

LUISITO G. PULIDO v. PEOPLE OF THE PHILIPPINES

G.R. No. 220149, 27 July 2021, *EN BANC* (Hernando, J.)

DOCTRINE OF THE CASE

The Court abandoned its earlier rulings that a judicial declaration of absolute nullity of the first and/or second marriages cannot be raised as a defense by the accused in a criminal prosecution for bigamy. The Court held that a judicial declaration of absolute nullity is not necessary to prove a void ab initio prior and subsequent marriages in a bigamy case. Consequently, a judicial declaration of absolute nullity of the first and/or second marriages presented by the accused in the prosecution for bigamy is a valid defense, irrespective of the time within which they are secured.

The parties are not required to obtain a judicial declaration of absolute nullity of a void ab initio first and subsequent marriages in order to raise it as a defense in a bigamy case. The same rule now applies to all marriages celebrated under the Civil Code and the Family Code. Art. 40 of the Family Code did not amend Art. 349 of the RPC, and thus, did not deny the accused the right to collaterally attack the validity of a void ab initio marriage in the criminal prosecution for bigamy.

However, if the first marriage is merely voidable, the accused cannot interpose an annulment decree as a defense in the criminal prosecution for bigamy since the voidable first marriage is considered valid and subsisting when the second marriage was contracted. The crime of bigamy, therefore, is consummated when the second marriage was celebrated during the subsistence of the voidable first marriage. The same rule applies if the second marriage is merely considered as voidable.

Applying the foregoing, Pulido may validly raise the defense of a void ab initio marriage in the bigamy charge against him. In this case, while Pulido and Arcon's marriage contract bears a marriage license number issued in 1983, there is doubt as to the fact of its existence and issuance as per the certification dated in 2008 issued by the Civil Registrar which essentially affects the validity of their marriage. Thus, there is a reasonable doubt whether indeed Pulido and Arcon had a marriage license when they entered into marriage in 1983. More importantly, during the pendency of this case, a judicial declaration of absolute nullity of Pulido's marriage with Arcon due to the absence of a valid marriage license was issued and attained finality in 2016.

Lacking an essential element of the crime of bigamy, i.e. a prior valid marriage, and the subsequent judicial declaration of nullity of Pulido and Arcon's marriage, the prosecution failed to prove that the crime of bigamy is committed. Therefore, the acquittal of Pulido from the bigamy charge is warranted.

FACTS

In 1983, Luisito Pulido (Pulido) married Nora Arcon (Arcon) in a civil ceremony in Cavite, and they lived together until 2007 when Pulido stopped going home to their conjugal dwelling. Pulido admitted that he was having an affair with Rowena Baleda (Baleda). Arcon also learned that Pulido and Baleda entered into a marriage in 1995. Thus, Arcon charged Pulido and Baleda with Bigamy.

In their defense, Pulido insisted that he cannot be held criminally liable for bigamy because both his marriages were null and void. He claimed that his marriage with Arcon in 1983 is null and void for lack of a valid marriage license, while his marriage with Baleda is null and void for lack of a marriage ceremony. Meanwhile, Baleda countered that she only knew of Pulido's prior marriage in April 2007; that before the filing of the bigamy case, she had already filed a petition to annul her marriage with Pulido; and that in a decision the Regional Trial Court (RTC) declared her marriage with Pulido null and void for being bigamous.

The RTC convicted Pulido of bigamy and acquitted Baleda. The Court of Appeals (CA) affirmed the RTC Decision. The CA held that all the elements of bigamy were present since Pulido entered into a second marriage with Baleda while his prior marriage with Arcon was subsisting and without first having obtained a judicial declaration of the nullity of the prior marriage with Arcon. The CA anchored its ruling on Article 40 of the Family Code which requires one to first secure a judicial declaration of nullity of marriage prior to contracting a subsequent marriage. It held that Article 40 applies even if the marriage of Pulido with Arcon was governed by the Civil Code. The CA also ruled that the subsequent judicial declaration of the second marriage for being bigamous in nature does not bar the prosecution of Pulido for the crime of bigamy as jurisprudence dictates that one may still be charged with bigamy even if the second marriage is subsequently declared as null and void so long as the first marriage was still subsisting during the celebration of the second marriage.

