

THIRD DIVISION

[G.R. No. 206284, February 28, 2018]

REDANTE SARTO Y MISALUCHA, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

MARTIRES, J.:

This is a petition for review on certiorari seeking to reverse and set aside the 31 July 2012 Decision^[1] and the 6 March 2013 Resolution^[2] of the Court of Appeals (CA), in CA-G.R. CR No. 32635, which affirmed the 18 May 2009 Decision^[3] of the Regional Trial Court, Branch 26, Naga City (RTC), in Criminal Case No. 2007-0400 finding petitioner Redante Sarto y Misalucha (*Redante*) guilty beyond reasonable doubt of Bigamy.

THE FACTS

On 3 October 2007, Redante was charged with the crime of bigamy for allegedly contracting two (2) marriages: the first, with Maria Socorro G. Negrete (*Maria Socorro*), and the second, without having the first one legally terminated, with private complainant Fe R. Aguila (*Fe*). The charge stemmed from a criminal complaint filed by Fe against Redante on 4 June 2007. The accusatory portion of the Information reads:

That on or about December 29, 1998, in the City of Naga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, having been previously united in lawful marriage with one Ma. Socorro G. Negrete, as evidenced by hereto attached Certificate of Marriage mark as Annex "A," and without said marriage having been legally dissolved, did then and there, willfully and feloniously contract a second marriage with FE R. AGUILA-SARTO, herein complaining witness, to her damage and prejudice.

CONTRARY TO LAW.^[4]

During his arraignment on 3 December 2007, Redante entered a plea of "not guilty." Pre-trial ensued wherein Redante admitted that he had contracted two marriages but interposed the defense that his first marriage had been legally dissolved by divorce obtained in a foreign country.

On 22 May 2008, the defense filed a motion to allow the taking of Maria Socorro's deposition considering that she was set to leave the country on the first week of June 2008.^[5] This was granted by the RTC in its Order,^[6] dated 26 May 2008.

Maria Socorro's deposition was taken on 28 May 2008. On 22 August 2008, the prosecution moved for a modified or reverse trial on the basis of Redante's admissions.^[7] The RTC granted the motion in its Order,^[8] dated 27 August 2008, wherein the defense was directed to present its case ahead of the prosecution.

Evidence for the Defense

The defense presented Redante and Maria Socorro as witnesses. Their testimonies, taken together, tended to establish the following:

Redante and Maria Socorro, both natives of Buhi, Camarines Sur, were married on 31 August 1984 in a ceremony held in Angono, Rizal.^[9] Sometime thereafter, Maria Socorro left for Canada to work as a nurse. While in Canada, she applied for Canadian citizenship. The application was eventually granted and Ma. Socorro acquired Canadian citizenship on 1 April 1988.^[10] Maria Socorro then filed for divorce in British Columbia, Canada, to sever her marital ties with Redante. The divorce was eventually granted by the Supreme Court of British Columbia on 1 November 1988.^[11]

Maria Socorro came back to Buhi, Camarines Sur, sometime in 1992 for a vacation. While there Redante's mother and grandparents, who were against the divorce, convinced her and Redante to give their marriage a second chance to which they acceded. Their attempts to rekindle their romance resulted in the birth of their daughter on 8 March 1993 in Mandaluyong City. In spite of this, Redante and Maria Socorro's efforts to save their marriage were futile.^[12] Sometime in February 1998, Redante met Fe to whom he admitted that he was previously married to Maria Socorro who, however, divorced him.^[13] Despite this admission, their romance blossomed and culminated in their marriage on 29 December 1998 at the Peñafrancia Basilica Minore in Naga City.^[14] They established a conjugal home in Pasay City and had two children. Their relationship, however, turned sour when Ma. Socorro returned to the Philippines and met with Redante to persuade him to allow their daughter to apply for Canadian citizenship. After learning of Redante and Maria Socorro's meeting and believing that they had reconciled, Fe decided to leave their conjugal home on 31 May 2007.^[15] On 4 June 2007, Fe filed a complaint for bigamy against Redante.^[16] Meanwhile, Maria Socorro married a certain Douglas Alexander Campbell, on 5 August 2000, in Chilliwack, British Columbia, Canada.^[17]

The defense presented a Certificate of Divorce^[18] issued on 14 January 2008, to prove the fact of divorce.

