

**JOAN MAY L. PANUGAYAN, PETITIONER-APPELLEE, V. HANS Z. DEE,
RESPONDENT-APPELLEE, REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

Ponente: TOLENTINO, A.G., J.

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TOLENTINO, A.G., J.:

This resolves the Motion For Reconsideration[1] filed by the petitioner-appellee on January 15, 2014 asking this Court to reconsider its Decision[2] dated December 17, 2013. The dispositive portion of the decision reads:

“WHEREFORE, premises considered, the appeal is GRANTED. The decision dated May 13, 2011 and the order dated February 20, 2012 of the Regional Trial Court (RTC) of Manila, Branch 5 are REVERSED and SET ASIDE. The marriage of Hans Z. Dee and Joan May L. Panugayan remains valid and subsisting.

SO ORDERED.”[3]

On April 8, 2014, the oppositor-appellant Republic of the Philippines filed a Comment[4] to petitioner-appellee's motion for reconsideration.

While it is true that the personal examination of respondent-appellee by a psychiatrist or psychologist is no longer mandatory for the declaration of nullity of their marriage under Article 36 of the Family Code of the Philippines, the petitioner-appellee as a spouse seeking the declaration of nullity of marriage, must still prove the gravity, judicial antecedence, and incurability of the alleged psychological incapacity of the respondent-appellee. However, based on the records of this case, the petitioner-appellee failed to do so. This Court is not convinced that respondent-appellee is suffering from psychological incapacity. It has been held that psychological incapacity must be more than just a “difficulty,” a “refusal,” or a “neglect” in the performance of some marital obligations. An unsatisfactory marriage is not a null and void marriage.[5]

It is the policy of our Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family. Marriage, as an inviolable institution protected by the State, cannot be dissolved at the whim of the parties. Any doubt shall be resolved in favor of the validity of the marriage.[6]

This Court finds no compelling reason to modify, reverse or alter the rendered Decision. After going over the records of the instant case, the issues and arguments raised by the petitioner-appellee were already passed upon and considered by this Court.

WHEREFORE, premises considered, the Motion For Reconsideration is DENIED.

SO ORDERED.

Rosario and Bueser,[*] JJ., concur.

[*] Vice Justice Leoncia R. Dimagiba, per Raffle conducted on May 26, 2014.

- [1] Rollo, pp. 69-75.
- [2] Ibid., pp. 60-65.
- [3] Ibid., p. 65.
- [4] Ibid. pp. 89-92
- [5] Baccay vs. Baccay, G.R. No. 173138, December 1, 2010.
- [6] Republic vs. Galang, G.R. No. 168335, June 6, 2011.

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