

RICARDO D. SARMIENTO, PLAINTIFF-APPELLANT, VS. IMELDA DEVERA-SARMIENTO, DEFENDANT-APPELLEE,

Ponente: LAMPAS PERALTA, J.

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LAMPAS PERALTA, J.:

Subject of this appeal[1] is the Decision dated November 15, 2013[2] in Civil Case No. RTC 3294-I of Branch 69, Regional Trial Court, Iba, Zambales which dismissed the petition for declaration of nullity of marriage filed by plaintiff-appellant Ricardo D. Sarmiento against defendant-appellee Imelda Devera-Sarmiento for failure of plaintiff-appellant to prove juridical antecedence of defendant-appellee's psychological incapacity.

THE ANTECEDENTS

On April 25, 1998, plaintiff-appellant Ricardo D. Sarmiento and defendant-appellee Imelda Devera-Sarmiento got married at the Iglesia Filipina Independiente, Iba, Zambales. They had six (6) children namely: Abbygale, Babygirl, Christine Joy, Dominic, Eugene and Frenz Kurl. Allegedly, defendant-appellee made decisions on her own as if no marriage ties existed between her and plaintiff-appellant. Also, defendant-appellee went out almost every night, frequenting discos as she could not sever ties with her family and friends. In 2004, plaintiff-appellant worked abroad as a seaman because of his earnest desire to give his family a better life and future. While abroad, plaintiff-appellant learned that while they were apart, defendant-appellee neglected their children and had an illicit relationship with another man. In June 2008, plaintiff-appellant and defendant-appellee lived separately.[3]

The factual details based on plaintiff-appellant's evidence are synthesized by the trial court in its Decision dated November 15, 2013 as follows:

The foregoing and plaintiff's testimony xxx and judicial affidavit xxx established: that plaintiff and defendant were married on 25 April 1998 in Iba, Zambales xxx; that after their marriage, the parties lived at Purok 3, Amungan Zambales; that they begot six (6) children, namely: Frenz Kurl born on 22 April 2004 xxx, Dominic born on 21 October 2000 xxx, Eugene born on 14 October 2002 xxx, Christine Joy born on 25 December 1998 xxx, Baby Girl born on 20 December 1997 (sic) xxx and Abbygale born on 19 August 1997 (sic) xxx; that in 2008, plaintiff decided to work abroad to give his family a better life and was employed as a seaman; that while plaintiff was abroad, defendant was often out with her friends leaving their children to fend for themselves and this was relayed to him by the sister of the defendant; that their daughter Abbygale told plaintiff that defendant is already living with another man; that when plaintiff went home in February 2012, he went to the house rented by his wife and her paramour and saw her paramour there; that defendant left their children and their children are now staying in his house in Amungan, Zambales under the care and custody of his parents; that he provides support to his children; that plaintiff and defendant talked before the barangay and DSWD defendant (sic) gave up the custody and care of their children; and, that they had been separated since 2008.[4]

On March 14, 2012, plaintiff-appellant filed with the trial court a petition for declaration of nullity of marriage on the ground of defendant-appellee's psychological incapacity.[5]

Defendant-appellee did not file any answer to the petition.[6]

The Office of the Solicitor General (OSG) entered its appearance as counsel for the State and deputized the Office of the Provincial Prosecutor of Iba, Zambales to appear on its behalf.[7] Defendant-appellee did not file any responsive pleading.[8] The Assistant Provincial Prosecutor reported that based on the narration of plaintiff-appellant, he found no collusion between the parties, “but the conclusion is based solely on the petitioner's version. That the allegations of petitioner in the petition may be appreciated in a full blown trial.”[9]

During the pre-trial conference, defendant-appellee failed to appear. Counsel for plaintiff-appellant and the provincial prosecutor both adopted the minutes of the preliminary conference held on May 6, 2013 where plaintiff-appellant submitted a list of documentary exhibits and witnesses to be presented.[10]

Plaintiff-appellant,[11] psychologist Noel N. Ison[12] and Noel Sarmiento[13] (plaintiff-appellant's brother) were presented as witnesses. Plaintiff-appellant also presented documentary evidence consisting of, among others, the marriage contract of plaintiff-appellant and defendant-appellee, birth certificates of their 6 children, judicial affidavit of plaintiff-appellant, judicial affidavit of psychologist Noel N. Ison, Psychological Evaluation Report of psychologist Noel N. Ison and judicial affidavit of Noel Sarmiento.[14]

Defendant-appellee did not present evidence.[15]

In a Decision dated November 15, 2013, the trial court dismissed plaintiff-appellant's petition for declaration of nullity of marriage for failure of plaintiff-appellant to present evidence proving juridical antecedence of defendant-appellee's psychological incapacity.[16] Thus:

IN VIEW THEREOF, judgment is rendered DISMISSING this case for insufficiency of evidence.