Evidence for the Prosecution

The prosecution waived the presentation of testimonial evidence and presented instead, the Marriage Contract^[19] between Redante and Maria Socorro, to prove the solemnization of their marriage on 31 August 1984, in Angono, Rizal; and the Marriage Contract^[20] of Redante and Fe to prove the solemnization of Redante's second marriage on 29 December 1998, in Naga City. The prosecution also adopted the Certificate of Divorce^[21] as its own exhibit for the purpose of proving that the same was secured only on 14 January 2008.

The RTC Ruling

In its judgment, the RTC found Redante guilty beyond reasonable doubt of the crime of bigamy. The trial court ratiocinated that Redante's conviction is the only reasonable conclusion for the case because of his failure to present competent evidence proving the alleged divorce decree; his failure to establish the naturalization of Maria Socorro; and his admission that he did not seek judicial recognition of the alleged divorce decree. The dispositive portion of the decision reads:

WHEREFORE, finding the accused Redante Sarto y Misalucha guilty beyond reasonable doubt for the crime of Bigamy punishable under Article 349 of the Revised Penal Code, and after applying the Indeterminate Sentence Law, this Court hereby sentenced him an imprisonment of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.^[22] Aggrieved, Redante appealed before the CA.

The CA Ruling

In its assailed decision, the CA affirmed the RTC's Judgment. The appellate court ratiocinated that assuming the authenticity and due execution of the Certificate of Divorce, since the order of divorce or the divorce decree was not presented, it could not ascertain whether said divorce capacitated Maria Socorro, and consequently Redante, to remarry. It continued that Redante failed to present evidence that he had filed and had secured a judicial declaration that his first marriage had been dissolved in accordance with Philippine laws prior to the celebration of his subsequent marriage to Fe. The dispositive portion of the assailed decision provides:

WHEREFORE, the Judgment of the Regional Trial Court convicting appellant Redante Sarto y Misalucha of Bigamy in Criminal Case No. 2007-0400, is AFFIRMED.^[23] Redante moved for reconsideration, but the same was denied by the CA in its 6 March 2013 resolution.

Hence, the present petition.

On 26 June 2013, the Court issued a Resolution^[24] requiring the respondent Republic of the Philippines to file its comment.

The OSG's Manifestation

In compliance with this Court's resolution, the respondent, through the Office of the Solicitor General (OSG), filed its Manifestation (in lieu of Comment)^[25] advocating Redante's acquittal. The OSG argued that the RTC had convicted Redante solely because of his failure to provide evidence concerning the date when Maria Socorro acquired Canadian citizenship. It observed that Maria Socorro failed to provide the exact date when she acquired Canadian citizenship because of the loss of her citizenship certificate at the time she took the witness stand. The OSG claimed, however, that Redante was able to submit, although belatedly, a photocopy of Maria Socorro's Canadian citizenship certificate as an attachment to his appellant's brief. The said certificate stated that Maria Socorro was already a Canadian citizen as early as 1 April 1988; hence, the divorce decree which took effect on 1 November 1988 is valid. The OSG further averred that substantial rights must prevail over the application of procedural rules.

ISSUE

WHETHER THE TRIAL AND APPELLATE COURTS ERRED WHEN THEY FOUND PETITIONER REDANTE SARTO y MISALUCHA GUILTY BEYOND REASONABLE DOUBT OF BIGAMY.

THE COURT'S RULING

The petition is bereft of merit.

Elements of bigamy; burden of proving the termination of the first marriage.

For a person to be convicted of bigamy, the following elements must concur: (1) that the offender has been legally married; (2) that the first marriage has not been legally dissolved or, in case of an absentee spouse, the absent

spouse could not yet be presumed dead according to the provisions of the Civil Code; (3) that the offender contracts a second or subsequent marriage; and (4) that the second or subsequent marriage has all the essential requisites for validity.^[26]

Redante admitted that he had contracted two marriages. He, however, put forth the defense of the termination of his first marriage as a result of the divorce obtained abroad by his alien spouse.

It is a fundamental principle in this jurisdiction that the burden of proof lies with the party who alleges the existence of a fact or thing necessary in the prosecution or defense of an action.^[27] Since the divorce was a defense raised by Redante, it is incumbent upon him to show that it was validly obtained in accordance with Maria Socorro's country's national law.^[28] Stated differently, Redante has the burden of proving the termination of the first marriage prior to the celebration of the second.^[29]

Redante failed to prove his capacity to contract a subsequent marriage.

