



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 11, 2023**, which reads as follows:*

**“G.R. No. 262486 (Ireneo L. Penuliar v. People of the Philippines).** – The Court **AWAITS** petitioner’s submission of the soft copy of the petition for review on *certiorari*.

Before this Court is a Petition for Review on *Certiorari*<sup>1</sup> dated October 1, 2022 filed by Ireneo L. Penuliar (petitioner), assailing the Decision dated November 2, 2021 and the Order dated August 3, 2022 of the Court of Appeals (CA) in CA-G.R. CR No. 41559, which affirmed the Decision dated December 8, 2016 of the Regional Trial Court (RTC) of Quezon City, Branch 87, finding him guilty beyond reasonable doubt of the crime of bigamy.<sup>2</sup>

**Factual Antecedents**

Petitioner married Deborah Desiree Baruela (Deborah) on November 7, 1995. After their marriage, petitioner converted to Islam.<sup>3</sup>

Sometime thereafter, he met Ana Marie Palo (Ana) and married her on January 18, 2001. Upon discovery of the second marriage, Deborah filed an action for bigamy against petitioner and Ana before the RTC.<sup>4</sup>

On December 8, 2016, the RTC rendered its Decision finding both petitioner and Ana guilty beyond reasonable doubt, thus:

WHEREFORE, in the light of the foregoing, the Court finds Ireneo Penuliar and Ana Marie Palo guilty beyond reasonable doubt of the crime of bigamy. Judgment is hereby rendered pursuant to Article 349 in relation to Articles 51, 61, and 71 of the Revised Penal Code and applying the Indeterminate Sentence Law, Ireneo Penuliar is sentenced to suffer an indeterminate penalty of imprisonment of six (6) years of prision correccional as minimum to ten (10) years of prision mayor as maximum

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<sup>1</sup> Rollo, pp. 8-18.

<sup>2</sup> Id. at 8-9.

<sup>3</sup> Id. at 10.

<sup>4</sup> Id.

and Ana Marie Palo is sentenced to suffer the indeterminate penalty of six (6) months of *arresto mayor* as minimum to four (4) years of *prision correccional* as maximum.

Ireneo Penuliar is also directed to pay private complainant Deborah Desiree Penuliar moral damages amounting to Php200,000.00.

SO ORDERED.<sup>5</sup>

Aggrieved, petitioner filed a Motion for Reconsideration, which was denied by the RTC in its Order dated May 22, 2017. Petitioner then filed an appeal before the CA. However, on November 2, 2021, the CA rendered its Decision, denying petitioner's appeal, to wit:

The appeal is DENIED. The Decision dated 08 December 2016 issued by Branch 87 of the Regional Trial Court, National Capital Judicial Region, Quezon City in Criminal Case No. Q-03-114448, insofar as it finds appellant Ireneo L. Penuliar guilty beyond reasonable doubt of the crime of bigamy, is AFFIRMED.

IT IS SO ORDERED.<sup>6</sup>

Petitioner filed a Motion for Reconsideration, but the same was likewise denied by the CA in its Order dated August 3, 2022.<sup>7</sup>

### **The Instant Petition**

On October 1, 2022, petitioner filed the instant petition,<sup>8</sup> raising the following arguments:

I. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FAILING TO APPRECIATE PETITIONER'S LACK OF CRIMINAL INTENT WHEN HE CONTRACTED THE SECOND MARRIAGE.<sup>9</sup>

II. THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF CONVICTION AGAINST THE PETITIONER.<sup>10</sup>

### **The Court's Ruling**

The petition must be denied.

*First*, petitioner failed to comply with the requirements of Section 4, Rule 45 of the Rules of Court. Section 4, Rule 45 of the Rules of Court provides:

Section 4. *Contents of petition.* – The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being

<sup>5</sup> Id. at 10-11.

<sup>6</sup> Id. at 11.

<sup>7</sup> Id.

<sup>8</sup> Id. at 8-18.

<sup>10</sup> Id. at 12

indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) **indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received**, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) **be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court *a quo* and the requisite number of plain copies thereof, and such material portions of the record as would support the petition**; and (e) contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42. (Emphases supplied)

In this case, petitioner failed to indicate the date of his receipt of the Decision of the CA and the date when he filed his Motion for Reconsideration before the CA. Furthermore, petitioner did not attach copies of the CA Decision and the Order denying his Motion for Reconsideration. On this score alone, the petition must be denied pursuant to Section 5, Rule 45 of the Rules of Court, which provides:

Section 5. *Dismissal or denial of petition.* – **The failure of the petitioner to comply with any of the foregoing requirements** regarding the payment of the docket and other lawful fees, deposit for costs, proof of service of the petition, and the contents of and the documents which should accompany the petition shall be **sufficient ground for the dismissal thereof.**

The Supreme Court may on its own initiative deny the petition on the ground that the appeal is without merit, or is prosecuted manifestly for delay, or that the questions raised therein are too unsubstantial to require consideration. (Emphases supplied)

*Second*, the petition raises factual issues, which is beyond the purview of a Rule 45 petition. In *Microsoft Corp. v. Farajallah*,<sup>11</sup> the Court succinctly held:

This Court is not a trier of facts. As a general rule, we defer to the lower courts' appreciation and evaluation of evidence. x x x<sup>12</sup>

Similarly, in *Republic v. Barcelon*,<sup>13</sup> the Court declared:

This Court is not a trier of facts and questions of fact are beyond the scope of the judicial review of this Court under Rule 45. Moreover, factual findings of the trial court, when affirmed by the CA, are conclusive upon this Court. x x x<sup>14</sup>

<sup>11</sup> 742 Phil. 775 (2014).