ISSUES

- (1) Does Article 40 of the Family Code have retroactive application?
- (2) Does the subsequent declaration of nullity of the first and second marriage constitute a valid defense in bigamy?
- (3) Is a judicial declaration of nullity of marriage necessary to establish the invalidity of a void *ab initio* marriage in a bigamy prosecution?

RULING

- (1) **YES.** Article 40 of the Family Code applies retroactively on marriages celebrated before the Family Code in so far as it does not prejudice or impair vested or acquired rights. Thus, a judicial declaration of nullity is required for prior marriages contracted before the effectivity of the Family Code, but only for purposes of remarriage.

Prior to the effectivity of the Family Code, the trend of jurisprudence held that a void *ab initio* marriage can be raised as a defense in a bigamy case even without a judicial declaration of its nullity. When both the prior and subsequent marriages were contracted prior to the effectivity of the Family Code, a void *ab initio* marriage can be raised as a defense in a bigamy case even without a judicial declaration of its nullity. Nonetheless, the Court recognized that an action for nullity of the second marriage is a prejudicial question to the criminal prosecution for bigamy.

However, Pulido's first marriage with Arcon was contracted in 1983 or before the effectivity of the Family Code while his second marriage with Baleda was celebrated in 1995, during the effectivity of the said law. Pulido assailed the retroactive application of Article 40 of the

Family Code on his case which required him to obtain a judicial declaration of absolute nullity before he can contract another marriage.

When the prior marriage was contracted prior to the effectivity of the Family Code while the subsequent marriage was contracted during the effectivity of the said law, the Court recognizes the retroactive application of Art. 40 of the Family Code but only in so far as it does not prejudice or impair vested or acquired rights. The Court declared in *Atienza v. Brillantes, Jr.*, and reiterated in *Jarillo* and in *Montanez v. Cipriano* that Art. 40 of the Family Code, which is a rule of procedure, should be applied retroactively because Article 256 of the Family Code itself provides that said “Code shall have retroactive effects insofar as it does not prejudice or impair vested or acquired rights.”

Applying the foregoing jurisprudence and the purpose of the provision, the Court held that Art. 40 of the Family Code has retroactive application on marriages contracted prior to the effectivity of the Family Code but only for the purpose of remarriage, as the parties are not permitted to judge for themselves the nullity of their marriage. In other words, in order to remarry, a judicial declaration of nullity is required for prior marriages contracted before the effectivity of the Family Code. However, in a criminal prosecution for bigamy, the parties may still raise the defense of a void *ab initio* marriage even without obtaining a judicial declaration of nullity if the first marriage was celebrated before the effectivity of the Family Code.

In this case, Pulido’s marriage with Arcon was celebrated when the Civil Code was in effect while his subsequent marriage with Baleda was contracted during the effectivity of the Family Code. Hence, Pulido is required to obtain a judicial declaration of absolute nullity of his prior void *ab initio* marriage but only for purposes of remarriage. As regards the bigamy case, however, Pulido may raise the defense of a void *ab initio* marriage even without obtaining a judicial declaration of nullity.

- (2) **YES.** The Court abandoned its earlier rulings that a judicial declaration of absolute nullity of the first and/or second marriages cannot be raised as a defense by the accused in a criminal prosecution for bigamy. The Court held that a judicial declaration of absolute nullity is not necessary to prove a void *ab initio* prior and subsequent marriages in a bigamy case. Consequently, a judicial declaration of absolute nullity of the first and/or second marriages presented by the accused in the prosecution for bigamy is a valid defense, irrespective of the time within which they are secured.

The Family Code specifically provides that certain marriages are void *ab initio* namely, Articles 35, 36, 37, 38, 44, and 53. Void marriages, like void contracts, are inexistent from the very beginning. A void marriage produces no effects except those declared by law concerning the properties of the alleged spouses, co-ownership or ownership through actual joint contribution, and its effect on the children born to void marriages as provided in Article 50 in relation to Articles 43 and 44 as well as Articles 51, 52, and 54 of the Family Code.

Therefore, its invalidity can be maintained in any proceeding in which the fact of marriage may be material, either direct or collateral, in any civil court between any parties at any time. Jurisprudence under the Civil Code states that no judicial decree is necessary to establish the nullity of marriage; the exception to this is Art. 40 of the Family Code. However, the requirement of Article 40 is merely for purposes of remarriage and does not affect the accused's right to collaterally attack the validity of the void *ab initio* marriage in criminal prosecution for bigamy.

