

JOVALYN A. RETINO, PLAINTIFF-APPELLANT, VS. JACINTO A. VALLIDO, DEFENDANT-APPELLEE,

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PAREDES, J.:[*]

THE CASE

THIS APPEAL, filed by plaintiff-appellant Jovalyn A. Retino (appellant), assails the Decision[1] dated September 8, 2011 of the Regional Trial Court (RTC), Branch 49, Urdaneta City, Pangasinan, which dismissed the Complaint docketed as Civil Case No. U-9411, for the Declaration of Nullity of Marriage, stating in the decretal portion thereof, the following pronouncement, viz.:

WHEREFORE, the Complaint is DISMISSED for lack of merit.

The marriage between Jacinto Vallido and Jovalyn Retino subsists and remains valid.

Furnish copies of this decision (to) the Office of the Solicitor General and the Offices of the Civil Registry of Pasay City and Urdaneta City, Pangasinan.

SO ORDERED.

Also assailed is the Resolution[2] dated August 23, 2012, which denied appellant's Motion for Reconsideration.

THE ANTECEDENTS

Appellant and defendant-appellee Jacinto Vallido (appellee), both hail from Aklan, met when they were in their teens. They became sweethearts despite the objection of appellant's parents. Appellant became a nurse and was hired at one of the hospitals in the sultanate of Oman. Three (3) days before appellant was to leave for Oman, appellee hurriedly proposed marriage to her to secure their relationship. Appellant agreed; they also agreed that the marriage will be secret and the marriage contract will not be registered.

Through the assistance of appellee's uncle, appellant and appellee were married[3] on December 6, 1991 with Judge Ricardo Conjares of the Metropolitan Trial Court, Branch 48, Pasay City, as solemnizing officer. Appellant and appellee never lived together as husband and wife as appellant immediately left for Oman. Since then, they never communicated with each other and never had a chance to see each other.

Four (4) years without any communication from appellee, and believing that her marriage to appellee was not registered, appellant married[4] Raquelito Morales on April 29, 1995, and bore[5] him a son.

As she was processing her papers for Canada, she was required to submit a Certificate of No Marriage (CENOMAR). When she applied for a CENOMAR with the National Statistics Office, she was surprised to learn that contrary to her belief, the marriage contract with appellee was registered. When appellant inquired from appellee's relative, she learned that appellee is also married to another woman and has two (2) children by her.

Alleging that she and appellee are both psychologically incapacitated to perform the requisites of marriage since they could no longer live together, care and support each other as they have their own families, appellant filed the Complaint to have her marriage to appellee declared null and void.

Despite service of summons, appellee did not file an Answer; he was not declared in default as the Rule[6] on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, proscribes[7] a declaration of default.

Pre-trial[8] was conducted; and on December 3, 2009, the RTC issued an Order[9] dated December 3, 2009, where appellant and the public prosecutor stipulated that: appellant and appellee are legally married as evidenced by their marriage contract; and, appellant contracted a second marriage with Raquelito Morales where a child was born to them. Thereafter, trial on the merits ensued.

Appellant testified[10] on the averments in the Complaint, and that: she and appellee were married the same day he proposed to her; they did not secure a marriage license nor was there an actual solemnization of the marriage as they just signed a copy of the Marriage Contract; appellant knows the address of appellee, his contact number, and that he went abroad, through the letters they exchanged; she discovered that her marriage to appellee was registered when she secured a Certificate of No Marriage, which is a required document for Canada.

A Psychological Evaluation Report (the Psychological Report)[11] was presented in evidence and, with the admission of its authenticity and due execution, the presentation of the psychologist was dispensed with[12].

On March 5, 2009, the RTC rendered the assailed Decision[13] dismissing the Complaint on the finding that appellant had not discharged her burden of proving the nullity of her marriage to appellee due to their psychological incapacity.

Appellant filed a motion for reconsideration, but it was denied in the Resolution[14] dated August 23, 2012.

Hence, this appeal, ascribing the sole issue, to wit:

WHETHER OR NOT THE MARRIAGE CONTRACTED BY THE PLAINTIFF (now, appellant) AND DEFENDANT (now, appellee) (Exh. "A") COULD BE DECLARED NULL AND VOID.[15]

THE COURT'S RULING

The appeal is bereft of merit.

Appellant argues that her marriage to appellee should be annulled pursuant to Article 36 of the Family Code considering, that: they married hurriedly; they never exercised any marital rights; and, they have established their respective families and could no longer live together. These pieces of evidence shows that both are psychologically incapacitated to comply with their marital obligations.

The evidence is insufficient to show psychological incapacity under Article 36 of the Family Code.

Article 36 of the Family Code provides, that:

Art. 36. 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.

