



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 14, 2021** which reads as follows:*

“G.R. No. 223426* (Elizabeth B. Garcia, herein represented by her Attorney-in-Fact Enevic B. Bombita v. Leoncio D. Garcia).

We resolve this Petition for Review on *Certiorari*¹ assailing the November 19, 2015 Decision² and February 10, 2016 Resolution³ rendered by the Court of Appeals (CA) in CA-G.R. SP No. 08676. The CA denied the petition for *certiorari* filed by Elizabeth B. Garcia, herein represented by her Attorney-in-Fact, Enevic B. Bombita (*petitioner*), against the Decision⁴ promulgated by the Regional Trial Court, Iloilo City, Branch 31 (RTC) on May 19, 2014, acquitting Leoncio D. Garcia (*respondent*) of the crime of Bigamy.

Antecedents

On February 15, 2011, an Information⁵ for bigamy was filed against respondent, the accusatory portion of which reads:

That on or about September 8, 2001, in the Municipality of Maasin, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and without any justifiable motive, did then and there, willfully, unlawfully and feloniously contract or enter a second

- over – nine (9) pages ...

272

* Part of the Supreme Court Case Decongestion Program.

¹ *Rollo*, pp. 14-39.

² Id. at 306-312; penned by Associate Justice Edgardo L. Delos Santos (now a Member of this Court), with Associate Justices Edward B. Contreras and Germano Francisco D. Legaspi, concurring.

³ Id. at 313-314.

⁴ Id. at 75-84; penned by Judge Rene S. Hortillo.

⁵ Id. at 85-86.

marriage with ELIZABETH BERTOMO, knowing fully well that his marriage with THEAREDUCHIE (*sic*) S. CORNELIO is still subsisting.

CONTRARY TO LAW.⁶

The CA summarized the facts that led to the filing of the said information for bigamy, *viz.*:

The facts as culled from the record show that on September 8, 2001, petitioner Elizabeth Bertomo Garcia (hereinafter referred to as Elizabeth, for brevity) married private respondent Leoncio D. Garcia (hereinafter referred to as Leoncio, for brevity) at St. James The Great Parish Church in Maasin, Iloilo. The couple met and fell in love in New York, USA where Elizabeth worked as a registered nurse and Leoncio worked as a nurse aid. Elizabeth hails from Maasin, Iloilo while Leoncio is from Pampanga. At the time of their marriage both Elizabeth and Leoncio are American citizens. After their marriage, the couple went back to New York.

While going over some documents in New York, Elizabeth found a document with a signature of a woman and a picture as well. She asked her sister in the Philippines, Enevic Bombita (hereinafter referred to as Enevic, for brevity), to check with the National Statistics Office (NSO). Enevic's inquiry resulted in a certification from the NSO dated July 19, 2011 that Leoncio was married twice: first, to Theaderuchie S. Cornelio (hereinafter referred to as Theaderuchie, for brevity) on July 5, 1996 in Santo Domingo, Nueva Ecija and second, to Elizabeth in 2001.

In his defense, Leoncio testified that he filed for the annulment of his marriage to Theaderuchie with the Regional Trial Court (RTC), Branch 88, Talavera, Nueva Ecija. He had found out that she was previously married and already had a child. On January 4, 2002, the trial court declared the marriage between Leoncio and Theaderuchie void *ab initio*. The court held that the marriage between the two on July 5, 1996 was bigamous because Theaderuchie's marriage to Froilan Duque had not been declared null or that the latter was already dead when Theaderuchie married Leoncio. Moreover, Leoncio testified that Elizabeth knew of his previous marriage and of the annulment case which was pending prior to their marriage. Leoncio also gave evidence that he had converted to Islam on January 8, 2000 and that his Muslim name is Ali Akbar. His conversion, however, was registered by the Shari'a Circuit Registrar on August 1, 2012.

