

MARIJOY RELATIVO DORERO, PETITIONER-APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

Ponente: CASTILLO, M., J.

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CASTILLO, M., J.:

For this Court's consideration is an appeal from the Decision[1] dated September 28, 2011 and Order[2] dated January 16, 2012, both rendered by the Regional Trial Court (RTC) of Naga City, Branch 20, in the case docketed as Civil Case No. 2008-0143 for Declaration of Nullity of Marriage, filed by petitioner-appellee Marijoy Relativo Dorero against her spouse, Christian Errol Dorero.

The antecedent facts are as follows:

Sometime in 1996, petitioner-appellee Marijoy and Errol met in Ateneo de Naga University while they were still students thereat. They eventually became sweethearts. In September 1996, Marijoy became pregnant.[3] Since she was confused and did not know what to do at such a young age, Marijoy thought that the best solution was to abort the fetus from her womb.[4] She sought the help of Errol who brought her to his biological mother. The latter accompanied the couple to a “manghihilot”. However, the abortion was unsuccessful despite several attempts to expel the fetus.[5] When she was six months pregnant, Marijoy revealed her pregnancy to her family who calmly accepted her predicament.[6] Both families agreed to set the couple's church wedding. On April 26, 1997, Marijoy and Errol were married.[7] Marijoy was only eighteen years old while Errol was a mere twenty-year old man.[8] On June 17, 1997, Marijoy gave birth to their son, Xinamari Iñigo.[9] Considering that Marijoy and Errol had to finish their studies, they lived with Errol's adoptive parents who supported them in their needs.[10]

The petitioner-appellee alleged that in 1999, her husband started to show signs of insecurity, irresponsibility, inadequacy and violent reactions. There was an instance when her husband threw a big can of milk at her which hit her stitches from her Caesarian operation. He also hit her arms and legs which caused bruises. Errol was irresponsible as he did not do his share in taking care of their baby. He got mad whenever Marijoy tried to wake him up on nights when the baby cried and had to be fed. Marijoy was battered by Errol and the latter blamed her for being hurt. The vicious cycle of violence continued for several years. Errol kicked, pushed and slapped her until she became helpless to defend herself. For the sake of the unity of their family, the petitioner-appellee accepted her husband's apology every time he became violent.[11] There was also an instance when Errol rushed up the stairs to get a gun from the cabinet of his father who was a retired Philippine National Police colonel, but the cabinet was fortunately locked at that time. The petitioner-appellee also experienced emotional and psychological suffering. Errol always came home late and had an extramarital affair with his officemate. In 2002, the petitioner-appellee took out a housing loan from PAG-IBIG and bought a house. She hoped that independence and self-reliance would improve their situation. Errol also volunteered to pay the amortizations and they eventually moved to their own house. However, their problems worsened due to financial problems.[12] Errol remained violent and his illicit affair continued. He failed to give her his salary on a steady monthly basis. Errol resigned from his job after the management learned about his extramarital affair with his officemate in 2002. He

moved to Manila to seek employment and neglected his obligation to support his family and pay the amortization on their house. Marijoy attempted to reconcile with her husband and even followed him to Manila. Nevertheless, her reconciliation efforts were in vain. During the succeeding years, he completely neglected his family since he went home to his parents instead of Marijoy and their child, whenever he returned to Naga from his work in Manila. Considering the circumstances, Marijoy decided to resign from her job at the bank and work in Dubai. She left the Philippines in November 2006. At present, Marijoy continues to support their son and pay for their house.[13]

