

LUCIA TALABONG, PETITIONER-APPELLEE, VS. HENRY TALABONG, RESPONDENT. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: TAYAG, J.

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TAYAG, J.:

On Appeal is the February 12, 2002 Decision[1] of the Regional Trial Court (RTC), Branch 68, Binangonan, Rizal, in Civil Case No. 97-0060-B, declaring the marriage between Lucia A. Talabong and Henry R. Talabong void on the ground of psychological incapacity.

The facts as culled from the records, are as follows:

Lucia A. Talabong (herein petitioner) and Henry R. Talabong (hereinafter respondent) were married on June 19, 1969 before the Parish Priest of Magdalena, Laguna. They were blessed with three children, namely: Frederick who was born on July 13, 1971; Herbert on January 31, 1974; and Henry on December 17, 1979, respectively.

Sometime in 1975, respondent was alleged to show acts of irresponsibility towards the petitioner and their children. Respondent became a drunkard and often arrived home late at night. Respondent likewise maintained a mistress in an apartment in Cubao. (TSN, April 6, 1999, pp. 8-11, 17-18)

Sometime in January 1991, petitioner confronted respondent about her decision to separate with him but respondent got mad at her. Since then, they had been living separately from each other.

On August 8, 1997, petitioner filed a petition praying that her marriage with her husband be declared void by reason of psychological incapacity.

Summons was served on respondent. In his answer, respondent alleged that it was not him but the petitioner who should be declared psychologically incapacitated as the latter failed to comply with her obligations as a wife. The Court directed Prosecutor Beppo Jerome L. Diloy to conduct an investigation to determine if there was collusion between the parties. On October 12, 1998, Prosecutor Diloy then filed a manifestation that there was no collusion between the parties and that the evidence was not fabricated. Thereafter, trial on the merits proceeded.

On February 12, 2002, the RTC rendered a decision granting the petition, the dispositive portion of which reads:

“WHEREFORE, judgment is hereby rendered GRANTING the Petition. The marriage entered into by the petitioner with the respondent on June 19, 1969 is declared VOID.

Let a copy of this Decision be furnished the Local Civil Registrar of Magdalena, Laguna and Binangonan, Rizal.

No costs.

SO ORDERED.”[2]

Hence, this appeal questioning the nullification of the marriage on the ground that:

THE TRIAL COURT ERRED IN GRANTING THE COMPLAINT FOR DECLARATION OF NULLITY OF MARRIAGE UNDER ARTICLE 36 OF THE FAMILY CODE WITHOUT CREDIBLE PROOF THAT THE HUSBAND WAS PSYCHOLOGICALLY INCAPACITATED TO PERFORM THE ESSENTIAL MARITAL DUTIES.[3]

In its Appellant's Brief, the Office of the Solicitor General contends that petitioner failed to establish the psychological incapacity of respondent warranting the dissolution of their marriage. Respondent's alleged excessive indulgence to alcohol and illicit relation with another woman do not constitute grounds to declare him as suffering from psychological incapacity. At best, the OSG asserts that such grounds would just fall under the grounds for legal separation under Article 55 of the Family Code.

We find the appeal impressed with merit.

Article 36 of the Family Code of the Philippines states:

“A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.”

In *Santos vs. Court of Appeals*, G.R. No. 112019, January 4, 1995, the Supreme Court held that the psychological incapacity should refer to no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been to confine the meaning of “psychological incapacity” to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.

Moreover, the Supreme Court in the case of *Republic vs. Court of Appeals and Molina*, G.R. No. 108763, February 13, 1997, laid down the guidelines in the interpretation of the afore-quoted provision of the Family Code, to wit: First, the incapacity must be psychological or mental not physical, in nature; Second, the psychological incapacity must relate to the inability, not mere refusal, to understand, assume and discharge the basic marital obligations of living together, observing love, respect and fidelity and rendering mutual help and support; Third, the psychologic condition must exist at the time the marriage is contracted although its overt manifestations may occur only thereafter; and Fourth, the marital disorder must be grave or serious and incurable.

Basic is the rule that in an action for nullity of marriage, the burden of proof lies with the plaintiff and any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is in accordance with the policy of the 1987 Constitution, which is, to protect and strengthen the family as the basic autonomous social institution. And in as much as marriage is the foundation of the family, any doubt should be resolved in favor of the validity of marriage.[4]

Petitioner anchored on the excessive drinking and infidelity, as well as respondent's being indifferent, callous, apathetic, shows no respect for well being and acted like a single person as basis for annulment of marriage. She claimed that respondent was psychologically incapacitated to fulfill his obligations and duties as husband and father considering that he is irresponsible and immature.

While the RTC found these facts to be true, these findings of infidelity, irresponsibility and alcoholism, however, do not per se make a spouse psychologically incapacitated. To constitute “psychological incapacity” within the contemplation of the Family Code, it must be shown that these acts are manifestations of a disordered personality which made respondent completely unable to discharge the essential obligations of the marital state. In *Molina*, it

was ruled that the psychological incapacity must be more than just a “difficulty” a “refusal” or a “neglect” in the performance of some marital obligations. It was stressed that a mere showing of irreconcilable differences and conflicting personalities in no wise constitutes psychological incapacity. In said case, it was stated that “mild characterological peculiarities, mood changes and occasional emotional outbursts cannot be accepted as root causes of psychological incapacity. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will, In other words, there should be a natal supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

This Court agrees with the Office of the Solicitor General (OSG) that the petitioner failed to establish respondent's alleged psychological incapacity at the time the celebration of the marriage as contemplated under Article 36 of the Family Code. The acts and attitudes complained of by petitioner happened after the marriage and there is no proof that the same already existed at the inception of the marriage which deprived respondent of the ability to assume the essential duties of marriage and its concomitant responsibilities.

At the very least, as correctly argued by the Solicitor General, the allegations made in the petition can be properly addressed by an action for legal separation. It is important to add, as mentioned in the case of *Marcos vs. Marcos*[5], that Article 36 of the Family Code is not equivalent to divorce law where parties could conveniently opt for separation and dissolution of their marriage, viz:

“Article 36 of the Family Code, we stress, is not to be confused with a divorce law that cuts the marital bond at the time the causes therefore manifest themselves. It refers to a serious psychological illness afflicting a party even before the celebration of the marriage. It is a malady so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume. These marital obligations are those provided under Articles 68 to 71, 220, 221 and 225 of the Family Code.

Neither is Article 36 to be equated with legal separation, in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, moral corruption, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like. At best, the evidence presented by petitioner refers only to grounds for legal separation, not for declaring a marriage void.”

WHEREFORE, premises considered, the instant appeal is GRANTED. Accordingly, the assailed February 12, 2002 Decision of the Regional Trial Court, Branch 68, Binangonan, Rizal is hereby REVERSED and SET ASIDE. The marriage between the herein parties is hereby declared subsisting and valid.

SO ORDERED.

Salazar-Fernando, (Chairperson) and Tijam, JJ., concur.

[1] Rollo, pp. 40-43

[2] Rollo, pp. 42-43

[3] Ibid., p. 27

[4] Republic of the Phils. vs. Crasus L. Iyoy, G.R. No. 152577, September 21, 2005

[5] G.R. No. 136490, October 19, 2000, 343 SCRA 755

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