

NORMA PERIAS SO, PETITIONER/RESPONDENT-APPELLEE, VS. MANUEL SO, RESPONDENT/PETITIONER-APPELLANT.

Ponente: SANTIAGO-LAGMAN, J.

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SANTIAGO-LAGMAN, J.:

Before Us is an appeal from the Decision[1] dated August 31, 1998 of the Regional Trial Court of Makati, Branch 149, in Civil Case No. 94-2199, entitled: “Norma Perias So, petitioner, versus Manuel Y. So, respondent,” for legal separation, and Civil Case No. 96-695, entitled: “Manuel Y. So, petitioner, versus Norma Perias So, respondent,” for annulment of marriage, the dispositive portion of which reads:

‘WHEREFORE, in view of the foregoing considerations, the Court hereby issues a decree of legal separation between the spouses with all the effects provided by law.

The Partial Judgment dated February 18, 1998 stands. Accordingly the conjugal partnership of gains is dissolved and a decree of complete separation of properties between the parties is established without prejudice to the rights previously acquired by creditors, if there be any.

SO ORDERED.”[2]

The facts[3], as summarized by the court a quo, are hereunder reproduced, to wit:

“In a Complaint dated June 24, 1994, NORMA PERIAS SO seeks for the issuance of a decree of legal separation from her husband MANUEL Y. SO.

On May 17, 1996, Manuel Y. So filed for annulment of his marriage with Norma Perias So on the ground of psychological incapacity on the part of respondent to perform the essential obligations of marriage. The two cases upon motion of counsel for Manuel Y. So were accordingly consolidated and jointly heard by this court. The records show however that counsel for petitioner-wife did not file any Formal Offer of Evidence so that her case was submitted on the basis merely of the testimonial evidence adduced.

Norma P. So, testifying in her behalf tried to show that she got married to respondent on January 7, 1966 before Rev. Fr. Angel delos Arcos, Parish Priest of Lourdes Convent Quezon City. Their union was not blessed with any offspring but they have one adopted child, Noel So who is now married and of age. They lived together in a Bliss Condominium in Quezon City until 1992, when Manuel packed his things and just told her that he wanted to be on his own and left the conjugal abode. However, Norma discovered that he maintained a paramour by the name of Martina Fandida at South Ave. Makati. For which reason, she filed a case of Concubinage against them.

According to her, it is not true that on several occasions she abandoned him and left for the United States without his consent. As a matter of fact she left upon his urgings and he even brought her and their son Noel to the airport. He also made several trips to the United States but only visited them once. There's also no truth to his contention that she cohabited with Marcelo Mariano. She only accommodated him at the request of his wife who happens to be her cousin.

Up to the present they have gone separate ways. Their property relations were adjudicated in a Partial

Judgment based on Compromise Agreement dated February 18, 1998 which has become final and executory

Manuel Y. So, on the other hand, contends that his wife Norma did not perform her duties as a wife for the reason that from May 1980 to December 1980, she left their conjugal home without his knowledge and consent. He discovered later that she cohabited with his former officemate Angelo Francisco, in Los Angeles, California. Again, from May 1989 to May 1992 she left for Los Angeles California without his knowledge and consent and he found out that she lived with another man Marcial Marcelo in that place whom she however claims to be her boarder.

According to Manuel, life with his wife is hell. She was a constant nagger and they always end up in verbal tussles whenever they got together. Moreover, she refused to go to bed with him.

The husband petitioner had himself examined and evaluated by a clinical psychologist who conducted among others that “as regard marriage conflict on their personality traits results to incapacitation to comply with their marital obligation, it is apparent that their character and personalities will not compliment each others weaknesses and insecurities. Alleged infidelity finally broke the bond of the rocky marital relationship.”

The record shows that a petition for legal separation[4] was filed on June 24, 1994 by Norma Perias So (Norma for brevity) against her husband Manuel So (Manuel) before the Regional Trial Court of Makati, Branch 149, docketed as Civil Case No. 94-2199.

On May 17, 1996, Manuel filed a petition for annulment of marriage[5] against her wife Norma before the Regional Trial Court of Makati, Branch 143, docketed as Civil Case No. 96-695.

Upon agreement of the parties and to expedite the proceedings, an Order[6] dated June 5, 1996 was issued by the court a quo consolidating both cases.

On February 18, 1998, a Partial Judgment based on Compromise Agreement[7] was issued by the court a quo in Civil Case No. 96-695.

On August 31, 1998, the appealed decision was rendered in the manner heretofore mentioned.

Not satisfied, Manuel (appellant) interposed the present appeal where he raised the following assignment of errors[8], viz:

“1. With due respect, to the court a quo, it committed reversible error by rendering a flawed decision by only affirming a partial judgment based on compromise agreement but did not resolve the rest of the issues in prayer asking for reliefs in Civil Case No. 96-695;

2. The Honorable Court a quo committed serious errors in concluding that the evaluation of the incapacities of the wife were insufficient to appreciate psychological incapacity without considering the Psychological Report as a whole.”

Based on the assignment of errors and arguments presented by the appellant, We find that the primordial issue to be resolved in this case is - “whether or not the evidence adduced during the trial of the two (2) cases warrants the declaration of nullity of the marriage of the parties on the ground of psychological incapacity, or merely the issuance of a decree of legal separation.”