On the other hand, Errol alleged that when Marijoy learned that she was pregnant, she told him that she did not want the baby.[14] It was solely Marijoy's decision to abort the baby several times.[15] He informed his parents and Marijoy's mother that he did not want to marry the petitioner-appellee. He was only forced to marry her since he was not in a position to disagree with his parents. From 1997 to 2002, the couple and their son lived with Errol's parents. The latter provided for the milk and other needs of their son and also paid for Marijoy's tuition fees, food and other expenses. Errol obtained a job after his college graduation and shouldered the expenses for their son. At that time, Marijoy was still studying and fond of going out with her friends at night. Errol or his mother had to take care of Xianmari during those nights. Marijoy's salary from her job at the bank was spent on make-up, dresses and partying. When his employment contract with San Miguel Corporation expired in 1999, he was unable to find other employment. From December 1999 to June 2000, he was unemployed and was a full-time father to their son. There were times when he had to take care of his drunk wife who loved to party, dance and drink. They often argued about their finances since Marijoy wanted to have the small amount of money which Errol's parents gave him for his job-hunting expenses. Errol's parents were the ones who shouldered all of Xianmari's expenses. Marijoy's salary was not even sufficient to cover her shopping needs such as clothes, branded make-up and body soaps.[16] The cause of Marijoy's anger was actually Errol's refusal to give her the money which was allocated for his job-hunting and their son's needs. There was a time when Marijoy kicked Errol off the bed and hit him on different parts of his body. Errol hit her back to bring some sense to her. She shouted, saying that the money was for the purchase of their son's milk. To prove otherwise, Errol threw at her the can of milk which was still sufficient to last for many days. He could not comprehend his wife's insistence on getting the money from him for their son's milk, considering that it was Errol's parents who shouldered the expenses for the same. Marijoy often came home late and was not present to take care of their son. Errol's mother took care of Xianmari, put him to sleep and brought him to Errol's bed. The latter would lie in bed beside his son and wait for Marijoy to arrive home. She could not wake up to the cries of the baby since she was often intoxicated and came home late in the evening or early morning. Their arguments on financial matters regularly occurred every payday since Marijoy wanted to get his entire salary. She would engage in violent fits and would hurt herself whenever she failed to get what she wanted. There was one incident when she was quite enraged and started nagging at the top of her voice so that the neighbors could hear her. Since Errol got fed up by her behavior, he acted as though he would get his father's gun in order to stop her, although he knew that the place where it was kept was locked.[17] Errol sometimes left the house and while away the time at a nearby sari-sari store in order to avoid his wife's nagging and violence. Due to his family problems, he was driven to seek the friendship of some of his officemates who provided him some comfort by listening to him. Marijoy and her family members spread demeaning gossips about him and his officemates which led the latter to avoid him. He was forced to resign since he no longer enjoyed working with all the existing gossip. He did not have an illicit affair. His salary was allocated for the house loan amortization and he required Marijoy to share in the household expenses. Marijoy extremely disapproved.[18] Petitioner-appellee Marijoy became more violent. She poured out her anger on their son, hurt him and just let him cry until the child ran out of tears. She slept with a knife tucked under her pillow. There was a time when she swung a knife at Errol and when she failed to hit him, she threatened to strike their son. Errol was able to parry the blow and Marijoy then attempted to cut her wrist. Thereafter, Errol decided to leave for Manila

where he searched for employment. The petitioner-appellee and her son moved to her mother's house while the couple's house was leased, the proceeds of which were used to pay for the loan amortization. Errol and his father visited Xianmari on weekends and brought food supplies for the week. The petitioner-appellee eventually entrusted Xianmari to Errol's parents while she fetched Xianmari on weekends until November 2006 when Marijoy left for Dubai. The couple's son was left with Errol's parents. He continues to support and communicate with his son. However, due to the insufficiency of his income, he asked his parents to take care of his son while he tried his luck in Manila.[19] In October 2008, Errol began to reimburse his parents for Xianmari's expenses. Marijoy sends money to their son but the amount is only minimal.[20]

On April 17 and 18, 2009[21], a psychologist examined petitioner-appellee Marijoy while her husband was examined on August 10, 2009[22]. The psychological report contained the following findings in connection with petitioner-appellee Marijoy:

Projective test result shows an individual who is sociable, however, her interpersonal relationships is (sic) characterized with (sic) emotional shallowness. She is stubborn, emotionally immature and quite defensive, hence finds difficulty in accepting her weaknesses.

She conceptualize (sic) marriage as something cohesive and a source of security, however, she found out that her marriage lacked these essentials and had seen a traumatic episode in her life causing her unsurmountable (sic) regret and anxiety. She is able to maintain her positive outlook and desires to acquire more strengths to enable her reach (sic) a fulfilling life.[23]

As regards Errol, the psychologist described him in the following manner:

Projective analysis uncovers a person who always strives for excellence, self-reliant, competitive, an effective communicator and possesses leadership ability. However, behind those desirable traits is a person who is emotionally unstable, impulsive, and unpredictable. He has the need to prove further his human worth to cope with (sic) feeling of inadequacy. His impulsive trait facilitates a violent reaction during intolerable stress.[24]

On June 17, 2009, the petitioner-appellee and her husband entered into a Settlement Agreement[25], wherein they agreed to jointly support and have joint custody over their minor child. Physical custody over the latter was vested upon Errol's parents, without prejudice to Marijoy and Errol's exercise of parental custody, visitation and other rights. The agreement also provided for Errol's waiver of his rights over their house and the same was adjudicated solely in Marijoy's favor.[26] Upon motion[27] of the parties, the RTC approved the Settlement Agreement in its Order[28] dated July 15, 2009. On September 1, 2009, a psychiatric evaluation was performed on Marijoy and Errol. The following individuals, who know the couple, were likewise interviewed: Mary Grace Domingiano, Malen San Andres, Hermilina Redondo, Lorenzo Cuyo and Filipinas Dorero.[29] The psychiatrist arrived at the following Conclusion:

It appeared that Christian Errol Dorero is suffering from Substance Abuse Disorder (Alcohol), Intermittent Explosive Disorder and Dissocial Personality Disorder. On the other hand, Marijoy Dorero was found suffering from Spouse Abuse and Delusional Disorder.