In contrast, voidable marriages under Article 45 of Family Code are considered valid and produces all its civil effects until it is set aside by a competent court in an action for annulment. It is capable of ratification and cannot be assailed collaterally except in a direct proceeding. It is considered valid during its subsistence and only ceases upon finality of the decree of annulment of a competent court.

Clearly, when the first marriage is void *ab initio*, one of the essential elements of bigamy is absent, *i.e.* a prior valid marriage. There can be no crime when the very act which was penalized by law, *i.e.* contracting another marriage during the subsistence of a prior legal or valid marriage, is not present. It is but logical that a conviction for said offense cannot be sustained where there is no first marriage to begin with. Thus, an accused in a bigamy case should be allowed to raise the defense of a prior void *ab initio* marriage through competent evidence other than the judicial decree of nullity.

Apropos, with the retroactive effects of a void *ab initio* marriage, there is nothing to annul nor dissolve as the judicial declaration of nullity merely confirms the inexistence of such marriage. Thus, the second element of bigamy, *i.e.* that the former marriage has not been legally dissolved or annulled, is wanting in case of void *ab initio* prior marriage. What Article 349 of the Revised Penal Code (RPC) contemplates is contracting a subsequent marriage when a voidable or valid first marriage is still subsisting. Hence, Art. 349 of the RPC should be construed to pertain only to valid and voidable marriages.

As such, when the first marriage is void *ab initio*, the accused cannot be held liable for bigamy as the judicial declaration of its nullity is not tantamount to annulment or dissolution but merely a declaration of status or condition that no such marriage exists. In the same manner, when the accused contracts a second or subsequent marriage that is void *ab initio*, other than it being bigamous, he/she cannot be held liable for bigamy as the effect of a void marriage signifies that the accused has not entered into a second or subsequent marriage, being inexistent from the beginning. Thus, the element, "that he or she contracts a second or subsequent marriage" is lacking. A subsequent judicial declaration of nullity of the second marriage merely confirms its inexistence and shall not render the accused liable for bigamy for entering such void marriage while the first marriage still subsists. Consequently, the accused in bigamy may validly raise a void *ab initio* second or subsequent marriage even without a judicial declaration of nullity.

True, a marriage is presumed to be valid even if the same is void *ab initio* without a judicial declaration of its absolute nullity in view of Art. 40 of the Family Code. However, the accused in

a bigamy case should not be denied the right to interpose the defense of a void *ab initio* marriage; which effectively retroacts to the date of the celebration of the first marriage.

- (3) **NO.** Art. 40 of the Family Code requires a judicial declaration of absolute nullity for purposes of remarriage but not as a defense in bigamy. Art. 40 of the Family Code did not amend or repeal Art. 349 of the RPC.

The case of *Domingo* elucidated the intent behind the provisions of Article 40 of the Family Code. The Court clarified in the said case that the requirement under Article 40, *i.e.* final judgment declaring previous marriage void, need not be obtained only for purposes of remarriage. The word “solely” qualifies the “Final judgment declaring such previous marriage void” and not “for purposes of remarriage.”

In effect, judicial declaration of absolute nullity may be invoked in other instances for purposes other than remarriage. Nonetheless, *Domingo* declares that other evidence, testimonial or documentary, may also prove the absolute nullity of the previous marriage in the said instances. The said case did not specifically include criminal prosecutions for bigamy in the enumeration of instances where the absolute nullity of marriage may be proved by evidence other than the judicial declaration of its nullity. However, the enumeration in *Domingo* did not purport to be an exhaustive list. Moreover, the discussion in the minutes plainly shows that the Civil Law and Family Committees did not intend to deprive the accused or defendant to raise the defense of the absolute nullity of a void *ab initio* marriage in the same criminal proceeding.

Plainly, Art. 40 of the Family Code does not categorically withhold from the accused the right to invoke the defense of a void *ab initio* marriage even without a judicial decree of absolute nullity in criminal prosecution for bigamy. To adopt a contrary stringent application would defy the principle the penal laws are strictly construed against the State and liberally in favor of the accused.

