

RITCHIE M. PABILICO, PETITIONER-APPELLEE, VS. MA. LOURDES E. PABILICO RESPONDET,

Ponente: LANTION, J.A.C., J.

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LANTION, J.A.C., J.:

This is an appeal from the Decision[1] dated 3 September 2012 of the Regional Trial Court of Parañaque City, Branch 260, in Civil Case No. 10-0444. The decretal portion of the said Decision reads:

"WHEREFORE, finding merit to the petition, judgment in hereby rendered:

1)

Declaring the marriage between herein parties Ritchie M. Pabilico and Ma. Lourdes V. Enriquez- Pabilico, solemnized on June 26, 2000 in Manila, null and void ab initio on account of the psychological incapacity of the petitioner;

2)

Directing the City Civil Registrar of Manila to cancel the marriage of the herein parties in the Books of Registry of Marriage;

3)

The custody of the minor child, Lara Francyne E. Pabilico is hereby awarded to respondent subject to visitorial rights of the petitioner who is ordered to give support to the child in such amount of (sic) 50% needs (sic) upon presentment of receipts.

4)

No issue on property.

Let copies of this Decision be furnished the City Civil Registrar of Manila, Local Civil Registrar of Parañaque, the Office of the Solicitor General and the Office of the City Prosecutor, Parañaque City and the National Census Statistics Office General, Quezon City.

SO ORDERED."[2]

THE FACTS

(As culled from the Records)

On 4 October 2010, petitioner-appellee Ritchie Pabilico (hereafter Ritchie) filed a Petition for Declaration of Nullity of Marriage[3] against respondent Ma. Lourdes Pabilico (hereafter Lourdes) before the Regional Trial

Court of Parañaque City, docketed as Civil Case No. 10-0444. The case was eventually raffled to and heard by Branch 260 thereof (hereafter court a quo).

In his petition, Ritchie alleged:

xxx xxx 3. Petitioner (Ritchie) and respondent (Lourdes) met each other in 1996 while the latter was the former's professor at the AMATEL, Valenzuela;

4. Instantly, petitioner and respondent developed a liking towards each other and after a very brief courtship of more or less two (2) months, they decided to jump into a steady boyfriend-girlfriend relationship;

5. Petitioner and respondent's relatives, and several other friends, however, were somehow opposed to their romantic relationship considering that they then had a "student-professor" relationship, not to mention that the respondent was even three (3) years older than the petitioner;

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7. In the course of the initial stages of their relationship, [respondent] eventually submitted herself to [petitioner] in sexual intercourse and got pregnant. Because of this, petitioner and respondent were constrained to get married on June 26, 2000, as the latter was then six (6) months pregnant already;

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9. On September 23, 2000, respondent gave birth to a baby girl whom she and the petitioner named Lara Francine E. Pabilico;

10. At the early stages of petitioner and respondent's marriage, said respondent had already manifested signs of psychological incapacity to comply with her essential marital obligations as a wife to the petitioner and a mother to the minor child, Lara. Moreover, respondent was also aloof to petitioner's relatives. Hence, petitioner and respondent would frequently have quarrels over issues relative thereto;

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13. In the year 2002, petitioner was dismissed from his employment and thus had to find other job opportunities to earn a living for his family;

14. Quite fortunately, an opportunity then came for the petitioner to work overseas, particularly, as an electrician in Saudi Arabia;

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17. And as planned, petitioner was able to sufficiently provide for the needs of respondent and their daughter Lara by regularly sending money to them by way of overseas remittances;

18. With respect to the communication between petitioner and respondent, however, the same indeed proved to be a bit difficult considering that they were both miles and miles apart from each other. As a matter of fact, petitioner was practically limited to simply using the phone or internet to talk to the respondent and their daughter Lara;

19. To complicate things, petitioner observed that the respondent had started becoming inexplicably cold with their relationship. In line with this, respondent even became more aloof towards petitioner's relatives;

20. Worse, respondent's correspondence to petitioner likewise became fewer and fewer;

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22. Petitioner thus validated that the respondent is really psychologically incapacitated to comply with the

essential marital obligations concomitant to married life, that is, by reason of the latter's refusal to observe mutual love, respect and fidelity towards the former;

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24. But, while petitioner was working abroad, he would constantly hear a lot of things about the respondent. In fact, as early as May 2003, or less than a year after petitioner had left the country to work abroad, petitioner already received reports from several of their common friends that the respondent had been going out with another man;

25. Corollarily, petitioner's relatives likewise reported that the respondent had since been living like a teenager and would come home late in the evening and sometimes, as late as 1:00 o' clock or 2:00 o' clock in the early dawn;