Let copies of this Decision be furnished the Civil Registrar General (National Statistics Office), Quezon City, Office of the Solicitor General, Makati City, Office of the Provincial Prosecutor, Iba, Zambales, the Local Civil Registrar of Iba, Zambales, plaintiff Ricardo D. Sarmiento, Purok 3, Amungan, Iba, Zambales, defendant Imelda Devera Sarmiento, Mambog, Botolan, Zambales and Atty. Victor R. De Guzman, 8963 Aranga Street, San Antonio Village, Makati City.[17]

Plaintiff-appellant filed a motion for reconsideration,[18] but the trial court denied the same in an Order dated December 13, 2013.[19]

Hence, plaintiff-appellant filed the present appeal which is premised on these assignments of error:

“THE TRIAL COURT (RTC) ERRED IN FINDING THAT PLAINTIFF-APPELLANT FAILED TO PRESENT EVIDENCE PROVING JURIDICAL ANTECEDENCE OF DEFENDANT-APPELLEE'S PSYCHOLOGICAL INCAPACITY.

THE TRIAL COURT (RTC) ERRED AMOUNTING TO GRAVE ABUSE OF DISCRETION IN DISMISSING PLAINTIFF-APPELLANT COMPLAINT/PETITION FOR INSUFFICIENCY OF EVIDENCE”[20]

Plaintiff-appellant filed appellant's brief. Defendant-appellee did not file any brief.

Oppositor-appellee Republic of the Philippines, through the Office of the Solicitor General (OSG), filed appellee's brief contending that “the totality of appellant's evidence failed to establish defendant-appellee's psychological incapacity to perform the essential obligations of marriage.”[21]

THE ISSUE

Whether the trial court erred in dismissing the petition for declaration of nullity of marriage for failure of plaintiff-appellant to prove juridical antecedence of defendant-appellee's psychological incapacity.

THE COURT'S RULING

In dismissing the petition for declaration of nullity of marriage, the trial court ratiocinated that plaintiff-appellant failed to present evidence proving juridical antecedence of defendant-appellee's psychological incapacity. Said the trial court:

While the Court defers to the expert's findings that defendant is indeed suffering from psychological incapacity, plaintiff failed to present evidence proving juridical antecedence of such incapacity, hence, one of the requirements for the grant of the relief is lacking.[22]

Plaintiff-appellant faults the trial court in so ruling. Allegedly, the trial court erred in not appreciating the evidence presented by plaintiff-appellant proving defendant-appellee's psychological disorder which was grave, incurable, permanent and with juridical precedence that deterred her from performing her marital obligations and could be traced to her history before and existing at the time of the celebration of marriage. Plaintiff-appellant points out that based on the psychological and evaluation report of psychologist Noel N. Ison, defendant-appellee was found to be suffering from Histrionic Personality Disorder, lacking in mature disposition and totally unaware of the essential requisites in order to fulfill her obligations as a married woman. Plaintiff-appellant stresses that psychologist Noel N. Ison's evaluation that defendant-appellee's psychological incapacity existed even prior to her marriage to plaintiff-appellant should have been accorded great weight and evidentiary value.[23]

On the other hand, the OSG submits that the totality of plaintiff-appellant's evidence was insufficient to prove that defendant-appellee was psychologically unfit to discharge the essential marital obligations expected of her as a wife. The psychologist's report contained conclusions which were mere generalities and failed to provide actual circumstances to show the gravity or severity of defendant-appellee's alleged condition, specifically, why and to what extent the disorder was serious, and how it incapacitated defendant-appellee to comply with her marital duties. Moreover, there was no evidence presented showing that the actuations of defendant-appellee were manifestations of a psychological illness that was severe and incurable, with the root cause existing before the marriage.[24]

The appeal is unfounded.

