Circuit Court;
- The Sharia's Circuit Council in the Island Province of Basilan was housed at the old Capitol Building, in the City of Isabela, Basilan, Philippines;
- As the Clerk of Court of the Sharia's Circuit Court since 1985, I can recall that in 1992, Mr. Jesus (Mohamad) de Guzman, who is a province mate of mine in Basilan, and his former wife, Marietta (Mariam) Zamoranos, jointly asked for the confirmation of their Talaq, by the wife; which divorce became irrevocable pursuant to the provisions of Presidential Decree No. 1083;
- In June of 1993, all the records of the Sharia's Circuit Court were lost by reason of the fire that gutted down the old Capitol Building in the City of Isabela;
- This is executed freely and voluntarily in order to establish the above statements of fact.

From the foregoing declarations of all three persons in authority, two of whom are officers of the court, it is evident that Zamoranos is a Muslim who married another Muslim, De Guzman, under Islamic rites. Accordingly, the nature, consequences, and incidents of such marriage are governed by P.D. No. 1083.

True, the Shari'a Circuit Court is not vested with jurisdiction over offenses penalized under the RPC. Certainly, the RTC, Branch 6, Iligan City, is correct when it declared that:

The Regional Trial Courts are vested the exclusive and original jurisdiction in all criminal cases not within the exclusive original jurisdiction of any court, tribunal, or body. [Sec. 20 (b), BP Blg. 129] The Code of Muslim Personal Laws (PD 1083) created the Sharia District Courts and Sharia Circuit Courts with limited jurisdiction. Neither court was vested jurisdiction over criminal prosecution of violations of the Revised Penal Code. There is nothing in PD 1083 that divested the Regional Trial Courts of its jurisdiction to try and decide cases of bigamy. Hence, this Court has jurisdiction over this case.[30]

Nonetheless, it must be pointed out that even in criminal cases, the trial court must have jurisdiction over the subject matter of the offense. In this case, the charge of Bigamy hinges on Pacasum's claim that Zamoranos is not a Muslim, and her marriage to De Guzman was governed by civil law. This is obviously far from the truth, and the fact of Zamoranos' Muslim status should have been apparent to both lower courts, the RTC, Branch 6, Iligan City, and the CA.

The subject matter of the offense of Bigamy dwells on the accused contracting a second marriage while a prior valid one still subsists and has yet to be dissolved. At the very least, the RTC, Branch 6, Iligan City, should have suspended the proceedings until Pacasum had litigated the validity of

Zamoranos and De Guzman's marriage before the Shari'a Circuit Court and had successfully shown that it had not been dissolved despite the divorce by talaq entered into by Zamoranos and De Guzman.

Zamoranos was correct in filing the petition for certiorari before the CA when her liberty was already in jeopardy

with the continuation of the criminal proceedings against her.

In a pluralist society such as that which exists in the Philippines, P.D. No. 1083, or the Code of Muslim Personal Laws, was enacted to "promote the advancement and effective participation of the National Cultural Communities x x x, [and] the State shall consider their customs, traditions, beliefs and interests in the formulation and implementation of its policies."

Trying Zamoranos for Bigamy simply because the regular criminal courts have jurisdiction over the offense defeats the purpose for the enactment of the Code of Muslim Personal Laws and the equal recognition bestowed by the State on Muslim Filipinos.

Article 3, Title II, Book One of P.D. No. 1083 provides:

TITLE II.
CONSTRUCTION OF CODE AND DEFINITION OF TERMS

Article 3. Conflict of provisions.

- (1) In case of conflict between any provision of this Code and laws of general application, the former shall prevail.
- (2) Should the conflict be between any provision of this Code and special laws or laws of local application, the latter shall be liberally construed in order to carry out the former.
- (3) The provisions of this Code shall be applicable only to Muslims and nothing herein shall be construed to operate to the prejudice of a non-Muslim.

In Justice Jainal Rasul and Dr. Ibrahim Ghazali's Commentaries and Jurisprudence on the Muslim Code of the Philippines, the two experts on the subject matter of Muslim personal laws expound thereon:

The first provision refers to a situation where in case of conflict between any provision of this Code and laws of general application, this Code shall prevail. For example, there is conflict between the provision on bigamy under the Revised Penal Code which is a law of general application and Article 27 of this Code, on subsequent marriage, the latter shall prevail, in the sense that as long as the subsequent marriage is solemnized "in accordance with" the Muslim Code, the provision of the Revised Penal Code on bigamy will not apply. The second provision refers to a conflict between the provision of this Code which is a special law and another special law or laws of local application. The latter should be liberally construed to carry out the provision of the Muslim Code.[31]

On Marriage, Divorce, and Subsequent Marriages, P.D. No. 1083 provides:

TITLE II. MARRIAGE AND DIVORCE

Chapter One
APPLICABILITY CLAUSE

Article 13. Application. -

- (1) The provisions of this Title shall apply to marriage and divorce wherein both parties are Muslims, or wherein only the male party is a Muslim and the marriage is solemnized in accordance with Muslim law or this Code in any part of the Philippines.
- (2) In case of marriage between a Muslim and a non-Muslim, solemnized not in accordance with Muslim law or this Code, the Civil Code of the Philippines shall apply.

x x x x

Chapter Two

MARRIAGE (NIKAH)

Section 1. Requisites of Marriage.

x x x x

Section 3. Subsequent Marriages

x x x x

Article 29. By divorcee.