26. Further, petitioner's relatives and friends likewise reported that the respondent was not taking care of their daughter Lara. Aside from this, the respondent would also hurt Lara physically on the pretext that the same was a "means of discipline";

27. As a result, petitioner and the respondent often quarreled with each other. And, over time, petitioner and respondent's quarrels resulted to emotional and verbal abuse by one against the other;

28. In May 2004, petitioner's overseas employment contract had expired and he was thus constrained to return home;

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30. Notably, however, the respondent became even more defensive and suspicious in her actions. Petitioner then observed that the respondent would receive calls from someone even in the wee hours of the morning and would even talk to the said caller outside the house, away from everybody else;

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32. In June 2004, respondent's dislike of the petitioner and his relatives reached its climax. The respondent then decided to return to her parents' house, bringing Lara along with her. Consequently, this resulted to more and more disagreements between petitioner and the respondent, particularly, concerning matters relative to Lara well-being and education.

33. Initially, respondent let petitioner talk to Lara and even spend time with her. However, respondent started denying petitioner of his visitation rights over Lara and would not even allow said petitioner to see her at all; xxx xxx 36. While petitioner again worked abroad, he again requested that his sisters and mother look out for the welfare of both respondent and their daughter Lara;

37. In October 2007, petitioner's employment contract ended and so he returned home to the country (sic). Upon his return, the first thing that petitioner did was to visit Lara at respondent's residence. However, as before, respondent continued to refuse to let petitioner see and visit their daughter Lara albeit without any just and valid reason therefor;

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40. Verily, on one occasion, petitioner's relatives went to visit Lara on her birthday but, notwithstanding, respondent refused to allow them to see and visit her at all;

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48. After assessing his relationship with respondent for the last several years, petitioner finally resolved to put things in order by seeking for the declaration of nullity of his marriage to respondent.

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On 12 October 2010, the court a quo issued the summons[4] with a copy of the petition and its annexes which was personally served to Lourdes.[5]

In her Answer[6] to the petition, Lourdes alleged that:

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5. From the start of their married life, it was [petitioner] who appeared to be isolating himself from the respondent;

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7. Petitioner was engaged in substance abuse despite the fact that he was not gainfully employed and often times would support his vices through loans;

8. It was the respondent who supported their family, sometimes with the help of the relatives of the petitioner;

9. Though after a few years after their marriage, [petitioner] was employed overseas, he failed to give respondent and their child proper and adequate support because petitioner would often said that he has "debts" to pay in Saudi Arabia;

10. For all those shortcomings, it was the respondent who made to "make both ends meets", so to speak;

11. During the petitioner's employment overseas and without the knowledge of respondent, she was being portrayed to (sic) the petitioner as a happy-go lucky and was allegedly engaged in an "affair" with other person;

12. Upon return of petitioner after the expiration of his employment contract in Saudi Arabia, petitioner and respondent were frequently engaged in a heated discussion, which usually turned out in to a shouting bout, thereby causing mental and emotional sufferings not only to respondent but to their child;

13. Considering that the occurrence of this incident became a daily routine, it was decided by the respondent to temporarily part ways with the [petitioner] and [took] shelter and peace of mind at the house of her parents;

14. That after the incident, he seldom visited respondent and his daughter, neither gave support. Thereafter, respondent learned that petitioner was still hooked with substance abuse and was still obsessively engaged in his vices.

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During pre-trial, both Ritchie and Lourdes appeared with their respective counsels while the Public Prosecutor appeared on behalf of the State. Thereafter, trial ensued.

In support of his petition, Ritchie presented the Judicial Affidavit[7] of Dr. Elias D. Adamos and himself.

Ritchie also presented the Psychological Evaluation[8] of Dr. Adamos. The said report disclosed the following findings:

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INTERPRETATION: Patient is of average intelligence. He is negative for delusion. He has no hallucination. He is in good contact with reality. Projective data revealed no fixation on childhood Ericksonian Stage. Patient has good ego system and demands or requires care and love of a significant other solely for psychological survival. Patient is egocentric and demands being attended to. Patient has intact coping mechanisms. He exhibited narcissistic behaviors. He exhibited immaturity and self-centered motives and ideas. From the

projective tests that were administered to him, correlative data revealed narcissistic personality disorder that is present in him. He has excessive attention to details. He has obsessive-compulsive behaviors up to the point of being repetitious. He showed attention seeking behaviors. Projective data revealed no aggressive tendencies. He has ideas of reference towards ideal love and ideal marriage. He has obsessive-compulsive personality. His present adjustment to present life situation is excellent. Obsessive-compulsive personality disorder harbored by patient is a condition that is identified and defined under the Diagnostic and Statistical Manual for Mental Disorders IV-TR. It is a permanent and incurable personality disorder. The condition started even during his adolescent years or prior to marriage and was carried on through adulthood and even through married life. It is a condition that is unable to identify to marriage and thus is considered a serious and grave condition. Obsessive-compulsive personality disorder renders patient incapacitated to comply with his marital obligations.

