



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 14 July 2021 which reads as follows:

“G.R. No. 255819 (*Roland Azurin Mamauag v. People of the Philippines*). – The Court **NOTES** the motion to admit petition for review on *certiorari*¹ dated May 21, 2021 of counsel for petitioner Roland Azurin Mamauag (petitioner), stating that in view of Administrative Circular Nos. 21-2021² and 22-2021³ issued by the Supreme Court, petitioner has until May 10, 2021 to file the instant petition; and that petitioner’s counsel was unable to timely finalize the petition as she tested positive for COVID-19 on March 26, 2021 and underwent quarantine for almost a month; and praying that the attached petition be admitted by the Court.

Petitioner filed a motion for time⁴ dated March 9, 2021, requesting an extension of thirty (30) days from March 11, 2021 or until April 9, 2021 within which to file the desired petition for review on *certiorari* against the assailed Decision⁵ dated January 10, 2020 and Resolution⁶ dated February 2, 2021 of the Court of Appeals in CA-G.R. CR No. 41730. The first affirmed petitioner’s conviction for Bigamy while the second denied his subsequent motion for reconsideration.

¹ *Rollo*, pp. 11-13.

² Re: “Extension of Physical Closure of Courts,” issued on April 10, 2021.

³ Re: “Physical Closure of Courts in Enhanced Community Quarantine and Modified Enhanced Community Quarantine Areas,” issued on April 14, 2021.

⁴ *Rollo*, pp. 3-4.

⁵ *Id.* at 29-38.

⁶ *Id.* at 39-40.

By Resolution⁷ dated June 14, 2021, the Court granted the aforesaid motion for time.

As it was, though, petitioner filed the present petition belatedly on May 24, 2021 or fourteen (14) days late.⁸ In his motion to admit petition for review on *certiorari* dated May 21, 2021, petitioner cited the fact that his counsel got infected with Covid-19, as evidenced by a copy of her SARS-CoV-2 Reverse Transcription PCR (RT-PCR) Report⁹ from the Philippine General Hospital.

In the higher interest of substantial justice, the Court grants the motion to admit petition for review on *certiorari* dated May 21, 2021 and admits into the records the attached petition for review on *certiorari*¹⁰ dated May 21, 2021.

On the merits, petitioner seeks anew a verdict of acquittal, reiterating his plea of good faith in relying upon the two (2) certificates of no marriage supposedly issued by the National Statistics Office (NSO) in 1999 and Civil Registrar General - Manila in 2003 when he contracted his second marriage. In the alternative, he prays for a liberal application of the Indeterminate Sentence Law in order to prevent the unnecessary and excessive deprivation of his personal liberty.¹¹

We first address petitioner's plea for acquittal based on his supposed good faith in contracting his second marriage while his first marriage was still subsisting and has not been declared void by any judicial decree. Specifically, he insists that his claim of good faith lies on the fact that he was able to secure twice from the NSO and the Office of the Civil Registrar – Manila, respectively, a certificate of no marriage before he contracted his second marriage with Leilanie V. Mesina (Mesina).

Whether petitioner acted in good faith when he contracted his second marriage with Mesina is a pure question of fact which is not proper in a petition under Rule 45 of the Rules of Court. The Court is not a trier of facts, thus, it will not recalibrate or weigh anew the factual findings of the trial court, especially when the same carry the full concurrence of the Court of Appeals,¹² as in here. There is no valid reason to deviate from this rule. On this score, we quote with concurrence the trial court's disquisition, *viz.*:

Moreover, an examination of the wordings of the certification issued by the National Statistics Office on October 9, 1999 and that which was issued by the Office of the Civil Registrar General – Manila on November 28, 2003 simply indicated that neither document attests as a positive fact that there was no marriage celebrated between accused and private complainant on June 27, 1995. Rather, the documents merely attest that the

⁷ *Id.* at 9.

⁸ Taking into account Supreme Court Administrative Order Nos. 15-2021 and 22-2021.

⁹ *Rollo*, p. 14.

¹⁰ *Id.* at 15-25.

¹¹ *Id.* at 15-28.