(1) No woman shall contract a subsequent marriage unless she has observed an `idda of three monthly courses counted from the date of divorce. However, if she is pregnant at the time of the divorce, she may remarry only after delivery.

x x x x

Chapter Three

DIVORCE (TALAQ)

Section 1. Nature and Form

Article 45. Definition and forms. Divorce is the formal dissolution of the marriage bond in accordance with this Code to be granted only after the exhaustion of all possible means of reconciliation between the spouses. It may be effected by:

(a) Repudiation of the wife by the husband (talaq);

x x x x

Article 46. Divorce by talaq.

(1) A divorce by talaq may be effected by the husband in a single repudiation of his wife during her non-menstrual period (tuhr) within which he has totally abstained from carnal relation with her. Any number of repudiations made during one tular shall constitute only one repudiation and shall become irrevocable after the expiration of the prescribed `idda.

(2) A husband who repudiates his wife, either for the first or second time, shall have the right to take her back (ruju) within the prescribed `idda by resumption of cohabitation without need of a new contract of marriage. Should he fail to do so, the repudiation shall become irrevocable (talaq bain sugra).

x x x x

Article 54. Effects of irrevocable talaq; or faskh. A talaq or faskh, as soon as it becomes irrevocable, shall have the following effects:

(a) The marriage bond shall be severed and the spouses may contract another marriage in accordance with this Code;

(b) The spouses shall lose their mutual rights of inheritance;

(c) The custody of children shall be determined in accordance with Article 78 of this Code;

(d) The wife shall be entitled to recover from the husband her whole dower in case the talaq has been effected after the consummation of the marriage, or one-half thereof if effected before its consummation;

(e) The husband shall not be discharged from his obligation to give support in accordance with Article 67; and

(f) The conjugal partnership if stipulated in the marriage settlements, shall be dissolved and liquidated.

For our edification, we refer once again to Justice Rasul and Dr. Ghazali's Commentaries and Jurisprudence on the Muslim Code of the Philippines:

If both parties are Muslims, there is a presumption that the Muslim Code or Muslim law is complied with. If together with it or in addition to it, the marriage is likewise solemnized in accordance with the Civil Code of the Philippines, in a so-called combined Muslim-Civil marriage rites whichever comes first is the validating rite and the second rite is merely ceremonial one. But, in this case, as long as both parties are Muslims, this Muslim Code will apply. In effect, two situations will arise, in the application of this Muslim Code or Muslim law, that is, when both parties are Muslims and when the male party is a Muslim and the marriage is solemnized in accordance with Muslim Code or Muslim law. A third situation occur[s] when the Civil Code of the Philippines will govern the marriage and divorce of the parties, if the male party is a Muslim and the marriage is solemnized in accordance with the Civil Code.[32]

Moreover, the two experts, in the same book, unequivocally state that one of the effects of irrevocable talaq, as well as other kinds of divorce, refers to severance of matrimonial bond, entitling one to remarry.[33]

It stands to reason therefore that Zamoranos' divorce from De Guzman, as confirmed by an Ustadz and Judge Jainul of the Shari'a Circuit Court, and attested to by Judge Usman, was valid, and, thus, entitled her to remarry Pacasum in 1989. Consequently, the RTC, Branch 6, Iligan City, is without jurisdiction to try Zamoranos for the crime of Bigamy.

WHEREFORE, the petition in G.R. No. 193902 is GRANTED. The petition in G.R. No. 194075 is DENIED. The Decision of the Court of Appeals in CA-G.R. SP No. 03525-MIN is REVERSED and SET ASIDE. Accordingly, the Motion to Quash the Information in Criminal Case No. 06-12305 for Bigamy is GRANTED.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Penned by Associate Justice Angelita A. Gacutan, with Associate Justices Rodrigo F. Lim, Sr. and Leoncia R. Dimagiba, concurring; rollo (G.R. No. 194075), pp. 34-62.

[2] Issued by Judge Oscar V. Badelles; id. at 176-177.

[3] Id. at 343-344.

[4] Id. at 38.

[5] Id. at 39.

[6] Id.

[7] Id. at 39-40.

[8] Id. at 43.

[9] Id.

[10] Id.

[11] Id. at 43-44.

[12] Id. at 44.

[13] Id. at 48-50.

[14] Rollo (G.R. No. 193902), p. 245.

[15] Rollo (G.R. No. 194075), p. 51.

[16] Id.

[17] Id. at 52.

[18] Id. at 58-60.

[19] RULES OF COURT, Rule 65, Sec. 1.

[20] *Silverio v. Court of Appeals*, 225 Phil. 459, 471-472 (1986).

[21] RULES OF COURT, Rule 41, Sec. 1.

[22] *Madarang v. Court of Appeals*, G.R. No. 143044, July 14, 2005, 463 SCRA 318, 327.

[23] *Santos v. People*, G.R. No. 173176, August 26, 2008, 563 SCRA 341, 361, citing *Mead v. Hon. Argel, etc., et al.*, 200 Phil. 650, 656 (1982).

[24] Id.

[25] Id.

[26] *The Estate of Don Filemon Y. Sotto v. Palicte*, G.R. No. 158642, September 22, 2008, 566 SCRA 142, 150.

[27] Rollo (G.R. No. 193902), p. 215.

[28] Id. at 213.

[29] Id. at 214.

[30] Rollo (G.R. No. 194075), p. 176.

[31] 1984 ed., Central Lawbook Publishing Co., Inc., pp. 53-54.

[32] Id. at 98.

[33] Id. at 175.

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