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On 3 September 2012, the court a quo rendered the assailed Decision.

The People, through the Office of the Solicitor General (OSG) filed a Motion for Reconsideration,[9] but the same was denied by the court a quo.[10]

The People appealed the Decision of the court a quo raising following assignment of errors:

I

THE TRIAL COURT ERRED IN ITS FINDING THAT APPELLEE IS SUFFERING FROM PSYCHOLOGICAL INCAPACITY TO COMPLY WITH THE OBLIGATIONS OF MARRIAGE.

II

THE TRIAL COURT FAILED TO TAKE INTO ACCOUNT THE ABSENCE OF JURIDICAL ANTECEDENCE IN APPELLEE'S PSYCHOLOGICAL INCAPACITY.[11]

THIS COURT'S RULING

The People contend that the court a quo erred in rendering the assailed Decision arguing that it failed to establish Ritchie's psychological incapacity, which warranted the declaration of the nullity of his marriage to Lourdes under Article 36 of the Family Code.

The appeal is meritorious.

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, includes their mutual obligations to live together, observe love, respect and fidelity and render help and support.[12] As all people may have certain quirks and idiosyncrasies, or isolated characteristics associated with certain personality disorders, 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.[13] This psychological condition must exist at the time the marriage is celebrated." [14] Moreover, in Santos vs. Court of Appeals,[15] the Supreme Court declared that psychological incapacity must be characterized by:

- (a) Gravity - It must be grave and serious such that the party would be incapable of carrying out the ordinary duties required in a marriage;
- (b) Judicial Antecedence - It must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and

(c) Incurability - It must be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved.

In addition, the Supreme Court also laid down in *Republic vs. CA and Molina*[16] specific 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.
- (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.
- (3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage.
- (4) Such incapacity must also be shown to be medically or clinically permanent or incurable.
- (5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of 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.
- (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. x x x.
- (8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the *defensor vinculi* contemplated under Canon 1095.[17]

The foregoing pronouncements in *Santos* and *Molina* have remained as the precedential guides in deciding cases grounded on psychological incapacity of a spouse. However, the Supreme Court has declared the existence or absence of the psychological incapacity based strictly on the facts of each case and not on a priori assumptions, predilections or generalizations.[18] Indeed, the incapacity should be established by the totality of evidence presented during trial, making it incumbent upon the petitioner to sufficiently prove the existence of the psychological incapacity.[19]

In this case, the totality of evidence presented by Ritchie utterly failed to establish his psychological incapacity. At the outset, Ritchie failed to prove that his incapacity was existing prior to or at the time of the celebration of the marriage with Lourdes. In his Judicial Affidavit,[20] Ritchie alleged that he and Lourdes were "so much in love with each other" and that they were willing to "fight for their love against all odds".[21] As a result, their love affair blossomed and their union bore a child.[22] For the sake of their love and to ensure the child's future, Ritchie and Lourdes decided to get married on June 26, 2000.[23] However, troubles began when they started living together with Ritchies' parents. Lourdes had no complains about Ritchies' behavior before they got married. Clearly, there is insufficient credible evidence that Ritchie's alleged "defects" were already present at the inception of, or prior to, the marriage. Simply put, Ritchie's alleged psychological incapacity did not satisfy the jurisprudential requisite of "juridical antecedence."

Furthermore, Ritchie's supposed ill behavior (i.e., immaturity and self-centeredness) were not even established on record. Ritchie presented no other witnesses to corroborate his allegations on such behavior which is, at best,

self-serving. On the contrary, Ritchie himself testified in court that he is a responsible husband and father because he pursued work abroad to provide support to his family and to build a home of their own.[24] While working abroad, Ritchie kept in constant communication with his wife and daughter, through phone and the internet. Ritchie also testified that he is very concerned with his daughter's education as he wanted her to study in a private school.