Article 36 contemplates a psychological incapacity or inability to take cognizance of and to assume basic marital obligations, and is not merely the difficulty, refusal, or neglect in the performance of marital obligations or ill will. It consists of: (a) a true inability to commit oneself to the essentials of marriage; (b) the inability must refer to the essential obligations of marriage, that is, the conjugal act, the community of life and love, the rendering of mutual help, and the procreation and education of offsprings; and (c) the inability must be tantamount to a psychological abnormality. Proving that a spouse failed to meet his or her responsibility and duty as a married person is not enough. It is essential that he or she must be shown to be incapable of doing so due to some

psychological illness[16].

In *Republic of the Philippines vs. Court of Appeals and Roridel Olaviano Molina (Molina case)*[17], the Supreme Court set forth guidelines in the interpretation and application of Article 36 of the Family Code, thus:

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. xxx
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 manifestation and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically 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 *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists 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. x x x.
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. x x x.

In *Leouel Santos vs. The Honorable Court of Appeals and Julia Rosario Bedia-Santos*[18], the doctrinal guidelines in the Molina case on psychological incapacity were summarized; the psychological incapacity must be characterized by: (a) gravity, (b) juridical antecedence, and (c) incurability.

These characteristics of psychological incapacity must be shown in the petition by alleging the complete facts, which should state the physical manifestation, if any, as are indicative of the person's psychological incapacity to comply with the essential marital obligations as required under Section 2[19] of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

In the instant case, appellant merely alleged that she and appellee are both psychologically incapacitated to

perform the requisites of marriage since they could no longer live together, care and support each other as they have their own families to support. The alleged psychological incapacity stems from the fact that appellant and appellee married the same day appellee proposed, after which, she left for Oman; that she married a certain Raquelito Morales and bore him a child; and that she also learned that appellee had "married" (no evidence was presented in this regard) another woman with whom he had two (2) children. It would appear, from the evidence presented that the parties cannot comply with the essential marital obligations not because of some psychological incapacity but because of a difficulty due to distance, neglect and refusal due to their having families of their own. However, mere "difficulty" or "neglect" in the performance of the marital obligations is not enough; 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[20].

On the other hand, the Psychological Evaluation Report[21] prepared by Dr. Lucita L. Jose conceptualized the parties' psychological incapacity in the following manner:

Plaintiff:

Anti-Social Personality Disorder

1. Fails to conform to social norm. Obviously, their relationship is forbidden by the society thus, Jovelyn should have not allowed to happen in the first place.
2. Fails to plan ahead. Marriage should not be taken for granted. Partners should give time in discerning if they are both ready to enter marriage- emotionally and financially to function well to their marital roles. However, Jovelyn agrees at once to Jacinto's proposal of marriage. Although pressured, she should have taken a moment to think it over.
3. Has no regard for truth. Jovelyn never bothered to disclose her relationship with Jacinto to her parents or siblings. She deceived her family because of this. Likewise, she gave Jacinto false hope of being together again in the future.

Defendant:

Histrionic Personality Disorder

1. Constantly seeks or demands reassurance, approval or praise. This was very evident in his behavior. He wanted Jovalyn to always give him the assurance that she will be back to his arms and be together again. One big reassurance he asked from the plaintiff was when all of a sudden he proposed for a marriage where Jovelyn was forced to agree.
2. Is inappropriately sexually seductive in appearance or behavior. This has become his defense mechanism. The fact that he was liked by a nursing student; it even gave him the self-image that he is sexy and admirable. The situation of being with Jovalyn in the school adds to the ego of the defendant.
3. Is self-centered. Jacinto was obviously the center of their relationship. Jovelyn always gave way to his decisions and wants. All decisions should be of advantage to him. The sudden marriage was actually so selfish in a manner that he did not consider the plaintiff's career plans and wishes to their relationship.

Paranoid Personality Disorder

1. Expects, without sufficient basis, to be exploited of (sic) harmed by others. He himself never bothered to tell Jovelyn's parents about their relationship for the fear that he will be disliked and even harmed by her parents.
2. Questions, without justification, the loyalty or trustworthiness of friends. It was obviously manifested that Jacinto has suspicions over Jovelyn that she might be seeing somebody else. His protectiveness was no longer healthy that he was willing to go to school early to monitor his girlfriends or classmates. Up to the point when Jovelyn was about to leave did he distrust her loyalty that pressured her for marriage.

3. Is easily slighted and quick to react with anger or to counterattack. We can see this when Jovelyn refused to be sent home so her sister would not notice the frequent meeting, he was quick in thinking of a counterattack. Where he still had the final word - he did not leave the area until her saw Jovelyn entered to (sic) their house.

