

Law of the Philippines about Bigamy

Oct 19, '10 9:36 PM
for everyone



This is interesting part about Catholic law that pro-life, respecting marriage so much.

On Friday, I will have a four year marriage, I just hope God will enlighten my heart with lots of love. I believe that He is pro life, and will be on my and good woman's side.

Bigamy is contracting second marriage while the first marriage is still subsisting. In bigamy the first spouse is unaware about the second marriage. Differ to bigamy, in polygamy spouses are agree with subsequent marriages of their husband and the agreement for other marriages are declared in court.

I am against bigamy and polygamy because it is unlawful in many societies, and in Polygamy Islam only to avoid the worst situation, never been a suggestion as commonly misinterpreted.

In bigamy, once second marriage constrained, the first one keeps valid, while the second one becomes null.

Source: <http://jlp-law.com/blog/effect-annulment-criminal-case-bigamy/>

In a case for bigamy, the following matters or “elements” must be shown by the prosecution:

1. That the offender has been legally married;
2. That 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;
3. That he contracts a second or subsequent marriage; and
4. That the second or subsequent marriage **has** all the essential requisites for validity.

There are two scenarios: (1) it is argued that the **first** marriage is null and void or is a nullity; or (2) that the **second** marriage is null and void. Let's discuss each scenario.

1. The **first** marriage is allegedly null and void.

In the case of *Mercado vs. Tan* (G.R. No. 137110, 1 August 2000), the accused argued that he already obtained a judicial declaration of nullity of his first marriage under Article 36 of the Family Code, thereby rendering it *void ab initio*. He argues that a void marriage is deemed never to have taken place at all and, hence, there is no first marriage to speak of. The accused also quoted the commentaries of former Justice Luis Reyes that “it is now settled that if the first marriage is void from the beginning, it is a defense in a bigamy charge. But if the first marriage is voidable, it is not a defense.”

The Supreme Court, in dismissing the argument of the accused, stated:

In the instant case, petitioner contracted a second marriage although there was yet no judicial declaration of nullity of his first marriage. In fact, he instituted the Petition to have the first marriage declared void only after complainant had filed a letter-complaint charging him with bigamy. By contracting a second marriage while the first was still subsisting, he committed the acts punishable under Article 349 of the Revised Penal Code.

2. The **second** marriage is allegedly null and void.

The effect of the judicial declaration of the nullity of a second or subsequent marriage (on the ground of psychological incapacity) on an individual's criminal liability for bigamy is a novel issue, well, until 2004 when the Supreme Court decided *Tenebro vs. Court of Appeals* (G.R. No. 150758, 18 February 18, 2004).

The Supreme Court, however, decided against the accused and dismissed his arguments, stating that:

The Supreme Court affirmed the following penalty:

Under Article 349 of the Revised Penal Code, as amended, the penalty for the crime of bigamy is prision mayor, which has a duration of six (6) years and one (1) day to twelve (12) years. There being neither aggravating nor mitigating circumstance, the same shall be imposed in its medium period. Applying the Indeterminate Sentence Law, petitioner shall be entitled to a minimum term, to be taken from the penalty next lower in degree, i.e., prision correccional which has a duration of six (6) months and one (1) day to six (6) years. Hence, the Court of Appeals correctly affirmed the decision of the trial court which sentenced petitioner to suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum.

Ref.: <http://stalis.multiply.com/journal/item/81/Law-of-the-Philippines-about-Bigamy->

Look also here: www.Law.AboutPhilippines.ph and www.Marriage.PhilippineCulture.ph