Article 36 of the Family Code, as amended, provides:

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.

Jurisprudence teaches that 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 must concomitantly be assumed and discharged by the parties to the marriage. 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. To qualify as psychological incapacity as a ground for nullification of marriage, a person's psychological affliction must be grave and serious as to indicate an utter incapacity to comprehend and comply with the essential objects of marriage, including the rights and obligations between husband and wife. The affliction must be shown to exist at the time of marriage, and must be incurable.[25] As enunciated:

We have time and again held that 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 must concomitantly be assumed and discharged by the parties to the marriage that, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, to observe love, respect and fidelity, and to render help and support. We have also held 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. To qualify as psychological incapacity as a ground for nullification of marriage, a person's psychological affliction must be grave and serious as to indicate an utter incapacity to comprehend and comply with the essential objects of marriage, including the rights and obligations between husband and wife. The affliction must be shown to exist at the time of marriage, and must be incurable.

The following testimony of plaintiff-appellant fails to show the presence of all essential characteristics of gravity, juridical antecedence and incurability of the alleged psychological incapacity of defendant-appellee. Plaintiff-appellant merely testified that defendant-appellee neglected their 6 children and had extra marital affair with another man, and these do not suffice to show downright incapacity of defendant-appellee to perform her marital obligations. Thus:

Plaintiff-appellant on cross-examination:

Q Mr. Witness, you alleged in your judicial affidavit that sometime in 2007 you were working abroad and you learned that you wife (sic) was living with another man, is that right?

A Yes, sir.

Q So, it is clear to us that you just learned the information from another person?

A Yes, sir.

xxx xxx xxx

Q You also said that your wife was often out of your conjugal dwelling, you also learned that information from another person because you were then working abroad, right?

A It was the sister who told me about her extra marital affair, sir.

xxx xxx xxx

Q You also alleged that you have six (6) children with your wife and I heard earlier from your counsel (sic) that all of your children are minors?

A Yes, sir.

xxx xxx xxx

Q And who is supporting them?

A I, sir.

Q How about your wife?

A She left them like a cat and we are not living with each other, sir.

Q When was that that you agreed with your wife she has no more obligations to your children?

A We had a talk (sic) to the barangay and to the Department of Social Welfare and Development, sir.[26]

Also, the testimony of psychologist Noel N. Ison contained in his judicial affidavit[27] can hardly be considered as conclusive diagnosis and an in-depth assessment of the gravity, severity and incurability of defendant-appellee's psychological incapacity, because he failed to specifically discuss in detail the connection between defendant-appellee's alleged personality disorder and her psychological incapacity to perform her marital obligations. Also, the juridical antecedence of defendant-appellee's psychological incapacity was not sufficiently established. Psychologist Noel N. Ison's judicial affidavit reads:

Q21: What did you find out from your interviews from the other informants?

A21: They confirmed the allegations of the petitioner that Respondent is self-centered and egoistic.

Q22: How about the respondent what is your analysis of her?

A22: That the respondent is psychologically incapacitated to fulfill her marital obligations and such incapacity existed even before the marriage.

Q23: How were you able to arrive at such analysis?

A23: Considering the avoidance of the respondent to undergo personal clinical evaluation, I made my assessment of the respondent through my clinical interviews with the other informants as the secondary source of information. From such gathering of data, I was able to arrive at my clinical assessment that the respondent met the criteria for a personality disorder.

Q24: Following the same data gathering process, how would you assess (sic) the respondent as a married woman?

A24: She is found to be lacking in mature disposition and is totally unaware of the essential requisites exacted by society from her in order to fulfill her obligations being a married individual.

Q25: What is your evaluation of the respondent?

A25: Clinically, respondent is evaluated to be suffering from Histrionic Personality Disorder [DSM-IV-R].

Q26: What are the character flaws of this personality disorder?

A26: Histrionic Personality Disorder is characterized by a pattern of excessive emotionality and attention-seeking behavior, beginning by early adulthood and present in a variety of contexts as indicated by the following:

She is self-centered, her actions are geared towards obtaining immediate satisfaction;

xxx xxx xxx

She is overly concerned with her physical attractiveness;

xxx xxx xxx

She is incapable of expressing unconditional love, mutual support and genuine concern for her husband since she was too busy attending to how she could attain her whims and caprices.