The personality disorder started long before they married during childhood and adolescence influenced by his environment and his family. Personally some symptoms of the disorder could be treated temporarily but not completely cured. It is so severe causing failure in marital relationships.

The violent tendencies of Errol Dorero was (sic) due to his existing Substance Abuse of Alcohol and also partly explained by his Intermittent Explosive Disorder.

Marijoy Dorero also suffers from Delusional Disorder namely the jealous type. The alleged infidelity of his (sic) husband was never really positively proven. The delusion is systematized but circumscribed allowing her

to function occupationally. It exists up to the present. Because of this delusion, she also inflicted significant verbal and physical abuse to (sic) Errol Dorero, triggering the violent tendencies of the latter.

They could not comply to the (sic) ARTICLE 36 of the family code xxx"[30]

On November 19, 2008, Marijoy filed a petition[31] for the declaration of nullity of her marriage with Errol, based on Article 36 of the Family Code. On January 30, 2009, Errol filed his Answer[32]. After the parties filed their respective pre-trial brief[33], the pre-trial conference[34] was conducted. Thereafter, the parties proceeded to trial. The following witnesses testified: petitioner-appellee Marijoy; Magdalena P. Calleja, Marijoy's aunt; Cherryl Nieves, Marijoy's confidante; psychologist Corazon Alipante; and psychiatrist Dra. Imelda C. Escuadra. On November 18, 2009, the petitioner-appellee filed her formal offer of documentary evidence[35] while the State waived its right to present evidence[36]. On September 28, 2011, the trial court issued the assailed Decision[37], the dispositive portion of which reads:

WHEREFORE, in the (sic) light of all the foregoing, Decision is hereby rendered declaring as NULL and VOID the marriage between MARIJOY RELATIVO DORERO and CHRISTIAN ERROL DORERO solemnized on April 26, 1997 solemnized by Rev. Msgr. Jesus J. Picar pursuant to Art. 36 of the Family Code of the Philippines.

The minor Xianmari Iñigo Relativo Dorero is considered the legitimate child of the parties in accordance with Article 53 of the Family Code and shall retain the surname of his father; the parties shall have joint custody over their minor son Xianmari but physical custody over the person of said minor child is vested upon the spouses Rolando and Virginia Dorero without prejudice to visitation and exercise of parental custody and other rights of the parties; that the respondent waived any and all rights he may have over the property covered by TCT No. 34297 situated at Villa Karangahan Subd., San Felipe, Naga City and the same is hereby solely adjudicated in favor of the petitioner as the sole owner thereof.

SO ORDERED.[38]

The Office of the Solicitor General (OSG), on behalf of the Republic of the Philippines, filed a motion for reconsideration[39] while the petitioner-appellee filed her opposition[40] thereto. On January 16, 2012, the RTC denied[41] the foregoing motion for reconsideration.

Hence, this appeal.

On February 16, 2012, the OSG filed a Notice of Appeal.[42] On June 21, 2013, the OSG filed the Brief for the Oppositor-Appellant[43], alleging that "[t]he trial court erred in granting the petition for annulment of marriage despite petitioner-appellee's failure to show by competent evidence that the parties' psychological disorders constituted sufficient ground under Article 36 of the Family Code"[44].

The OSG alleges that marriage is an inviolable social institution and a contract of permanent union between a man and a woman, based on the Family Code and the Philippine Constitution.[45] Psychological incapacity must be characterized by three things, namely, gravity, juridical antecedence and incurability. It only refers to those most serious cases of personality disorders which demonstrate one's utter insensitivity or inability to give significance to the marriage.[46] The totality of the petitioner-appellee's evidence, her testimony and the experts' opinions are grossly inadequate to support her allegation of psychological incapacity. The manifestations of Errol's Dissocial Personality Disorder, Substance Abuse Disorder (Alcohol) and Intermittent Explosive Disorder were not sufficiently linked to his inability to perform his marital obligations. It has not been proven that these conditions were rooted in some incapacitating or debilitating condition.[47] A spouse's difficulty or refusal to perform his duties is not enough to prove his psychological incapacity. The Supreme Court has denied a petition where the expert opinion presented failed to explain how the spouse's personality disorders translated to his inability to