Accordingly, Art. 349 of the RPC and Art. 40 of the Family Code must be harmonized and liberally construed towards the protection of the sanctity of marriage and the presumption of innocence of the accused. With the retroactive effects of a void *ab initio* marriage, the marriage is considered non-existent from the time of the celebration of the marriage.

All told, the Court rules that in criminal prosecutions for bigamy, the accused can validly interpose the defense of a void *ab initio* marriage even without obtaining a judicial declaration of absolute nullity. Consequently, a judicial declaration of absolute nullity of the first and/or subsequent marriages obtained by the accused in a separate proceeding, irrespective of the time within which they are secured, is a valid defense in the criminal prosecution for bigamy.

Applying the foregoing, Pulido may validly raise the defense of a void *ab initio* marriage in the bigamy charge against him. In this case, while Pulido and Arcon’s marriage contract bears a marriage license number issued in 1983, there is doubt as to the fact of its existence and issuance

as per the certification dated in 2008 issued by the Civil Registrar which essentially affects the validity of their marriage. Thus, there is a reasonable doubt whether indeed Pulido and Arcon had a marriage license when they entered into marriage in 1983. More importantly, during the pendency of this case, a judicial declaration of absolute nullity of Pulido's marriage with Arcon due to the absence of a valid marriage license was issued and attained finality in 2016.

Lacking an essential element of the crime of bigamy, *i.e.* a prior valid marriage, and the subsequent judicial declaration of nullity of Pulido and Arcon's marriage, the prosecution failed to prove that the crime of bigamy is committed. Therefore, the acquittal of Pulido from the bigamy charge is warranted.

As to the absolute nullity of the accused's second marriage with Baleda, it was declared void *ab initio* because of being bigamous and not because it lacked any of the essential requisites of a marriage. Hence, Pulido cannot use the same as a defense in his prosecution for bigamy.

PEOPLE OF THE PHILIPPINES *v.* SHERYL LIM

G.R. No. 252021, 10 November 2021, *EN BANC* (Inting, J.)

DOCTRINE OF THE CASE

Section 6 (a) and (c) of RA 9208, as amended, respectively provides that the offense of Trafficking in Persons is qualified when the person trafficked is a child and it is committed in large scale, i.e., against three (3) or more persons, individually or as a group.

Here, the prosecution was able to prove that AAA, BBB, CCC, and DDD were children at the time of the commission of the offense. Their minority was sufficiently alleged in the Information and proven during trial. In fact, the prosecution established that Lim had obtained fake birth certificates and identification cards for them to make it appear that they were of legal age. Also, the offense was in large scale because it was committed against more than three (3) persons. Thus, Lim committed the offense of Qualified Trafficking in Persons.

FACTS

Sheryll Lim (Lim) recruited AAA, BBB, CCC, DDD, EEE and FFF (AAA, *et.al.*) to work as entertainers in her videoke bar in San Fernando City, La Union.

AAA, *et.al.* and GGG, a male companion, were lodged at a hotel for their travel to San Fernando City, La Union. Lim provided them with fake birth certificates and identification cards to make it appear that they were of legal age. The next day, they boarded a bus to Cagayan De Oro. Then, they traveled to Manila by ship. Lim, who was with them, paid for their fares. When the ship was nearing Manila, Lim revealed to them that they would not be working as entertainers but as prostitutes so that they could earn more money and pay her back for their travel expenses. AAA, *et.al.* had no choice but to follow Lim because they were in an unfamiliar city and had no money to go back home in Zamboanga del Sur.

As soon as they reached the videoke bar in San Fernando City, La Union, Lim ordered them to start working by displaying themselves in front of the bar to attract male customers. She further instructed them to wear makeup and sexy dresses, sit beside customers, and convince them to pay a bar fine. The bar fine, amounting from P1,000.00 to P1,500.00 for short time, and P2,500.00 if overnight, would entitle a customer to take out a girl for sex in a nearby motel. Should AAA, *et.al.* refuse, a fine will be imposed upon them ranging from P500.00 to P5,000.00.

AAA, *et.al.* indulged in sex with customers ranging from at least four (4) to eight (8) times. Lim received all the payments of the bar fine but did not give AAA, *et.al.* their respective shares. She explained to them that whatever salary due them would first be considered as payment for the travel, food, and daily expenses.

As for DDD, Lim sold her for an amount of P4,400.00 to an unknown person.