Q27: Would this personality disorder be consistent with her psychological incapacity to perform the essential marital obligations?

A27: Yes sir, as a matter of fact it is constitutive of her psychological incapacity to perform the essential marital obligations.

xxx xxx xxx Q29: What characterizes the psychological incapacity of the respondent? Is this incurable?

A29: Her psychological disorder is grave, incurable and permanent in nature and has juridical precedence. It is grave enough to deter her from performing her essential marital obligations.

Q30: Why do you say so?

A30: Because it is developmental in nature. It is deeply embedded in her system thus it will always be there. Respondent does not have any insight of her condition given the fact that she has already adapted to such behaviors.

xxx xxx xxx

Q32: In your expert opinion, when did her personality disorder begin?

A32: There is a strong basis for assertion that her psychopathology was well in place even when she was a child, her growing up of formative years sir.

Q33: What is the root cause of this personality disorder?

A33: The respondent is afflicted with a malady ante-dating the marriage with root cause traced to a dysfunctional family, effectively disabling her, not by sheer neglect, deliberate refusal or plain will, from sufficing basic and essential marital obligations. Her psychological disorder is grave, incurable and permanent in nature. To expect her to accept her flaws and eventually change is virtually improbable, as respondent does not have any insight of her condition given that she has already adapted to such behaviors. Her behavioral pattern is already deeply ingrained in her system; hence, she is oblivious to its flaws. It is apparent that the antecedents of respondent's flawed behavioral patterns are deeply rooted in childhood trauma which was sustained and imbedded on her subconscious state due. If petitioner would not heed to what she wanted, she easily gets irritated. She is a nagger.[28]

Notably, psychologist Noel N. Ison's source of data on which he based his observations and analysis, was

plaintiff-appellant who allegedly underwent a series of psychological tests and clinical interview.[29] But defendant-appellee did not undergo the same tests because she did not show up despite the invitation by psychologist Noel N. Ison. Thus:

Q Did you inform or invite the defendant Imelda De Vera (sic) Sarmiento to come to your office for counselling and psychological evaluation?

A Yes, sir. I did and I have with me a copy of that invitation letter.

xxx xxx xxx

Q What happened to your invitation?

A There was no reply from the respondent sir, but I was informed by Mr. Sarmiento that he came to know that it was received by the defendant in this case.

xxx xxx xxx

Q But it was confirmed that the defendant will never appear? A Yes, sir. She didn't appear despite of that invitation.[30]

Records bear that the “other informants as the secondary source of information” alluded to by psychologist Noel N. Ison were plaintiff-appellant's own siblings namely, Noel Sarmiento, Lani Sarmiento-Abong and Manuel D. Sarmiento.[31] No interviews were conducted by psychologist Noel N. Ison on persons who were close to defendant-appellee.

Apropos is *Suazo vs. Suazo*,[32] wherein the Supreme Court held that a medical expert's meager information coming from a directly interested party, could not have secured a complete personality profile and could not have conclusively formed an objective opinion or diagnosis of one's psychological condition. Thus:

Both the psychologist's testimony and the psychological report did not conclusively show the root cause, gravity and incurability of Angelito's alleged psychological condition.

We first note a critical factor in appreciating or evaluating the expert opinion evidence – the psychologist's testimony and the psychological evaluation report – that Jocelyn presented. Based on her declarations in open court, the psychologist evaluated Angelito's psychological condition only in an indirect manner – she derived all her conclusions from information coming from Jocelyn whose bias for her cause cannot of course be doubted. Given the source of the information upon which the psychologist heavily relied upon, the court must evaluate the evidentiary worth of the opinion with due care and with the application of the more rigid and stringent set of standards outlined above, i.e., that there must be a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a psychological incapacity that is grave, severe and incurable.

In saying this, we do not suggest that a personal examination of the party alleged to be psychologically incapacitated is mandatory; jurisprudence holds that this type of examination is not a mandatory requirement. While such examination is desirable, we recognize that it may not be practical in all instances given the oftentimes estranged relations between the parties. For a determination though of a party's complete personality profile, information coming from persons intimately related to him (such as the party's close relatives and friends) 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.