comply with marital obligations as well as their effect on the couple's marriage.[48] In the present case, the psychological reports only described the manifestations of the parties' mental and emotional issues but failed to elaborate how these contributed to the parties' incapacity to perform their marital obligations.[49] The psychiatric reports also failed to explain how the parties' disorders are considered grave and incurable, thus, rendering the parties incapable of fulfilling their marital duties. The experts' testimonies did not explain how the disorders can be deemed an incapacity, as if the mere invocation of these disorders were enough to invalidate the marriage between the petitioner-appellee and her husband.[50] The parties' marriage, despite being unsatisfactory, may not be declared a null and void marriage.[51]

On the other hand, petitioner-appellee Marijoy alleges that the trial court did not err in granting the petition for the annulment of marriage since she was able to prove the existence of psychological incapacity by a totality of evidence. The State protects marriage by safeguarding it against flawed and defective unions. Article 36 of the Family Code provides that "a marriage contracted by any party who, at the time of the celebration of the marriage 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". It would be antithetic to the State's duty to protect marriage as an inviolable institution if it permits the union between individuals who are psychologically incapacitated to perform their marital obligations.[52] The petitioner-appellee has complied with the guidelines for the disposition of petitions for the declaration of nullity of marriage, as laid down by the Supreme Court.[53] She was able to discharge the burden of proving her husband's psychological incapacity. Marijoy's testimony was corroborated by Calleja and Nieves' testimonies on Errol's propensity towards violence, womanizing, irresponsibility and abandonment of his family. Alipante, a psychologist, as well as Dra. Escuadra who is a psychiatrist, also testified as expert witnesses and affirmed that Errol's unusual behavior was a manifestation of his psychological incapacity. They also declared that petitioner-appellee Marijoy is also psychologically incapacitated.[54] The root cause of Errol's psychological incapacity was medically identified. It was also proven by experts and the trial court has clearly explained it in its Decision. Even prior to their marriage, the couple's psychological disorders had already existed.[55] This fact was affirmed by Drs. Escuadra when she stated that the personality disorder began during childhood and adolescence due to their environment and family's influence. Their psychological disorders are incurable. There is no complete cure for the petitioner-appellee's psychological incapacity although it may be treated temporarily. As regards her husband, the latter's substance abuse disorder may be treated in theory. However, it would be difficult to treat his dissocial personality disorder and any such treatment may not be successful in the long run. The petitioner-appellee's disorders may only be successfully cured by psychotherapy if the stressor of marriage is not present. Her disorders will not be cured if she remains married to Errol since her disorders feed upon her husband's own psychological disorders and vice-versa. His violent tendencies were triggered by the petitioner-appellee's delusional disorder which also led her to be violent towards him. Marijoy and Errol failed to comply with their marital obligations due to the gravity of their psychological incapacity.[56] Errol's emotional instability made it difficult for his wife to predict his attitude towards her and this was worsened by her stubbornness. The couple failed to live together, observe mutual love, respect, fidelity and render mutual help and support, in accordance with Articles 68 to 71 of the Family Code. Errol physically harmed his wife without remorse, showing his inability to love and respect her. Contrary to the oppositor-appellant's claim, the petitioner-appellee was able to link her husband's aberrant behavior to debilitating psychological disorders.[57] Errol's intoxication and indifference, as a manifestation of his substance abuse disorder (alcohol), led to the couple's constant arguments. His intermittent explosive disorder was shown in his physical abuse of his wife and his aggressive behavior despite being sober. Regardless of his wife's jealousy, he retained his closeness to his lady friend. He failed to support his child, let his temper rule, and blamed his wife for their problems. These were all manifestations of his dissocial personality disorder.[58] Contrary to the oppositor-appellant's argument, the expert witnesses were able to show that Marijoy and Errol's

psychological disorders incapacitated them to perform their essential marital duties.[59] Errol's dissocial personality disorder is responsible for his callous unconcern for others' feelings. He disregarded his wife's jealousy and continued to meet with his lady friend, thus, showing his lack of love, respect and fidelity. He was highly irresponsible and disregarded social norms and rules. He frequently left his family, failed to give support, was dependent on his parents, and failed to share in the payment of the amortization on their conjugal house and lot. His disorder rendered him incapable of maintaining enduring relationships while having no difficulty in establishing them. The couple shared a split-reconcile-split relationship and engaged in a cycle of violence. He has a low frustration tolerance and low threshold for the discharge of aggression.[60] In spite of the rigid rules on the protection of marriage, the parties' psychological disorders made them unfit for marital union.[61]

We grant the appeal.