EEE, FFF, and GGG went to the police station to report their situation. A team of police officers immediately proceeded to the videoke bar and rescued three (3) minor girls and arrested Lim. DDD was also rescued.

Lim was charged Qualified Trafficking in Persons before the Regional Trial Court (RTC). The RTC found Lim guilty of Qualified Trafficking in Persons. The Court of Appeals (CA) affirmed the RTC Decision.

ISSUE

Did Lim commit Qualified Trafficking in Persons?

RULING

YES. As defined under Section 3 (a) of Republic Act No. 9208 (R.A. 9208), as amended by Republic Act No. 10364 (R.A. 10364), otherwise known as the Expanded Anti-Trafficking in Persons Act of 2012, trafficking in persons refers to "the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at a minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."

The elements of *trafficking in persons* have been expanded to include the following acts:

- (a) The act of "recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harboring, or receipt of persons with or without the victim's consent or knowledge, within or across national borders;"
- (b) The means used include "by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person;" and
- (c) The purpose of trafficking includes "the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs."

The prosecution satisfactorily established the presence of all the elements of the offense.

First, it was Lim who recruited AAA, *et.al.* and offered them work as entertainers with the promise of a big amount of money. When they accepted the employment offers, Lim transported them and paid for their travel expenses to San Fernando, La Union to work in her videoke bar.

Second, fraud and deception were present because Lim promised AAA, *et.al.* that they would work as entertainers or waitresses with a big salary. Lim only revealed to them the true nature of their work

when the ship they boarded was already about to dock in Manila and AAA, *et.al.* could no longer back out as they had no money and were unfamiliar with the place.

Third, as soon as the AAA, *et.al.* arrived at the videoke bar, Lim ordered them to wear skimpy clothes and display themselves in front of the bar to attract customers. Upon payment of a bar fine, AAA, *et.al.* would indulge in sex with the customers. Thus, the purpose of Lim in recruiting the AAA, *et.al.* was to exploit them by forcing the latter to engage in sex with customers in exchange for money. In other words, Lim recruited the AAA, *et.al.* for prostitution purposes.

Section 6 (a) and (c) of RA 9208, as amended, respectively provides that the offense of Trafficking in Persons is qualified when the person trafficked is a child and it is committed in large scale, *i.e.*, against three (3) or more persons, individually or as a group.

Here, the prosecution was able to prove that AAA, BBB, CCC, and DDD were children at the time of the commission of the offense. Their minority was sufficiently alleged in the Information and proven during trial. In fact, the prosecution established that Lim had obtained fake birth certificates and identification cards for them to make it appear that they were of legal age. Also, the offense was in large scale because it was committed against more than three (3) persons. Thus, Lim committed the offense of Qualified Trafficking in Persons.

FRANCIS D. MALAKI AND JACQUELINE MAE A. SALANATIN-MALAKI v. PEOPLE OF THE PHILIPPINES

G.R. No. 221075, 15 November 2021, *THIRD DIVISION*, (Leonen, J.)

DOCTRINE OF THE CASE

Article 180 of the Muslim Code provides that when married in accordance with the Muslim Code's provisions or the Muslim law before the Muslim Code's effectivity, a male Muslim shall not be indicted for bigamy when he subsequently marries. However, Article 3 of the Muslim Code further declares that its provisions shall not be construed to the prejudice of a non-Muslim.

Moreover, Article 186 of the Muslim Code directs its prospective application on past acts and that nothing shall affect their validity or operate to extinguish any right acquired or liability incurred thereby, except as otherwise specifically provided. Acts done prior to the effectivity of the Muslim Code remain governed by the Civil Code, the then pre-existing law of general application. In case of conflict with a general law, the Muslim Code prevails. However, Article 13, Section 2 of the Muslim Code explicitly spells out that the Civil Code governs marriages where either party is non-Muslim, and which were not solemnized in Muslim rites.

Here, the nature, consequences, and incidents of Francis' prior and subsisting marriage to Nerrian remain well-within the ambit of the Civil Code and its counterpart penal provisions in the RPC. Francis' conversion to Islam before or after his marriage with Jacqueline consummates the crime of bigamy. Francis cannot successfully invoke the exculpatory clause in Article 180, considering that the Muslim Code finds no application in his then subsisting marriage with Nerrian, the marriage recognized by law that bars and penalizes a subsequent marriage.