From these perspectives, we conclude that the psychologist, using meager information coming from a directly interested party, could not have secured a complete personality profile and could not have conclusively formed an objective opinion or diagnosis of Angelito's psychological condition. While the report or evaluation may be conclusive with respect to Jocelyn's psychological condition, this is not true for Angelito's. The methodology employed simply cannot satisfy the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder. In short, this is not the psychological report that

the Court can rely on as basis for the conclusion that psychological incapacity exists.

Other than this credibility or reliability gap, both the psychologist's report and testimony simply provided a general description of Angelito's purported anti-social personality disorder, supported by the characterization of this disorder as chronic, grave and incurable. The psychologist was conspicuously silent, however, on the bases for her conclusion or the particulars that gave rise to the characterization she gave. These particulars are simply not in the Report, and neither can they be found in her testimony.

Notably, the parties had lived as husband and wife for almost 10 years since their marriage in 1998, and it was a blissful union for them for the first few years of their married life. Their marriage became shaky only when plaintiff-appellant worked abroad in 2004. Subsequently, he allegedly learned of the extramarital affair of defendant-appellee and they eventually separated in 2008. This all the more shows that the requirement of juridical antecedence is not present. As held:

The totality of the evidence in this case does not support a finding that petitioner is psychologically incapacitated to fulfill his marital obligations. On the contrary, what is evident is the fact that petitioner was a good husband to respondent for a substantial period of time prior to their separation, a loving father to their children and a good provider of the family. Although he engaged in marital infidelity in at least two occasions, the same does not appear to be symptomatic of a grave psychological disorder which rendered him incapable of performing his spousal obligations. The same appears as the result of a general dissatisfaction with his marriage rather than a psychological disorder rooted in petitioner's personal history.[33]

Verily, the alleged immature disposition, irresponsibility and sexual infidelity of defendant-appellee cannot be equated with psychological incapacity as contemplated under Article 36, Family Code. At most, they would constitute a ground for legal separation. As held:

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.[34]

Verily, marriage is an inviolable social institution protected by the State. Any doubt should be resolved in favor of its existence and continuation and against its dissolution and nullity. It cannot be dissolved at the whim of the parties or by transgressions made by one party to the other during the marriage.[35] Unless the evidence presented clearly reveals a situation where the parties or one of them, by reason of a grave and incurable psychological illness existing at the time the marriage was celebrated, was incapacitated to fulfill the obligations of marital life, then the Court is compelled to uphold the indissolubility of the marital tie.[36]

WHEREFORE, the trial court's Decision dated November 15, 2013 appealed from is affirmed.

SO ORDERED.

Cruz, S. C., and Hernando, R. P. L., JJ., concur.

[1] pp. 20-24, Rollo

- [2] pp. 28-34, *ibid.*
- [3] pp. 2-3, 7-14 & 44, Records
- [4] pp. 29-30, Rollo
- [5] pp. 2-4, Records
- [6] p. 28, Rollo
- [7] p. 20, Records
- [8] p. 28, Rollo
- [9] p. 31, Records
- [10] pp. 81-82 & 88, *ibid.*
- [11] pp. 3-9, TSN dated April 1, 2013; pp. 3-4, TSN dated April 17, 2013
- [12] pp. 2-7, October 2, 2013
- [13] pp. 2-7, TSN dated September 25, 2013
- [14] pp. 109-135, Records
- [15] p. 136, *ibid.*
- [16] p. 34, Rollo
- [17] *ibid.*
- [18] pp. 145-147, Records
- [19] p. 150, *ibid.*
- [20] p. 22, Rollo
- [21] p. 45, *ibid.*
- [22] p. 34, *ibid.*
- [23] p. 23, *ibid.*
- [24] pp. 47-48, *ibid.*
- [25] *Mendoza vs. Republic of the Philippines*, 685 SCRA 16 [2012]
- [26] pp. 6-8, TSN dated April 1, 2013
- [27] pp. 113-118, Records
- [28] pp. 116-117, Records
- [29] pp. 114-115, *ibid.*
- [30] pp. 6-7, TSN dated October 2, 2013
- [31] p. 128, Records

[32] 615 SCRA 154 [2010]

[33] Villalon vs. Villalon, 475 SCRA 572 [2005]

[34] Mendoza vs. Republic of the Philippines, 685 SCRA 16 [2012]

[35] Republic of the Philippines vs. Cesar Encelan, 688 SCRA 215 [2013]

[36] Agraviador vs. Agraviador, 637 SCRA 519 [2010]

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