<sup>12</sup> Id. at 785.

<sup>13</sup> G.R. No. 226021, July 24, 2019.

<sup>14</sup> Id.

Considering that both the RTC and the CA, after astutely reviewing the evidence on record, found that all the elements of the crime of bigamy are present, the Court finds no reason to review nor even depart from these factual findings.

*Third*, even if the Court gives due course to the petition and reviews the evidence on record, petitioner would still be found guilty of the crime of bigamy.

In *Montañez v. Cipriano*,<sup>15</sup> the Court enumerated the elements of bigamy as follows:

The elements of the crime of bigamy are: (a) the offender has been legally married; (b) the marriage has not been legally dissolved or, in case his or her spouse is absent, the absent spouse could not yet be presumed dead according to the Civil Code; (c) that he contracts a second or subsequent marriage; and (d) the second or subsequent marriage has all the essential requisites for validity. The felony is consummated on the celebration of the second marriage or subsequent marriage. It is essential 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.<sup>16</sup>

In this case, all the elements are present and are not even disputed by petitioner. Clearly, both the RTC and the CA correctly convicted him of the crime of bigamy.

In this regard, petitioner interposed the defense that he “contracted his subsequent marriage in good faith believing that he did not violate any law because contracting subsequent marriages is allowed under [the] Muslim faith.”<sup>17</sup> However, his defense still fails.

In *Malaki v. People*<sup>18</sup> (*Malaki*), the Court explained that while the Muslim Code allows subsequent marriages on certain conditions, the Muslim Code still maintains that its provisions shall not be construed to the prejudice of a non-Muslim. In fact, as discussed in the *Malaki* case, Article 13(2) of the Muslim Code expressly states that the Civil Code governs marriages where either party to the marriage is a non-Muslim. In other words, when one of the parties to the marriage is a non-Muslim, the Civil Code governs, and the provision – which allows Muslims to contract subsequent marriages in certain conditions – cannot apply.<sup>20</sup>

Furthermore, as noted in the *Malaki* case, even assuming that the Muslim Code is applicable, there are conditions which must be met before a Muslim may contract a subsequent marriage:

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<sup>15</sup> 697 Phil. 586 (2012).

<sup>16</sup> Id. 595-596.

<sup>17</sup> *Rollo*, p. 13.

<sup>18</sup> G.R. No. 221075, November 15, 2021.

<sup>20</sup> Id.

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:

Any Muslim husband desiring to contract a subsequent marriage shall, before so doing, file a written notice thereof with the Clerk of Court of the *Shari’a* Circuit Court of the place where his family resides. Upon receipt of said notice, the Clerk shall serve a copy thereof to the wife or wives. Should any of them object, an *Agama* Arbitration Council shall be constituted in accordance with the provisions of paragraph (2) of the preceding article. If the *Agama* Arbitration Council fails to obtain the wife’s consent to the proposed marriage, the Court shall, subject to Article 27, decide whether or not to sustain her objection.

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

“In other words, the consent of the wife, or the permission of the *Shari’a* Circuit Court if the wife refuses to give consent, is a *condition sine qua non* with respect to the subsequent marriage.” 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.*”<sup>21</sup> (Citations omitted)

In view of the foregoing, it is clear that petitioner cannot escape liability. The Muslim Code does not apply in this case because petitioner’s first wife, Deborah, is a non-Muslim; thus, the provisions of the Civil Code and not the Muslim Code govern. In any case, even if the Muslim Code is applicable, petitioner would still be found guilty of the crime of bigamy because there is no showing that he complied with the conditions set forth in the Muslim Code.

All told, the Court finds the instant petition bereft of merit. Petitioner is guilty of the crime of bigamy for contracting a second marriage while his first marriage was still subsisting.

**WHEREFORE**, the Petition for Review on *Certiorari* dated October 1, 2022 is **DENIED**. The Decision dated November 2, 2021 and the Order dated August 3, 2022 of the Court of Appeals in CA-G.R. CR No. 41559, which affirmed the Decision dated December 8, 2016 of the Regional Trial Court of Quezon City, Branch 87, insofar as it found petitioner Ireneo L. Penuliar **GUILTY** beyond reasonable doubt of the crime of bigamy are **AFFIRMED**.

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<sup>21</sup> Id.

**SO ORDERED.”**

By authority of the Court:

**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

By:

  
**RUMAR D. PASION**  
*Deputy Division Clerk of Court*  
SR  
01/11/23

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 87, 1100 Quezon City  
(Criminal Case No. Q-03-114448)

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**G.R. No. 262486**

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