FACTS

Nerrian Maningo-Malaki (Nerrian) and Francis D. Malaki, Sr. (Francis) were married under the religious rites of Iglesia ni Cristo where they begot two (2) children. Francis then left the family home for to find a job and later abandoned his family. Consequently, Nerrian discovered that Francis was cohabiting with Jacqueline Mae A. Salanatin (Jacqueline) and that the two eventually contracted marriage. Hence, Nerrian filed a complaint of bigamy against Jacqueline and Francis.

Francis and Jacqueline admitted that they got married while Francis' marriage to Nerrian was subsisting. However, they claimed that they could not be penalized for bigamy since they converted to Islam prior to their marriage.

The Regional Trial Court (RTC) found Francis and Jaqueline guilty beyond reasonable doubt of bigamy. The Court of Appeals (CA) affirmed the RTC ruling.

ISSUE

Did Francis and Jacqueline commit bigamy despite their conversion to Islam before marriage?

RULING

YES. Under Article 349 of the Revised Penal Code (RPC) provides the elements of bigamy which are as follows:

- (a) That the offender has been legally married;
- (b) That the first 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;
- (c) That he contracts a second or subsequent marriage; and
- (d) That the second or subsequent marriage has all the essential requisites for validity.

Francis' and Jacqueline's admissions that: (1) Francis was legally married to Nerrian; (2) the marriage was not dissolved; and (3) they subsequently married despite the subsistence of Francis' marriage to Nerrian sufficiently established all the elements of bigamy proving that Francis and Jacqueline are guilty beyond reasonable doubt.

The Muslim Code applies to marriages, their nature, consequences, and incidents between fellow Muslims, between a male Muslim and a non-Muslim solemnized in Muslim rites, between spouses who both converted to Islam after their marriage, and between a male Muslim and a non-Muslim entered prior to the Code's effectivity. It also penalizes specific offenses relative to marriages.

Article 180 of the Muslim Code provides that when married in accordance with the Muslim Code's provisions or the Muslim law before the Muslim Code's effectivity, a male Muslim shall not be indicted for bigamy when he subsequently marries. However, Article 3 of the Muslim Code further declares that its provisions shall not be construed to the prejudice of a non-Muslim.

Moreover, Article 186 of the Muslim Code directs its *prospective* application on past acts and that nothing shall affect their validity or operate to extinguish any right acquired or liability incurred thereby, except as otherwise specifically provided. Acts done prior to the effectivity of the Muslim Code remain governed by the Civil Code, the then pre-existing law of general application. In case of conflict with a general law, the Muslim Code prevails. However, Article 13, Section 2 of the Muslim Code explicitly spells out that the Civil Code governs marriages where either party is non-Muslim and which were not solemnized in Muslim rites.

Here, the nature, consequences, and incidents of Francis' prior and subsisting marriage to Nerrian remain well-within the ambit of the Civil Code and its counterpart penal provisions in the RPC. Francis' conversion to Islam before or after his marriage with Jacqueline consummates the crime of bigamy. Francis cannot successfully invoke the exculpatory clause in Article 180, considering that the Muslim Code finds no application in his then subsisting marriage with Nerrian, the marriage recognized by law that bars and penalizes a subsequent marriage.

Furthermore, Article 27 of the Muslim Code which conditionally allows the Muslim husband's subsequent marriage in exceptional cases. The general rule is that a married Muslim cannot marry another. However, in exceptional cases, the male Muslim may do so if "he can deal with them with equal companionship *and* just treatment as enjoined by Islamic law."

Article 162 spells out the formal requisites for the Muslim husband's subsequent marriage:

- (a) The Muslim husband must first notify the Shari'a Circuit Court, where his family resides, of his intent to contract a subsequent marriage.
- (b) The clerk of court shall then serve a copy to the wife or wives.
- (c) If any of them objects, the Muslim Code mandates the constitution of the Agama Arbitration Council, which shall hear the wife.
- (d) Ultimately, the Shari'a Circuit Court decides whether to sustain the wife's objection.

Absent the wife's consent or the court's permission, the exculpatory provision of Article 180 shall not apply, since it only exempts from the charge of bigamy a Muslim husband who subsequently marries "in accordance with the provisions of the Muslim Code."