¹² See *Valencia v. Classique Vinyl Products Corporation*, 804 Phil. 492-508 (2017).

respective issuing offices have no record of such a marriage. Documentary evidence as to the absence of a record is quite different from documentary evidence as to the absence of a marriage ceremony, or documentary evidence as to the invalidity of the marriage between the accused and private complainant.

The marriage contracts presented by the prosecution served as positive evidence as to the existence of the two (2) marriages contracted by the accused with different women on different dates, which should be given greater credence than documents testifying merely as to absence of any record of the marriage, especially considering that there is absolutely no requirement in the law that a marriage contract needs to be submitted to the civil registrar as a condition precedent for the validity of a marriage. The mere fact that no record of a marriage exists does not invalidate the marriage, provided all requisites for its validity are present. There is no evidence presented by the defense that would indicate that the marriage between accused and private complainant lacked any requisite for validity, apart from the self-serving testimony of the accused himself that he merely signed the marriage certificate because of the alleged threats done and for the enrolment purposes of the private complainant.

The defense further hinges that the accused contracted his second marriage with Leilani Mesina in good faith. The said contention is bereft (of) merit. Based on the testimony given by the accused himself on the witness stand, he repeatedly admitted that he was married (to) the private complainant.¹³

As correctly found by both the trial court and the Court of Appeals, petitioner was legally married to Llynette Shiela Mamauag on June 27, 1995. He contracted his second marriage with Mesina on December 18, 2003 while his first marriage was still subsisting and had not been legally dissolved. Verily, the verdict of conviction against him for bigamy is in order.

In another vein, the Court of Appeals correctly sustained the penalty imposed by the trial court, that is, the 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. The same is in accordance with Art. 349¹⁴ of the Revised Penal Code.

Nonetheless, considering the alternative plea of petitioner for a liberal application of the indeterminate penalty and in keeping with the principle of restorative justice in our criminal justice system, the Court deems it proper to impose the minimum of the applicable indeterminate penalty 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.

¹³ *Rollo*, p. 49.

¹⁴ Article 349. Bigamy. - The penalty of *prision mayor* shall be imposed upon any person who shall contract a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

July 14, 2021

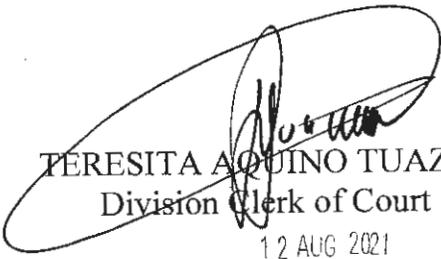
WHEREFORE, the Court **GRANTS** the Motion to Admit Petition for Review on *Certiorari* dated May 21, 2021 and **ADMITS** into the records the Petition for Review on *Certiorari* dated May 21, 2021.

In the main, the Court **DENIES** the petition and **AFFIRMS WITH MODIFICATION** the Decision dated January 10, 2020 and Resolution dated February 2, 2021 of the Court of Appeals in CA-G.R. CR No. 41730.

Petitioner **ROLAND AZURIN MAMAUAG** is found **GUILTY** of the crime of **BIGAMY** and **SENTENCED** to the indeterminate penalty 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.**

SO ORDERED." (J. Lopez, J., designated additional member per Special Order No. 2822 dated April 7, 2021.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
12 AUG 2021

*BELTRAN APOSTOL & ASSOCIATES (reg)

Counsel for Petitioner
Unit 1809, West Avenue Suites
124 West Ave., 1104 Quezon City

*OFFICE OF THE SOLICITOR GENERAL (reg)

134 Amorsolo Street
1229 Legaspi Village
Makati City

*ROLAND AZURIN MAMAUAG (reg)

Petitioner
Barangay Calamagui, San Pablo
Isabela

HON. PRESIDING JUDGE (reg)

Regional Trial Court, Branch 98
Quezon City
(Case No. Q-12-176978)

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Supreme Court, Manila

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Supreme Court, Manila

COURT OF APPEALS (x)

Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR No. 41730

*with copy of CA Decision dated 10 January 2020
Please notify the Court of any change in your address.
GR255819. 07/14/2021(5)URES