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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **July 20, 2022** *which reads as follows:*

"G.R. No. 249722 (*Rommel S. Bermudez v. People of the Philippines*). – It is well-settled that in a criminal case, factual findings of the trial court are generally accorded great weight and respect on appeal, especially when such findings are supported by substantial evidence on record.[1] It is only in exceptional circumstances, such as when the trial court overlooked material and relevant matters, that this Court will re-calibrate and evaluate the factual findings of the court below.[2] In this case, We hold that the trial court did not overlook such factual matters; consequently, We find no necessity to review, much less, overturn its factual findings.

For an accused to be liable for bigamy, the prosecution must prove the following: (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 or she contracts a second or subsequent marriage; and (d) that the second or subsequent marriage has all the essential requisites for validity.[3] It is vital in the prosecution for bigamy that the alleged second marriage, having all the essential requirements, would be valid were it not for the subsistence of the first marriage.[4]

In the present case, petitioner Rommel S. Bermudez (petitioner) married Jonalyn M. Bermudez (Jonalyn) on May 28, 1997 at Mini Cuisine Restaurant, Quezon City Hall, Quezon City. While this

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[1] *Macayan v. People*, 756 Phil. 202, 203 (2015).
[2] *People v. Esteban*, 735 Phil. 663, 664 (2014).
[3] *Pulido v. People*, G.R. No. 220149, July 27, 2021.
[4] Id.

marriage was subsisting, petitioner contracted a second marriage, this time to Josefa T. Bermudez (Josefa) on March 9, 1998, which was held at Branch 35 of the Metropolitan Trial Court of Quezon City. Aside from petitioner's own admission, the existence of these two marriages was proven by the prosecution using Certificates of Marriage issued by the National Statistics Office to Jonalyn. Being public documents, these Certificates of Marriage are not only *prima facie* proof of marriage, but are also *prima facie* evidence of the facts stated therein pursuant to Section 46, Rule 130 of the Amendments to the 1989 Revised Rules on Evidence, which reads:

> Sec. 46. Entries in official records. — Entries in official records made in the performance of his or her duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

Since the Certificates of Marriage clearly indicate the above-mentioned details, *i.e.,* that a marriage was celebrated between petitioner and Jonalyn on May 28, 1997, and barely a year after, or on March 9, 1998, petitioner got married again to another woman, Josefa, the same should be accorded full faith and credence.[5]

Notably, petitioner continues to insist that he was already married to Josefa on June 29, 1990 in a ceremony held at the Manila City Hall, solemnized by Reverend Mariano Santos and witnessed by Cenon Sto. Domingo and Christina Bermudez, as stated in another marriage contract which was never registered. Despite its non-registration, petitioner claims that his 1990 marriage to Josefa was valid, since the registration of the marriage contract is not a requirement for the validity of a marriage. Accordingly, petitioner asserts that he cannot be held liable for bigamy as Josefa was in actuality, his first wife.[6]

We disagree.

Case law provides that as long as all the essential and formal requisites for its validity are present, the mere fact that no record of marriage exists does not invalidate a marriage.[7] Granted that the non-registration of a marriage contract does not affect the validity of a

[5] *Rollo*, pp. 28-29.
[6] Id. at 29.
[7] *Tenebro v. Court of Appeals*, 467 Phil. 723, 741 (2004).

marriage; nonetheless, under the attendant circumstances of this case, We sustain the appellate court's determination that petitioner and Josefa's 1990 marriage is akin to a marriage in jest which is void *ab initio*, due to the complete absence of any genuine consent.[8]

A marriage in jest is understood to be a pretended marriage, legal in form but entered into as a joke, with no real intention of entering into the actual marriage status, and with a clear understanding that the parties would not be bound.[9] There is no genuine consent because the parties have absolutely no intention of being bound in any way or for any purpose.[10] This is evident when the marriage ceremony is not followed by any conduct indicating a purpose to enter into such a relation.[11] We quote with approval the observations of the appellate court in support of its conclusion that petitioner and Josefa merely had a pretend marriage, thus:

> A scrutiny of records at hand demonstrate that, although appellant and Josefa were married on 29 June 1990, they never intended to be bound by the legal effects of such marriage. Their lack of intention to be bound is very much apparent since they always submit their 1998 marriage contract in all transactions that needed the same. If indeed the 1990 marriage is valid as what they claim to be, then the 1990 marriage contract would be the one that they will submit. Moreover, it puzzles Us that appellant and Josefa were very much willing to comply and submit anew the requirements needed for their 1998 marriage if there is any truth to their 1990 marriage. Appellant and Josefa's justification-that it was convenient to be married again as they do not know how to register their first marriage-is a flimsy excuse which We cannot give any consideration since it is more tedious, not to mention costly, to have another marriage rather than registering later their previous 1990 marriage. For Us, the 1990 marriage is just a mere afterthought on the part of the appellant to escape conviction.[12]