The Muslim Code classifies marriages with infirmities into *batil* (void) and *fasid* (irregular). However, there is no provision on the status of a male Muslim's subsequent marriage which failed to comply with the formal requisites laid down in Article 162. Renowned Shari'a jurists opine that it is bigamous. As a bigamous marriage, it is declared as void from the beginning by the Family Code and penalized under the RPC.

In any case, even granting that the parties' circumstances fell exclusively within the coverage of the Muslim Code, noncompliance with the condition precedent to subsequent marriages belies their good faith and manifests their intent to circumvent the law.

CHRISTIAN CADAJAS Y CABIAS v. PEOPLE OF THE PHILIPPINES

G.R. No. 247348, 16 November 2021, *EN BANC*, (Lopez, J.)

DOCTRINE OF THE CASE

The 1987 Constitution highlights the importance of the right to privacy and its consequent effect on the rules on admissibility of evidence, however, one must not lose sight of the fact that the Bill of Rights was intended to protect private individuals against government intrusions. Hence, its provisions are not applicable between and amongst private individuals. Meanwhile, the violation of the right to privacy among private individuals is governed by the provisions of the Civil Code, the Data Privacy Act (DPA), and other pertinent laws, while its admissibility shall be governed by the rules on relevance, materiality, authentication of documents, and the exclusionary rules under the Rules on Evidence.

Here, the photographs and conversations in the Facebook Messenger account that were obtained and used as evidence against Cadajas, which he considers as fruit of the poisonous tree, were not obtained through the efforts of the police officers or any agent of the State. Rather, these were obtained by a private individual. Since the evidence was obtained by a private individual, the admissibility of an evidence cannot be determined by the provisions of the Bill of Rights; it should be the New Civil Code.

The act of AAA cannot be said to have violated Cadajas' right to privacy. Cadajas' expectation of privacy emanates from the fact that his Facebook Messenger account is password protected. However, he never asserted that his Facebook Messenger account was hacked or the photos were taken from his account through unauthorized means. Rather, the photos were obtained from his account because AAA, to whom he gave his password, had access to it. In effect, he has authorized AAA to access the same. Cadajas' reasonable expectation of privacy, in so far as AAA is concerned, had been limited. Thus, there is no violation of privacy to speak of.

FACTS

Christian Cadajas (Cadajas) was then twenty-four (24) years old when he met AAA who was only 14 years old. Cadajas and AAA started a relationship, which was eventually discovered by BBB, AAA's mother. BBB discovered the relationship because AAA frequently borrows her cellphone to access her Facebook account. BBB was able to read AAA's communication with Cadajas when AAA forgets to log out her account. BBB disapproved of their relationship because AAA was still young. However, Cadajas and AAA continued their romantic relationship.

Later, BBB was disheartened when she read that Cadajas was sexually luring AAA to meet with him in a motel. She confronted Cadajas and told him to stay away because AAA was still a minor. Eventually, BBB was shocked when she read the conversation between Cadajas and AA, wherein Cadajas was coaxing AAA to send him photos of the latter's breast and vagina. AAA relented and sent Cadajas the photos that he was asking. When AAA learned that BBB read their conversation, AAA rushed to delete her messages, but BBB was able to force her to open Cadajas's Facebook account to get a copy of their conversation.

Cadajas was charged for: (1) violation of Section 10, paragraph (a) of Republic Act No. 7610 (R.A. No. 7610), otherwise known as the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act, and; (2) child pornography defined and penalized under Section 4, Paragraph (c), Sub-paragraph (2) of Republic Act No. 10175 (R.A. No. 10175), otherwise known as the Cybercrime Prevention Act, in relation to Section 4, Paragraph (a), Section 3, Paragraphs (b) and (c), Sub-paragraph (5) of Republic Act No.9775 (R.A. No. 9775), otherwise known as the Anti-Child Pornography Act.

The Regional Trial Court (RTC) acquitted Cadajas for violation of Sec. 10, Par. (a) of R.A. 7610, but found him guilty beyond reasonable doubt of the charge regarding child pornography as provided by Sec. 4, par. (c), subparagraph (2) of R.A. No. 10175 in relation to Sec. 4, par. (a), Sec. 3, pars. (b) and (c)(5) of R.A. No. The Court of Appeals (CA) affirmed the RTC judgment.