It appears from the record that before the institution of the bigamy case here in the Philippines, the petitioner had begun divorce proceedings against the private respondent in New York in

- over -

272

⁶ Id. at 85.

August 2010. During that time, the petitioner testified that she had no idea yet of her husband's previous marriage.⁷

RTC Decision

The trial court rendered a Decision on May 19, 2014, acquitting respondent of the crime charged, thus:

WHEREFORE, EVERYTHING CONSIDERED, there being no proof beyond reasonable doubt that said accused, **LEONCIO D. GARCIA**, has committed the offense charge[d] in the Information, **JUDGMENT** is hereby rendered **ACQUITTING** the said **LEONCIO D. GARCIA** of said charge.

The bond posted by the accused is hereby cancelled.

SO ORDERED.⁸

The RTC held that respondent lacked criminal intent to commit bigamy considering that he has filed a complaint to annul his previous marriage, is already an American citizen, and is a practicing Muslim convert.⁹

Aggrieved, petitioner filed a Petition for *Certiorari*¹⁰ under Rule 65 of the Rules of Court before the CA. Petitioner posited that the RTC committed grave abuse of discretion in acquitting respondent of bigamy as it incorrectly held an act as a mistake of fact instead of a mistake of law.

CA Decision

On November 19, 2015, the CA promulgated the now assailed Decision dismissing the petition for *certiorari*, thus:

WHEREFORE, the petition for *certiorari* filed in this case is **DENIED** for lack of merit. The acquittal of herein private respondent Leoncio D. Garcia by the Regional Trial Court, Branch 31, Iloilo City in its May 19, 2014 Decision in Crim. Case No. 11-69743 entitled People of the Philippines v. Leoncio Duya Garcia is **AFFIRMED**.

SO ORDERED.¹¹

- over -

272

⁷ Id. at 306-308.

⁸ Id. at 84.

⁹ Id. at 83.

¹⁰ Id. at 46-65.

¹¹ Id. at 312.

The CA ruled that the appeal should have been filed by the Office of the Solicitor General (*OSG*), as the representative of the State in appealing criminal cases. It also held that petitioner attempted to interfere in the criminal aspect of the case by questioning the RTC's appreciation of facts and evidence presented by the defense and its finding of lack of criminal intent. The CA held that the decision of the RTC consisted an error of judgment which is beyond the office of a writ of *certiorari*.¹²

Petitioner filed a motion for reconsideration but was denied by the CA in its Resolution¹³ issued on February 10, 2016. Hence, this appeal.

Issue

Petitioner maintains that the CA committed reversible error in dismissing the petition for *certiorari* based on the following grounds:

I.

THE COURT OF APPEALS ERRED WHEN IT RULED THAT ONLY THE SOLICITOR GENERAL HAS THE PERSONALITY TO ASSAIL ORDERS AND DECISIONS IN CRIMINAL CASES RENDERED WITH GRAVE ABUSE OF DISCRETION;

II.

THE COURT *A QUO* ERRED WHEN IT REFUSED TO CONSIDER THE MANIFESTATION IN LIEU OF COMMENT FILED BY THE SOLICITOR GENERAL ADOPTING THE POSITION OF PETITIONER AS COMPLIANCE WITH THE REQUIREMENT THAT ONLY THE LATTER CAN ASSAIL [ORDERS] AND [DECISIONS] IN CRIMINAL CASES;

III.

THE COURT [OF] APPEALS ERRED WHEN IT RULED THAT *CERTIORARI* WILL NOT LIE IN THE INSTANT CASE.¹⁴

Petitioner insists that she has the legal personality to appeal the decision of the RTC through a petition for *certiorari* pursuant to this Court's ruling in *People of the Philippines and AAA v. Court of Appeals*.¹⁵ Petitioner maintains that the RTC committed grave abuse

- over -

272

¹² Id. at 309-312.

¹³ Id. at 313-314.

¹⁴ Id. at 21-22.