The appellant claims that the decretal portion of the assailed decision only ruled on the dissolution of their conjugal partnership, based on the partial judgment dated February 18, 1998, but did not make any pronouncement as to his prayer for the declaration of nullity of his marriage with the appellee.

We do not agree.

The record shows that the case for legal separation filed by the appellee against the appellant, and the petition for annulment of marriage filed by appellant against the appellee, were consolidated and tried jointly.

In evaluating the evidence adduced by the parties, the court a quo ratiocinated:

“At any rate, except for the fact that the wife is an excessively jealous individual with a penchant for nagging and the uncorroborated accusations that she likewise maintained illicit relationships with different men, no other evidence was presented to show that Norma So was psychologically incapacitated to perform the marital obligations. The behavior exhibited by said wife in its totality does not amount to such incapacity to justify the annulment of marriage. More so, when there is no declaration by the psychologist that the psychological incapacity exhibited gravity, antecedence and incurability.

Be that as it may, the fact remains that the wife was abandoned by the husband for more than a year. Coupled with this are the alleged sexual infidelities of both parties, which are definitely grounds for legal separation under Article 55, par. 10 and 8 of The Family Code.” [9]

Clearly, the court a quo found that the evidence adduced by the parties justifies only the issuance of a decree of legal separation and not a declaration of nullity of marriage on the ground of psychological incapacity.

The guidelines in the interpretation and application of Article 36 of the Family Code providing psychological incapacity as a ground for the declaration of nullity of marriage, have been laid down in the case of Republic versus Court of Appeals and Roridel Olaviano Molina[10], 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. X x x

(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. X x x

(3) The incapacity must be proven to be existing at 'the time of the celebration' of the marriage. X x x

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. 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. X x x

(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 obligations must also be stated in the petition, proven by evidence and included in the text of the decision. X x x

(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. X x x”

It is apparent from the foregoing guidelines 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.[11]

Truly, Article 36 of the Family Code has not been meant to comprehend all possible cases of psychoses and cannot be taken and construed independently of, but must stand in conjunction with, existing precepts in our law

on marriage. Thus correlated, psychological incapacity should refer to no less than a mental incapacity that causes a party to be so incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage. This inability must refer to the essential obligations of marriage: the conjugal act, the community of life and love, the rendering of mutual help, the procreation and education of offsprings. The mere difficulty of assuming these obligations which could be overcome by normal effort, obviously does not constitute incapacity.[12]

As further specified in the case of Santos vs. Court of Appeals,[13] psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability or permanence. The incapacity must be grave or serious, such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.

In this case, the appellant primarily complains that the herein appellee, did not perform her duties as his wife and that she left for abroad and lived with another man. He claims that his life with his wife was hell, as she was a constant nagger and they always wind up in verbal tussles whenever they got together. She also refused to go to bed with him.

To the mind of the Court, the factual setting alleged by the appellant do not make out a case of psychological incapacity on the part of the appellee, so as to warrant a declaration of nullity of their marriage. At most, the appellant's problem with the appellee appears to be more of a difficulty, neglect or mere refusal on the part of the latter to perform some of her marital obligations which, by itself, may not be equated with psychological incapacity. It is not enough to prove that the parties failed to meet their responsibilities and duties as married persons, it is essential that they must be shown to be incapable of doing so due to some psychological illness.[14]

Moreover, as found by the court a quo, the clinical psychologist presented by the appellant in support of his petition, did not even attempt to examine the appellee's psychological make-up to substantiate the appellant's claim about her (appellee's) psychological incapacity. As correctly observed by the Solicitor General, the said psychologist failed to discuss how the appellee could be considered as psychologically incapacitated to fulfill her obligations. On the contrary, the said psychologist even stressed that the appellee initially tried to cope with the appellant's obsessive, compulsive personality, but owing to their personality clashes, she later gave up. It was even established that although the marriage started out on a bright note, the couple drifted apart eventually when their irreconcilable differences seeped in.[15]

Upon the foregoing, it was established that while the evidence adduced by the parties may not be enough to have their marriage declared as null and void, the same justifies the grant of a decree of legal separation under Article 55, Paragraph 10 of the Family Code, on the ground of abandonment. Undisputed is the fact that the appellee was abandoned by the appellant for more than a year and considering further the alleged sexual infidelity of both parties which is also a ground for legal separation under paragraph 8 of the same Article, the trial court's issuance of the decree of legal separation of the parties, is justified.

WHEREFORE, the decision appealed from is AFFIRMED.

SO ORDERED.

[**]Buzon, (Acting Chairman) and Pizarro, JJ., concur.

[*] Re-raffled to the present Ponente on March 30, 2004.

[**] Vice J. Guevara-Salonga, per Raffle Order dated August 11, 2006.

[1] Rollo, pp. 57-60.

[2] Ibid, p. 60

[3] Ibid, pp. 57-59

[4] Record (Civil Case No. 94-2199), pp. 1-4.

[5] Record (Civil Case No. 96-695), pp. 1-7.

[6] Ibid (Civil Case No. 94-2199), p. 116.

[7] Rollo, pp. 56-57.

[8] Ibid, p. 21.

[9] Rollo, pp. 59-60

[10] 268 SCRA 198.

[11] Santos vs. Court of Appeals, 240 SCRA 20; Republic vs. Court of Appeals, et al., ibid.

[12] Ibid.

[13] Id.

[14] Republic vs. Court of Appeals, et al., supra.

[15] Appellee's Brief, Rollo, pp. 144-145.

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