ISSUES

- (1) Did the prosecution's evidence violate Cadajas' right to privacy?
- (2) Did the RTC and CA gravely err in convicting Cadajas?
- (3) Is the sweetheart doctrine used by Cadajas as a defense tenable?

RULING

- (1) **NO.** Article III, Section 3 of the 1987 Constitution expressly recognizes the right to privacy which is defined as "the right to be free from unwarranted exploitation of one's person or from intrusion into one's private activities in such a way as to cause humiliation to a person's ordinary sensibilities." It is the right of an individual "to be free from unwarranted publicity, or to live without unwarranted interference by the public in matters in which the public is not necessarily concerned." Simply put, the right to privacy is "the right to be let alone."

The 1987 Constitution highlights the importance of the right to privacy and its consequent effect on the rules on admissibility of evidence, however, one must not lose sight of the fact that the Bill of Rights was intended to protect private individuals against government intrusions. Hence, its provisions are not applicable between and amongst private individuals. Meanwhile, the violation of the right to privacy among private individuals is governed by the provisions of the Civil Code, the Data Privacy Act (DPA), and other pertinent laws, while its admissibility shall be governed by the rules on relevance, materiality, authentication of documents, and the exclusionary rules under the Rules on Evidence.

Here, the photographs and conversations in the Facebook Messenger account that were obtained and used as evidence against Cadajas, which he considers as fruit of the poisonous tree, were not obtained through the efforts of the police officers or any agent of the State. Rather, these were obtained by a private individual. Since the evidence was obtained by a private individual, the admissibility of an evidence cannot be determined by the provisions of the Bill of Rights; it should be the New Civil Code.

The pieces of evidence presented by the prosecution were properly authenticated when AAA identified them in open court. The DPA allows the processing of data and sensitive personal information where it relates to the determination of criminal liability of a data subject, such as a

violation of R.A. No. 10175 in relation to R.A. No. 9775 and when necessary for the protection of lawful rights and interests of persons in court proceedings, as in this case where the communications and photos sought to be excluded were submitted in evidence to establish AAA's legal claims before the prosecutor's office and the courts.

The act of AAA cannot be said to have violated Cadajas' right to privacy. Cadajas' expectation of privacy emanates from the fact that his Facebook Messenger account is password protected. However, he never asserted that his Facebook Messenger account was hacked or the photos were taken from his account through unauthorized means. Rather, the photos were obtained from his account because AAA, to whom he gave his password, had access to it. In effect, he has authorized AAA to access the same. Cadajas' reasonable expectation of privacy, in so far as AAA is concerned, had been limited. Thus, there is no violation of privacy to speak of.

(2) **NO.** The elements of *child pornography* are:

- (a) That the victim is a child;
- (b) That the victim was induced to coerced to perform in the creation or production of any form of child pornography; and
- (c) That he said commission of child pornography was performed through visual, audio, or written communication thereof by electronic, mechanical, digital, optical, magnetic, or any other means.

In this case, the Court has concluded that the prosecution was able to establish the said facts beyond reasonable doubt. The Court further ruled that it was uncontroverted that: (a) AAA was only 14 years old at the time of the incident; (b) Cadajas was well-aware of this fact; (c) AAA's mother has already warned Cadajas and told him to stay away from his daughter because the latter was still a minor; (d) Cadajas induced AAA to send him photos of her private parts via Facebook Messenger; and (e) Cadajas was the one who gave specific orders to AAA, by telling her to send nude photos and for her to further spread her legs near the camera so that he can see her bare nether region. Thus, Cadejas' act of inducing AAA to send photos of her breasts and vagina constitutes child pornography and explicit sexual activity.

(3) **NO.** In *Bangayan v. People*, the Court held that the sweetheart doctrine was given serious consideration because the accused and the alleged victim were able to show that the alleged rape incident was consensual and a product of love. Here, the accused and the alleged victim had two (2) children and had lived together even after the filing of the rape charges.

However, in this case, AAA was led to believe that she was in a relationship with Cadajas. Although it was undisputed that AAA was the one who first pursued Cadajas as she had a crush on him. Still, it can be gleaned that Cadajas took advantage of her innocence and vulnerability. Furthermore, it should also be pointed out that AAA was only 14 years old at the time of the incident while Cadajas was 24 years old. Such huge age disparity placed Cadajas in a stronger position over AAA, which enabled him to wield his will on the latter.