A divorce decree obtained abroad by an alien spouse is a foreign judgment relating to the status of a marriage. As in any other foreign judgment, a divorce decree does not have an automatic effect in the Philippines. Consequently, recognition by Philippine courts may be required before the effects of a divorce decree could be extended in this jurisdiction.^[30] Recognition of the divorce decree, however, need not be obtained in a separate petition filed solely for that purpose. Philippine courts may recognize the foreign divorce decree when such was invoked by a party as an integral aspect of his claim or defense.^[31]

Before the divorce decree can be recognized by our courts, the party pleading it must prove it as a fact and demonstrate its conformity to the foreign law allowing it. Proving the foreign law under which the divorce was secured is mandatory considering that Philippine courts cannot and could not be expected to take judicial notice of foreign laws.^[32] For the purpose of establishing divorce as a fact, a copy of the divorce decree itself must be presented and admitted in evidence. This is in consonance with the rule that a foreign judgment may be given presumptive evidentiary value only after it is presented and admitted in evidence.^[33]

In particular, to prove the divorce and the foreign law allowing it, the party invoking them must present copies thereof and comply with Sections 24 and 25, Rule 132 of the Revised Rules of Court.^[34] Pursuant to these rules, the divorce decree and foreign law may be proven through (1) an official publication or (2) or copies thereof attested to by the officer having legal custody of said documents. If the office which has custody is in a foreign country, the copies of said documents must be (a) accompanied by a certificate issued by the proper diplomatic or consular officer in the Philippine foreign service stationed in the foreign country in which the record is kept; and (b) authenticated by the seal of his office.^[35]

Applying the foregoing, the Court is convinced that Redante failed to prove the existence of the divorce as a fact or that it was validly obtained prior to the celebration of his subsequent marriage to Fe.

Aside from the testimonies of Redante and Maria Socorro, the only piece of evidence presented by the defense to prove the divorce, is the certificate of divorce allegedly issued by the registrar of the Supreme Court of British Columbia on 14 January 2008. Said certificate provides:

In the Supreme Court of British Columbia
Certificate of Divorce

This is to certify that Ma. Socorro Negrete SARTO and Redante M SARTO who were married at ANGONO, RIZAL, PHILIPPINES on August 31, 1984 were divorced under the Divorce Act (Canada) by an order of this Court which took effect and dissolved the marriage on November 1, 1988.

Given under my hand and the Seal of this Court January
14, 2008

(SGD.)

REGISTRAR

This certificate of divorce, however, is utterly insufficient to rebut the charge against Redante. *First*, the certificate of divorce is not the divorce decree required by the rules and jurisprudence. As discussed previously, the divorce

decree required to prove the fact of divorce is the judgment itself as rendered by the foreign court and not a mere certification. *Second*, assuming the certificate of divorce may be considered as the divorce decree, it was not accompanied by a certification issued by the proper Philippine diplomatic or consular officer stationed in Canada, as required under Section 24 of Rule 132. *Lastly*, no copy of the alleged Canadian law was presented by the defense. Thus, it could not be reasonably determined whether the subject divorce decree was in accord with Maria Socorro's national law.

Further, since neither the divorce decree nor the alleged Canadian law was satisfactorily demonstrated, the type of divorce supposedly secured by Maria Socorro - whether an absolute divorce which terminates the marriage or a limited divorce which merely suspends it^[36] - and whether such divorce capacitated her to remarry could not also be ascertained. As such, Redante failed to prove his defense that he had the capacity to remarry when he contracted a subsequent marriage to Fe. His liability for bigamy is, therefore, now beyond question.

This Court is not unmindful of the second paragraph of Article 26 of the Family Code. Indeed, in *Republic v. Orbecido*,^[37] a case invoked by Redante to support his cause, the Court recognized that the legislative intent behind the said provision is to avoid the absurd situation where the Filipino spouse remains married to the alien spouse who, after obtaining a divorce, is no longer married to the Filipino spouse under the laws of his or her country. The Court is also not oblivious of the fact that Maria Socorro had already remarried in Canada on 5 August 2000. These circumstances, however, can never justify the reversal of Redante's conviction.

In *Orbecido*, as in Redante's case, the alien spouse divorced her Filipino spouse and remarried another. The Filipino spouse then filed a petition for authority to remarry under paragraph 2 of Article 26. His petition was granted by the RTC. However, this Court set aside said decision by the trial court after finding that the records were bereft of competent evidence concerning the divorce decree and the naturalization of the alien spouse. The Court reiterated therein the rules regarding the recognition of the foreign divorce decree and the foreign law allowing it, as well as the necessity to show that the divorce decree capacitated his former spouse to remarry.^[38]

Finally, the Court notes that the OSG was miserably misguided when it claimed that the sole reason for the RTC's judgment of conviction was Redante's failure to provide evidence, during trial, of the date Maria Socorro acquired Canadian citizenship.