¹⁵ Id. at 23-25; 755 Phil. 80 (2015).

of discretion in acquitting respondent based on whimsical conclusions unsupported by law and jurisprudence.¹⁶ The trial court allegedly completely disregarded the evidence of the prosecution, as well as settled jurisprudence in rendering the judgment of acquittal.¹⁷ She also maintains that the innocence or guilt of an accused in a charge of bigamy cannot depend on his belief regarding the validity of the first marriage,¹⁸ or on his being a Muslim convert.¹⁹ Moreover, under Article 13(2) of Presidential Decree No. 1083 (Code of Muslim Personal Laws), a marriage between a Muslim and a non-Muslim not solemnized under Muslim law or said Code, shall be governed by the Family Code.²⁰ Petitioner also contends that there was no violation of the rule on double jeopardy in appealing respondent's acquittal because the circumstances clearly warrant a re-examination of the trial court's unfounded basis in rendering its decision.²¹

Respondent counters that petitioner has no personality to appeal his acquittal because the case is criminal in nature, and therefore, the OSG should file the appeal. A perusal of the petition for *certiorari* would also reveal that respondent was not appealing the civil aspect of the RTC's decision.²² He also questions the manner by which the present petition was filed by an attorney-in-fact. Finally, he invokes his right against double jeopardy.²³

Did the CA commit reversible error in dismissing the petition for *certiorari* filed by herein petitioner against the decision of the RTC acquitting respondent from the charge of bigamy?

Our Ruling

We deny the petition.

In criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State.²⁴ This is because the authority to represent the State in appeals of criminal cases before the Supreme

- over -

272

¹⁶ Id. at 25-26.

¹⁷ Id. at 32-33.

¹⁸ Id. at 26-27.

¹⁹ Id. at 27-29.

²⁰ Id. at 29-30.

²¹ Id. at 33-34.

²² Id. at 319-320.

²³ Id. at 320-321.

²⁴ *People v. Court of Appeals*, supra note 15, at 98; *Bangayan, Jr. v. Bangayan*, 675 Phil. 656, 664 (2011).

Court and the CA is vested solely in the OSG.²⁵ The private offended party or complainant may not undertake such appeal.²⁶

The above rule, however, admits of exceptions. *First*, the private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned.²⁷ *Second*, the offended party may also file a special civil action for *certiorari* even without the intervention of the OSG, *but only to the end of preserving his interest in the civil aspect of the case*.²⁸ In so doing, complainant should not bring the action in the name of the People of the Philippines. The action may be prosecuted in the name of said complainant.²⁹

Here, petitioner filed a petition for *certiorari* before the CA and imputed grave abuse of discretion on the part of the RTC in acquitting herein respondent. Respondent argues in his Comment³⁰ that perusal of the subject petition shows that it did not discuss the civil aspect of the case. Instead, the petition focused on and questioned only the criminal aspect.³¹

We agree with respondent.

Indeed, a scrutiny of the subject petition for *certiorari* reveals that petitioner limited her arguments to the alleged whimsical conclusion made by the trial court in acquitting respondent based on lack of criminal intent and for being a Muslim convert. Nowhere in the petition did petitioner discuss the civil liability of respondent. Evidently, petitioner is genuinely concerned in the conviction of respondent for bigamy, rather being compensated for the damages she had incurred because of respondent's wrongful act.

Furthermore, petitioner's lone theory that "[r]espondent court mistook an act which is considered a mistake of law to be one of mistake of fact,"³² pertains to an error of judgment rather than an error

- over -

272

²⁵ *Cabral v. Bracamonte*, G.R. No. 233174, January 23, 2019, 891 SCRA 295, 303; *People v. Court of Appeals*, supra note 15, at 99.

²⁶ *Bautista v. Cuneta-Pangilinan*, 698 Phil. 110, 124 (2012).

²⁷ *JCLV Realty & Development Corporation v. Mangali*, G.R. No. 236618, August 27, 2020; *Bangayan, Jr. v. Bangayan*, supra note 24.