From a perusal of the Psychological Report, it can be seen that the psychologist failed to trace juridical antecedence of the spouses' psychological incapacity and to relate it to an existing incapacity at the time of the celebration of marriage. As aptly noted[22] by RTC:

This Court noted that there is nothing assessed of the parties' past life and acts showing a behavior pattern of their supposed psychological disorder. The Court could not logically view the rationale connection between plaintiff's having a father who is "hardworking and possessed of great patience" and loving mother who "manifests much understanding to their children" and the former's supposed psychological disorder. Although she is depicted as spoiled and gets what she wants, this manifestation was not shown to be grave enough rendering her utterly insensitive to assume the essential obligations of marriage.

Also, the facts upon which the psychologist based her conclusions were derived from statements made by appellant and the witnesses she provided. Therefore, it cannot be gainsaid that the source of the information upon which the finding of psychological incapacity is based, are tainted, hearsay, and prejudiced.

The study was not in-depth and comprehensive enough to warrant the conclusion that both parties were psychologically incapacitated to fulfill the marital obligation under Articles 68 to 71[23] of the Family Code.

In fine, the presentation of expert proof in cases for declaration of nullity of marriage based on psychological incapacity presupposes a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a grave, severe and incurable presence of psychological incapacity[24].

"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 in Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support[25].

Unless the evidence presented clearly reveals a situation where the parties, or one of them, could not have validly entered into a marriage by reason of a grave and serious psychological illness existing at the time it was celebrated, this Court is compelled to uphold the validity of the marriage between petitioner and respondent. The presumption[26] is always in favor of the validity of marriage; and any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution[27].

WHEREFORE, the appeal is DENIED. The Decision dated September 8, 2011 and the Resolution dated August 23, 2012 of the Regional Trial Court, Branch 49, Urdaneta City, Pangasinan, in Civil Case No. U-9411, are AFFIRMED.

SO ORDERED.

Dicdican, (Chairperson), and [**]Corales, JJ., concur.

[*] Acting Senior Member per Office Order No. 461-14-ABR dated November 3, 2014.

[**] Acting Junior Member per Office Order No. 461-14-ABR dated November 3, 2014.

[1] Records, pp. 81-7.

[2] Records, pp. 109-10.

[3] See Certificate of Marriage, records, p. 58.

[4] See Certificate of Marriage, records, p. 59.

[5] See Certificate of Live Birth, records, p. 60.

[6] A.M. No. 02-11-10-SC: Rule on Marriages

[7] Id., SEC. 8. Answer. - (2) If the respondent fails to file an answer, the court shall not declare him or her in default.

[8] Ibid., SEC. 11. Pre-trial. - (1) Pre-trial mandatory. - A pre-trial is mandatory. On motion or motu proprio, the court shall set the pre-trial after the last pleading has been served and filed or upon receipt of the report of the public prosecutor that no collusion exists between the parties.

[9] Records, p. 34.

[10] TSN dated October 27, 2009.

[11] Records, pp. 63-70.

[12] See Order dated April 26, 2011, records, p. 55.

[13] Records, pp. 81-7.

[14] Records, pp. 109-10.

[15] See Brief for the Appellant, rollo, pp. 18-34.

[16] Republic of the Philippines vs. The Hon. Court of Appeals (Ninth Division) and Eduardo C. De Quintos, Jr., G.R. No. 159594, November 12, 2012.

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

[18] G.R. No. 112019, January 4, 1995.

[19] Section 2. Petition for declaration of absolute nullity of void marriages.

x x x

(d) What to allege. - A petition under Article 36 of Family Code shall specially allege the complete facts showing the either or both parties were psychologically incapacitated from complying with the essential marital obligations of marriages at the time of the celebration of marriage even if such incapacity becomes manifest only after its celebration.

The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged.

[20] Rosalino L. Marable vs. Myrna F. Marable, G.R. No. 178741, January 17, 2011.

[21] Records, pp. 63-70.

[22] Records, pp. 81-7, 85.

[23] Art. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

Art. 69. The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family.

Art. 70. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties.

Art. 71. The management of the household shall be the right and the duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70.

[24] Republic of the Philippines vs. The Hon. Court of Appeals (Ninth Division) and Eduardo C. De Quintos, Jr., G.R. No. 159594, November 12, 2012.

[25] Jocelyn M. Suazo vs. Angelito Suazo and Republic of the Philippines, G.R. No. 164493, March 10, 2010.

[26] Benjamin G. Ting vs. Carmen M. Velez-Ting, G.R. No. 166562, March 31, 2009 .

[27] Enrique Agraviador y Alunan vs. Erlinda Amparo-Agraviador and the Republic of the Philippines, G.R. No. 170729, December 8, 2010.

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