An examination of the 18 May 2009 judgment would reveal that the trial court rendered the said decision after finding that there was lack of any competent evidence with regard to the divorce decree^[39] and the national law governing his first wife,^[40] not merely because of the lack of evidence concerning the effectivity date of Maria Socorro's naturalization. Thus, even if the Court were to indulge the OSG and consider Maria Socorro's citizenship certificate, which was a mere photocopy and filed belatedly, it would not have any effect significant enough to produce a judgment of acquittal. The fact that Redante failed to prove the existence of the divorce and that it was validly acquired prior to the celebration of the second marriage still subsists.

WHEREFORE, the present petition is **DENIED** for lack of merit. The assailed Decision, dated 31 July 2012, of the Court of Appeals in CA G.R. CR No. 32635 which affirmed the 18 May 2009 Judgment of the Regional Trial Court, Branch 26, Naga City, in Criminal Case No. 2007-0400 is hereby **AFFIRMED**. Petitioner Redante Sarto y Misalucha is found **GUILTY** beyond reasonable doubt of the crime of bigamy and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum.

SO ORDERED.

Velasco, Jr., J., (Chairperson), Bersamin, Leonen, and Gesmundo, JJ., concur.

NOTICE OF JUDGMENT

April 23, 2018

Sirs/Mesdames:

Please take notice that on **February 28, 2018** a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on April 23, 2018 at 1:30 p.m.

Very truly yours,

WILFREDO V. LAPITAN
Division Clerk of Court

By:

(Sgd.) **MISAEAL DOMINGO C.
BATTUNG III**

Deputy Division Clerk of Court

[1] *Rollo* pp. 18-26. Penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Japar B. Dimaampao and Elihu A. Ybanez, concurring.

[2] *Id.* at 29-30.

[3] *Records*, pp. 151-157.

[4] *Id.* at 1.

[5] *Id.* at 78-79.

[6] *Id.* at 80.

[7] *Id.* at 100-101.

[8] *Id.* at 103.

[9] *TSN*, 28 May 2008, p. 7.

[10] *Id.* at 4.

[11] *Id.* at 7; *Records* p. 36, Exh. (3.)

[12] *Id.* at 10.

[13] *TSN*, 27 October 2008, pp. 7-8.

[14] *Id.* at 3.

[15] *Id.* at 10.

[16] *Records*, p. 3-4.

[17] *TSN*, 28 May 2008, p. 8.

[18] *Records*, p. 36, Exhibit "3."

[19] *Id.* at 34, Exh. "A."

[20] *Id.* at 35, Exh. "B."

[21] *Id.* at 36, Exh. "C."

[22] *Id.* at 157.

[23] *Rollo*, p. 26.

[24] *Id.* at 34.

[25] *Id.* at 43-55.

[26] *Antone v. Beronilla*, 652 Phil. 151, 166 (2010).

[27] *Garcia v. Recio*, 418 Phil. 723, 735 (2001).

[28] *Vda. de Catalan v. Catalan-Lee*, 681 Phil. 493, 500 (2012).

[29] *Marbella-Bobis v. Bobis*, 391 Phil. 648, 656 (2000).

[30] *Fujiki v. Marinay*. 712 Phil. 524, 546 (2013).

[31] *VanDorn v. Romillo*, 223 Phil. 357-363 (1985); *Corpuz v. Sto. Tomas*, 642 Phil. 420-432-433 (2010); *Noveras v. Noveras* 741 Phil. 670, 682 (2014).

[32] *Amor-Catalan v. Court of Appeals*, 543 Phil. 568, 576 (2007).

[33] *Vda. de Catalan v. Catalan-Lee*, supra note 28 at 499.

[34] *ATCI Overseas Corporation v. Echin*, 647 Phil. 43, 50 (2010).

[35] *Vda. de Catalan v. Catalan-Lee*, supra note 33; *San Luiz v. San Luiz*, 543 Phil. 275, 294 (2007).

[36] *Garcia v. Recio*, supra note 27 at 735-736.

[37] 509 Phil. 108, 114 (2005).

[38] *Id.* at 116.

[39] *CA rollo*, p. 19.

[40] *Id.* at 21.