We rule that the totality of the evidence was not sufficient to support a finding of psychological incapacity on the part of petitioner-appellee Marijoy as well as her husband, Errol. She failed to prove that their alleged psychological incapacity was pre-existing, incurable and grave, as required by the law.[62] In *Republic v. Court of Appeals and Molina*,[63] the Supreme Court laid down the guidelines in the interpretation and application of Article 36 of the Family Code, to wit:

(1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it "as the foundation of the nation." It decrees marriage as legally "inviolable," thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

(2) The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological — not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or physically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature explained. Expert evidence may be given qualified psychiatrist and clinical psychologists.

(3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage. The evidence must show that the illness was existing when the parties exchanged their "I do's." The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(5) Such illness must be grave enough to bring about the disability of the party to assume the essential

obligations of marriage. Thus, "mild characterological peculiarities, mood changes, occasional emotional outbursts" cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or 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.

(6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:

The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature.[64]

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(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. xxx[65] (Emphasis supplied.)

The foregoing elements were not sufficiently proven by the petitioner-appellee. The Supreme Court has held that courts "must always base their judgments not solely on the expert opinions presented by the parties but on the totality of evidence adduced in the course of their proceedings".[66] In the instant appeal, the totality of the evidence was not sufficient to support a finding of psychological incapacity on the part of Marijoy and Errol, for the reasons set forth below.

Firstly, the parties' psychological incapacity was not sufficiently proven to be pre-existing or present at the time of the celebration of the marriage. No sufficient proof of juridical antecedence was presented. In the case of petitioner-appellee Marijoy, her tendency to dominate, which the petitioner allegedly adopted from her mother[67], will not necessarily lead to the breakdown of her marriage. The petitioner was sociable as a child and grew up with a mother who is "sensitive, loving and highly concerned with [her] family's welfare" and a father who is "soft-spoken and submissive to his wife".[68] The petitioner herself admitted that she became a nagger because of her husband's involvement with a new girl.[69] In the petitioner's comment on the OSG's motion for reconsideration, it was alleged that the "petitioner's psychiatric disorders are the result of respondent's behavior towards her"[70]. Hence, the petitioner-appellee's behavior does not appear to have juridical antecedence but merely a natural consequence of her husband's alleged womanizing and other alleged undesirable acts. In the psychological report, it was stated that the petitioner-appellee "conceptualize (sic) marriage as something cohesive and a source of security, however, she found out that her marriage lacked these essentials and had been a traumatic episode in her life causing her unsurmountable (sic) regret and anxiety"[71]. In spite of the foregoing, the petitioner-appellee's failure of expectation did not justify the nullity of their marriage. The Supreme Court held in the Molina case that a "failure of expectation is not indicative of antecedent psychological incapacity. If at all, it merely shows love's temporary blindness to the faults and blemishes of the beloved."[72] The Supreme Court held in Carating-Siayngco v. Siayngco that "[a]n unsatisfactory marriage, however, is not a null and void marriage.

In Errol's case, his childhood did not exhibit any tendency or influence on him to become impulsive, violent or depressed. The allegations that "the root cause of [his] personality disorder could be influenced by his father who

is a military man while the substance abuse disorder of the defendant is hereditary” are mere surmises and unsupported by evidence. Testimonies from Errol’s relatives, who witnessed the early years of his life, could have been presented to prove the foregoing allegation. Indeed, not every case of a man’s military experience would produce an offspring who grows up with violent tendencies. In this regard, the Supreme Court has declared that “[f]or a determination though of a party’s complete personality profile, information coming from persons with personal knowledge of the juridical antecedents may be helpful. This is an approach in the application of Article 36 that allows flexibility, at the same time that it avoids, if not totally obliterate, the credibility gaps spawned by supposedly expert opinion based entirely on doubtful sources of information”.[73] Neither was there any allegation that Errol’s father was an alcoholic. On the contrary, Errol’s parents had a positive influence on him. The psychological report states that “[a]mong the positive qualities he admires on (sic) his father are, he had been a good provider to his family. He is full of wisdom and possesses the ability to make good decisions, becoming his role model”.[74] On the other hand, Errol’s mother is “an epitome of a good wife and mother”, “affectionate”, and “caters to the need of her family delicately and meticulously”[75]. The allegation that the petitioner-appellee’s husband is insecure and has poor self-esteem[76] is negated by the statement in the psychological report that “he has acceptance of the fact that he is an adopted son”[77].