A similar observation was made by the trial court insofar as it held that the purported marriage in 1990 was only simulated or fictitious, and only for their personal consumption.[13] It is worthy to note that after the 1990 marriage ceremony between petitioner and Josefa, save for their bare assertions, there is nothing on record which shows that they even lived as husband and wife. Evidence, to be

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[8] *Rollo*, p. 31.
[9] *Republic v. Albios*, 719 Phil. 622, 623-624 (2013).
[10] Id.
[11] Id.
[12] *Rollo*, pp. 29-30.
[13] Id. at 45.

believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself — such as the common experience and observation of mankind can approve as probable under the circumstances.[14] Thus, the credibility of testimony given in judicial trials is tested by human experience and probability. It is contrary to logic and human experience that a couple would contract another marriage, rather than simply register their prior marriage which, to Our minds, would be the more expedient and cost-effective course of action.

Even if We give credence to petitioner's assertions that he has been married three times, two of which was with the same person: *first*, Josefa in 1990; *second,* Jonalyn in 1997; and *third,* Josefa again in 1998; petitioner's conviction for bigamy still stands. It bears clarifying that notwithstanding petitioner's marriage to Jonalyn in 1997 without securing a judicial declaration of nullity of marriage of his 1990 marriage with Josefa, petitioner's marriage with Jonalyn is still valid. Mindful of the attendant circumstances in this case, it must be recalled that We determined that petitioner's first union with Josefa in 1990 was a marriage in jest and therefore, void. In *Pulido v. People,*[15] the Court was emphatic that a void *ab initio* marriage is a valid defense in the prosecution for bigamy even without a judicial declaration of marriage of absolute nullity. After all, in 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 from the beginning.[16] This is relevant in the present case for bigamy with respect to petitioner's second and third marriages, considering that one of the elements of bigamy is a prior valid marriage. Necessarily, petitioner's marriage with Jonalyn in 1997 must be valid; otherwise, there can be no crime when the very act which is penalized by law, *i.e.*, contracting another marriage during the subsistence of a prior legal or valid marriage, is not present. As it stands, petitioner's marriage with Jonalyn in 1997 is a valid marriage for purposes of holding petitioner liable for bigamy for contracting a subsequent marriage to Josefa in 1998, *albeit* for the second time.

Finally, We sustain the appellate court's modification of the minimum indeterminate penalty from four (4) years and two (2) months of *prision correccional* to six (6) months and one (1) day of *prision correccional,* which is in accordance with prevailing jurisprudence.[17]

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[14] *People v. Sangcajo*, 839 Phil. 1073 (2018).
[15] *Pulido v. People*, supra note 3.
[16] Id.
[17] *Vitangcol v. People*, 778 Phil. 326, 343-344 (2016).

Under Article 349 of the Revised Penal Code, the penalty for bigamy is *prision mayor*. With neither an aggravating nor a mitigating circumstance attendant in the commission of the crime, the maximum indeterminate penalty must be taken from the medium period of *prision mayor*, which ranges from eight (8) years and one (1) day to ten (10) years. Applying the Indeterminate Sentence Law, the minimum of the indeterminate sentence should be within the range of *prision correccional*, the penalty next lower than that prescribed for the offense, which ranges from six (6) months and one (1) day to six (6) years.[18] Accordingly, the indeterminate sentence of six (6) months and one (1) day of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum, imposed by the Court of Appeals is within the aforementioned parameters.

In view of the foregoing, We find that petitioner's conviction for bigamy is in accordance with the law, jurisprudence, and the evidence on record.

WHEREFORE, the Petition for Review on *Certiorari* filed by Rommel S. Bermudez is **DENIED**. The Decision dated March 28, 2019 and the Resolution dated October 4, 2019 of the Court of Appeals (CA) in CA-G.R. CR No. 39918 are hereby **AFFIRMED.**

SO ORDERED."

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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[18] *Lasanas v. People*, 736 Phil. 735, 737 (2014).

Atty. Irwin B. Marzan
Counsel for Petitioner
Unit 7, G/F, University Tower
Condominium 1, Moret Street
España Boulevard, 1000 Manila

Court of Appeals (x)
Manila
(CA-G.R. CR No. 39918)

The Solicitor General
134 Amorsolo Street, Legaspi Village
1229 Makati City

The Hon. Presiding Judge
Regional Trial Court, Branch 105
1100 Quezon City
(Crim. Case No. Q-09-160800)

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