²⁸ *Guy v. Tulfo*, G.R. No. 213023, April 10, 2019, 901 SCRA 159, 174, citing *People v. Piccio*, 740 Phil. 616, 623 (2014); *Cu v. Ventura*, G.R. No. 224567, September 26, 2018, 881 SCRA 118, 132.

²⁹ *Ong v. Genio*, 623 Phil. 835, 842 (2009), citing *Rodriguez v. Gadiene*, 527 Phil. 691, 699 (2006).

³⁰ *Rollo*, pp. 318-322.

³¹ *Id.* at 320.

³² *Id.* at 57.

or jurisdiction which is the subject of a petition for *certiorari*. Hence, We concur with the observation of the CA that petitioner merely raised errors of judgment which are not correctable by a writ of *certiorari*. The CA explained in this wise:

In the case at bar, it is clear that Elizabeth is not merely assailing the civil aspect of the case. There is an unmistakable attempt to interfere with the criminal aspect of the case when she questioned the court *a quo*'s appreciation of the facts and evidence presented by the defense and its consequent lack of criminal intent judgment which led to Leoncio's acquittal. This is evident in her main argument in the present petition wherein she posits that the respondent court mistook an act which is considered a mistake of law to be one of fact. These errors of judgment which are already beyond the office of a special civil action for *certiorari*.

A writ of *certiorari* can only correct errors of jurisdiction or those involving the commission of grave abuse of discretion, not those which call for the evaluation of evidence and factual findings. In the instant case, even if the public respondent had erroneously appreciated the evidence presented in court, still the assailed decision was arrived at after all the evidence had been considered and after a full blown trial was conducted where both parties were duly heard. It is settled in this jurisdiction that any error committed in the evaluation of evidence is merely an error of judgment that cannot be remedied by *certiorari*. In the case at bar, We do not see the judgment rendered by the public respondent as being capricious, whimsical or arbitrary as to be considered being rendered in excess of jurisdiction. Hence, since no error of jurisdiction can be attributed to the public respondent in his assessment of the evidence, *certiorari* will not lie.³³

Although petitioner had correctly argued that she may file a petition for *certiorari* against the decision of the RTC in a criminal case, she however failed to establish that the trial court had committed grave abuse of discretion. In *People of the Philippines and AAA v. Court of Appeals*,³⁴ the same case which petitioner heavily relies on, this Court emphasized that for an acquittal to be considered tainted with grave abuse of discretion, it must be shown that the prosecution's right to due process was violated or that the trial conducted was a sham. The burden is on the petitioner to clearly establish that the respondent court blatantly abused its authority such as to deprive itself of its very power to dispense justice.³⁵ Petitioner evidently failed in this regard.

- over -

272

³³ Id. at 311-312.

³⁴ Supra note 15.

³⁵ Id. at 100-101; *People v. Hon. Sandiganbayan*, 661 Phil. 350, 355 (2011).

Well-settled is the rule that an acquittal is immediately final and executory and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated.³⁶ This rule has only one exception: grave abuse of discretion that is strictly limited whenever there is a violation of the prosecution's right to due process, such as when it is denied the opportunity to present evidence, or where the trial is a sham, or when there is a mistrial, rendering the judgment of acquittal void. Since petitioner failed to establish that any of the exceptions exist in the present case, double jeopardy had already attached in favor of respondent. Accordingly, the CA did not err in dismissing the petition for *certiorari*.

WHEREFORE, the Court **DENIES** the petition for lack of merit and **AFFIRMS** the November 19, 2015 Decision and February 10, 2016 Resolution of the Court of Appeals in CA-G.R. SP No. 08676.

Costs against petitioner.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court rn 7/11

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
272

- over -

³⁶ *Gomez v. People*, G.R. No. 216824, November 10, 2020; *Morillo v. People*, 775 Phil. 192, 211 (2015).



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272

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