Secondly, even assuming that the couple’s psychological incapacity had juridical antecedence, the gravity and incurability of each party’s alleged condition have not been sufficiently proven. In *Mendoza v. Republic and Mendoza*, the Supreme Court ruled as follows:

Accordingly, the RTC’s findings that Dominic’s psychological incapacity was characterized by gravity, antecedence and incurability could not stand scrutiny. The medical report failed to show that his actions indicated a psychological affliction of such a grave or serious nature that it was medically or clinically rooted. His alleged immaturity, deceitfulness and lack of remorse for his dishonesty and lack of affection did not necessarily constitute psychological incapacity. His inability to share or to take responsibility or to feel remorse over his misbehavior or to share his earnings with family members, albeit indicative of immaturity, was not necessarily a medically rooted psychological affliction that was incurable. Emotional immaturity and irresponsibility did not equate with psychological incapacity. Nor were his supposed sexual infidelity and criminal offenses manifestations of psychological incapacity. If at all, they would constitute a ground only for an action for legal separation under Article 55 of the Family Code[78] (Emphasis supplied.)

The Supreme Court has ruled that “sexual infidelity, the abandonment and lack of support xxx are not rooted on some debilitating psychological condition but a mere refusal or unwillingness to assume the essential obligations of marriage”[79]. Indeed, “sexual infidelity and abandonment of the conjugal dwelling, even if true, do not necessarily constitute psychological incapacity; these are simply grounds for legal separation”.[80] In *Yambao v. Republic and Yambao*, the Supreme Court ruled in the following manner:

That respondent, according to petitioner, “lack[ed] effective sense of rational judgment and responsibility” does not mean he is incapable to meet his marital obligations. His refusal to help care for the children, his neglect for his business ventures, and his alleged unbearable jealousy may indicate some emotional turmoil or mental difficulty, but none have been shown to amount to a psychological abnormality.

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Certainly, the marriage was beset by difficulties, or as petitioner puts it, “marred by bickerings, quarrels, and recrimination.” It is a fact, however, that all marriages suffer through the same trials at one point or another, with some going through more rough patches than others. xxx[81] (Emphasis supplied.)

Indeed, We do not agree that Errol’s behavior was of such gravity, which rendered him incapable of recognizing and fulfilling his marital obligations. We reiterate the Supreme Court’s ruling that “psychological incapacity must

be more than just a 'difficulty', 'refusal' or 'neglect' in the performance of some marital obligations. Rather, it is essential that the concerned party was incapable of doing so, due to some psychological illness existing at the time of the celebration of the marriage"[82]. The petitioner-appellee maintains that her husband frequently left his family, failed to give support, was dependent on his parents, and failed to share in the payment of the amortization on their house and lot. However, under the circumstances, it appears that Errol merely neglected or refused to perform his duties as a family man. He is capable of being gainfully employed but refused to give his entire salary to the petitioner-appellee, apparently relying on Marijoy's income and the financial assistance from his parents. The petitioner-appellee claims that her husband is dependent on his parents. Nevertheless, in *Padilla-Rumbaua v. Rumbaua*, the Supreme Court did not declare the spouse to be psychologically incapacitated despite being overly dependent on his mother who "always pampered [her son] completely, pampered to the point that respondent failed to develop his own sense of assertion or responsibility"[83]. Furthermore, contrary to the allegation that Errol is insecure, irresponsible and inadequate[84], the psychological report states that Errol is "a person who always strives for excellence, self-reliant, competitive, an effective communicator and possesses leadership ability"[85]. The petitioner-appellee's expert witness declared that it would be difficult to treat his psychological disorder and any such treatment may not be successful in the long run. The foregoing notwithstanding, Marijoy and Errol may not easily give up on their marriage and it is the State's duty to protect the sanctity of their marital union.

Anent petitioner-appellee Marijoy's alleged condition, it appears that it is neither grave nor incurable. Her jealousy and emotional maturity did not entirely prevent her from performing essential marital obligations. On the contrary, records show that Marijoy was employed, paid for their house and supported their son. It is worthy to note that the petitioner-appellee herself exerted effort to reconcile with her husband by trying all means to gain his love and affection.[86] The psychological report provides that the petitioner "is able to maintain her positive outlook and desires to acquire more strengths to enable her [to] reach a fulfilling life"[87]. Moreover, the assailed Decision itself cites the psychologist's affirmation that the petitioner's alleged emotional shallowness is not a mental illness or classified as a psychological incapacity.[88] It was confirmed that the petitioner's alleged emotional shallowness can be treated through psychotherapy.[89] In fact, the petitioner's witness declared that an emotional immaturity similar to the petitioner's can reach maturity in due time.[90] In any case, a couple's emotional immaturity is not tantamount to psychological incapacity. Hence, similar to her husband's condition, it cannot be said that Marijoy's alleged incapacity is persistent, severe, incurable and permanent in nature.