Even assuming arguendo that Ritchie was able to prove his alleged undesirable traits, i.e., immaturity and self-centeredness, the same does not necessarily constitute psychological incapacity. In *Republic of the Philippines vs. Encelan*,[25] the Supreme Court emphasized that Article 36 of the Family Code contemplates downright incapacity or inability to take cognizance of and to assume the basic marital obligations; not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse. Irreconcilable differences, emotional immaturity and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and the like, do not by themselves warrant a finding of psychological incapacity under Article 36, as the same may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage.[26]

Likewise, the Psychological Evaluation[27] of Dr. Adamos concluding that Ritchie was psychologically incapacitated to comply with his marital obligations was ostensibly vague about the root cause, gravity and incurability. Even Dr. Adamos's testimony given in court did not provide additional vital information which was not mentioned in his Report. Aside from rendering a general description of Ritchie's supposed behavior, both the Psychological Evaluation and court testimony of Dr. Adamos tendered no explanation on the root cause behind Ritchie's behavior. Dr. Adamos merely stated that Ritchie was selfish, self-centered and immature and quickly concluded that such a personality disorder is serious, grave and incurable. Dr. Adamos' Psychological Evaluation and testimony were bereft of information or insight into Ritchie's early life and associations, how he acted before and at the time of the marriage, and how the symptoms of a disordered personality developed.[28] This is not surprising considering that Dr. Adamos collected his information only from interviewing Ritchie.[29] He did not personally seek out and interview other persons who had personal knowledge of Ritchie and Lourdes' traits, attitudes or character before and during their marriage.

In the light of the strict requirements enunciated in the cases of *Santos vs. Court of Appeal* and *Republic vs. CA and Molina* which are still controlling to this date,[30] Ritchie failed to prove that he suffers from grave psychological defects depriving him of the ability to assume his essential marital responsibilities or that his alleged personality disorders existed before the marriage. Likewise, there is no independent proof by medical experts to establish his psychological condition. All these omissions must be taken against Ritchie, for the reason that upon him rested the burden of establishing nullity of the marriage. To hark back to what has been earlier discussed, psychological incapacity refers only to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.[31] In the final analysis, We do not perceive a disorder of this nature to exist in the instant case.[32] Indeed, any doubt should be resolved in favor of the validity of the marriage and the indissolubility of the marital vinculum.[33]

WHEREFORE, the instant appeal is GRANTED. The Decision dated 3 September 2012 of the Regional Trial Court of Parañaque City, Branch 260, in Civil Case No. 10-0444 is REVERSED and SET ASIDE. The Petition for the Declaration of Nullity of Marriage filed by petitioner-appellee Ritchie M. Pabilico is DISMISSED for lack of merit.

SO ORDERED.

De Leon, M.M., Chairperson and Antonio-Valenzuela, N.G., JJ., concur.

- [1] Penned by Presiding Judge Jamie M. Guray, Rollo, pp. 39-48
- [2] Rollo, p. 47
- [3] Records, pp. 3-16
- [4] Records, p. 25
- [5] See Sheriff's Return, Id., p. 26
- [6] Records, pp. 57-61
- [7] Exhibit "G", Records, pp. 319-324; Exhibit "I", pp. 332-338
- [8] Exhibit "C", Id., pp. 106-110
- [9] Records, pp. 250-258
- [10] Id., pp. 267-268
- [11] Id., p. 23
- [12] Baccay vs Baccay, G.R. No. 173138, December 01, 2010
- [13] Perez-Ferraris vs. Ferraris, G.R. No. 162368, July 17, 2006
- [14] Republic v. CA and Molina, G.R. No. 108763, 13 February 1997
- [15] 310 Phil. 21 (1995).
- [16] Republic v. CA and Molina, G.R. No. 108763, February 13, 1997
- [17] Republic vs. CA and Molina, G.R. No. 108763, February 13, 1997
- [18] Republic vs. The Hon. Court of Appeals, G.R. No. 159594, November 12, 2012
- [19] Ibid.
- [20] Exhibit "G", records, pp. 319-324
- [21] Records, p. 319
- [22] Exhibit "F", Records, p. 318
- [23] Exhibit "E", Records, p. 317
- [24] See Records, p. 320
- [25] G.R. No. 170022, January 09, 2013
- [26] See also Republic vs. The Hon. Court of Appeals, G.R. No. 159594, November 12, 2012; So vs Valera, G.R. No. 150677, June 05, 2009; Paras vs Paras, G. R. No. 147824, August 02, 2007; Republic vs De Gracia, G.R. No. 171557. February 12, 2014. See also Mendoza vs Republic, G.R. No. 157649, November 12, 2012
- [27] Records, pp. 96-101

[28] See Republic vs Galang, G.R. No. 168335, June 06, 2011

[29] TSN dated 24 August 2011, p. 22

[30] See also Kalaw vs Fernandez, G.R. No. 166357, 14 January 2015

[31] See Republic vs De Gracia, G.R. No. 171557. February 12, 2014.

[32] Ibid.

[33] Perez-Ferraris vs. Ferraris, G.R. No. 162368, July 17, 2006

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