Finally, it must be emphasized that a mere showing of "irreconcilable differences" and "conflicting personalities" do not constitute psychological incapacity".[91] Furthermore, in *So v. Valera*, the Supreme Court ruled as follows:

xxx If in fact the respondent does not want to provide the support expected of a wife, the cause is not necessarily a grave and incurable psychological malady whose effects go as far as to affect her capacity to provide marital support promised and expected when the marital knot was tied. To be tired and to give up on one's situation and on one's husband are not necessarily signs of psychological illness; neither can falling out of love be so labeled. When these happen, the remedy for some is to cut the marital knot to allow the parties to go their separate ways. This simple remedy, however, is not available to us under our laws.[92] (Emphasis supplied.)

Indeed, the alleged incapacity of Marijoy and Errol to perform their marital obligations is not permanent and incurable, based on the following testimony of the psychologist:

Q:

How would these traits affect their obligation to obtain mutual love to (sic) each other?

A:

They cannot perform effectively their obligation with those traits in them.

Q:

But is it possible for (sic) them to be able to perform their mutual obligation, say for example, for Joy to become emotionally matured and if (sic) for Errol to be emotionally stable?

A:

Yes, Sir.

Q: What will lead them to become mature and emotionally stable?

A: They are recommended for physical therapy session.[93]

In addition, the petitioner and her husband still have the capacity to maintain love for each other, to wit:

Q: In some point of view (sic), can they maintain love to (sic) each other if Joy and Errol will undergo psychological therapy?

A: Yes but it will take a long time.

Q: How long?

A: It depends on their cooperation to overcome their abnormalities.[94]

In view of the foregoing, the marriage between the parties is not a hopeless case. A precipitous declaration of its nullity will be contrary to the State's obligation to preserve the sanctity of marriage. It is worthy to emphasize that the Supreme Court has denied petitions for nullity of marriage with circumstances similar to or far graver than those in the present appeal. The Supreme Court has ruled that there was no psychological incapacity despite the husband's cruelty, violence and habitual drunkenness. In *Republic v. Dagdag*, the husband "would force his wife to submit to sexual intercourse and if she refused, he would inflict physical injuries on her".[95] In *Pesca v. Pesca*, the husband was not declared to be psychologically incapacitated despite being a habitual drinker, cruel and violent. When asked to stop or minimize his drinking, he would "beat, slap and kick" his wife and even "chased [his wife] with a loaded shotgun and threatened to kill her in the presence of the children".[96]

In sum, the petitioner-appellee failed to discharge the burden of proving that she and her husband suffer from psychological incapacity that would justify the declaration of nullity of their marriage. Indeed, there is no basis in declaring the nullity of their marriage under Article 36 of the Family Code.

All told, the petitioner-appellee's failure to discharge the burden of proof compels Us to reverse and set aside the assailed Decision of the trial court, in accordance with the ruling that "[a]ny doubt should be resolved in favor of

the existence and continuation of the marriage and against its dissolution and nullity”[97]. Finally, We remind the petitioner-appellee that “marriage is an inviolable social institution and the foundation of the family that the State cherishes and protects. While the Court commiserates with [petitioner-appellee] in her unhappy marital relationship with [respondent-appellee], totally terminating that relationship, however, may not necessarily be the fitting denouement to it. In these cases, the law has not quite given up, neither should We.”[98]

WHEREFORE, premises considered, the appeal is GRANTED. The Decision[99] dated September 28, 2011 and Order[100] dated January 16, 2012, both rendered by the RTC of Naga City, Branch 20, in the case docketed as Civil Case No. 2008-0143, are REVERSED AND SET ASIDE.

SO ORDERED.

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Lazaro-Javier, A.C., and Corales, P.B., JJ., concur.

[1] Rollo, pp. 9-19.

[2] Records, pp. 205-207.

[3] Records, p. 2.

[4] Transcript of Stenographic Notes (TSN) dated April 17, 2009, p. 8.

[5] TSN dated April 17, 2009, p. 9.

[6] Records, p. 2.

[7] Records, p. 8.

[8] TSN dated April 17, 2009, p. 7.

[9] Records, p. 9.

[10] TSN dated April 17, 2009, p. 10.

[11] Records, p. 3.

[12] Records, p. 4.

[13] Records, p. 5.

[14] Records, p. 33

[15] Records, pp. 33-34.

[16] Records, p. 34.

[17] Records, p. 35.

[18] Records, p. 36.

[19] Records, p. 37.

- [20] Records, p. 38.
- [21] Records, pp. 110-111.
- [22] Records, pp. 112-113.
- [23] Records, p. 111.
- [24] Records, p. 113.
- [25] Records, pp. 69-71.
- [26] Records, p. 70.
- [27] Records, pp. 67-71.
- [28] Records, pp. 78-80.
- [29] Records, pp. 120-122, 127-128.
- [30] Records, pp. 130-131.
- [31] Records, pp. 1-13.
- [32] Records, pp. 33-41.
- [33] Records, pp. 48-52 and 53-56.
- [34] Records, pp. 61-64.
- [35] Records, pp. 101-133.
- [36] Records, p. 149.
- [37] Rollo, pp. 9-19.
- [38] Rollo, p. 19.
- [39] Records, pp. 184-192.
- [40] Records, pp. 196-203.
- [41] Records, pp. 205-207.
- [42] Records, pp. 208-210.
- [43] Rollo, pp. 29-43.
- [44] Rollo, p. 31.
- [45] Rollo, p. 34.
- [46] Rollo, p. 35.
- [47] Rollo, p. 36.
- [48] Rollo, p. 37.
- [49] Rollo, pp. 37-38.
- [50] Rollo, p. 39.

[51] Rollo, p. 40.

[52] Rollo, p. 71.

[53] Rollo, p. 72.

[54] Rollo, p. 73.

[55] Rollo, p. 74.

[56] Rollo, p. 75.

[57] Rollo, p. 76.

[58] Rollo, p. 77.

[59] Rollo, p. 78.

[60] Rollo, p. 79.

[61] Rollo, p. 81.

[62] Santos v. Court of Appeals, G.R. No. 112019, January 4, 1995; Republic v. Cuison-Melgar, G.R. No. 139676, March 31, 2006.

[63] G.R. No. 108763, February 13, 1997.

[64] This text is taken from the Memorandum of Archbishop Cruz. On the other hand, the text used in Santos v. CA reads:

“Canon 1095. They are incapable of contracting marriage:

xxx xxx xxx

- Who for causes of psychological nature are unable to assume the essential obligations of marriage.

The difference in wording between this and that in Arch. Cruz's Memorandum is due to the fact that the original Canon is written in Latin and both versions are differently-worded English translations.”

[65] G.R. No. 108763, February 13, 1997.

[66] Mendoza v. Republic and Mendoza, G.R. No. 157649, November 12, 2012.

[67] Records, p. 110.

[68] Ibid.

[69] Records, p. 110.

[70] Records, p. 201.

[71] Records, p. 111.

[72] Republic v. Court of Appeals and Molina, G.R. No. 108763, February 13, 1997.

[73] Ochoa v. Alano, et. al., G.R. No. 167459, January 26, 2011.

[74] Records, p. 112.

[75] Ibid.

- [76] Rollo, p. 12.
- [77] Records, p. 110.
- [78] G.R. No. 157649, November 12, 2012.
- [79] Republic v. Tanyag-San Jose and San Jose, G.R. No. 168328, February 28, 2007; citing Perez-Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006.
- [80] Republic v. Encelan, G.R. No. 170022, January 9, 2013.
- [81] G.R. No. 184063, January 24, 2011.
- [82] Marable v. Marable, G.R. No. 178741, January 17, 2011.
- [83] G.R. No. 166738, August 14, 2009.
- [84] Records, p. 3.
- [85] Records, p. 113.
- [86] See Psychiatric Evaluation, Records, p. 122.
- [87] Records, p. 111.
- [88] Rollo, p. 11.
- [89] Rollo, p. 12.
- [90] Records, p. 17; TSN dated September 1, 2009, p. 11.
- [91] G.R. No. 158896, October 27, 2004.
- [92] G.R. No. 150677, June 5, 2009.
- [93] TSN dated September 1, 2009, p.14.
- [94] TSN dated September 1, 2009, p. 15.
- [95] G.R. No. 109975, February 9, 2001.
- [96] G.R. No. 136921, April 17, 2001.
- [97] Republic v. CA and Molina, G.R. No. 108763, February 13, 1997.
- [98] Pesca v. Pesca, G.R. No. 136921, April 17, 2001.
- [99] Rollo, pp. 9-19.
- [100] Records, pp. 205-207.

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