

**MA. LUISA Y. ABON, PETITIONER-APPELLEE, VS. ARTURO ABON,
RESPONDENT-APPELLEE, REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

CA-G.R. CV No. 68353, May 25, 2010

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3f242cafe244/>

Court of Appeals

The Case

On appeal by oppositor Republic of the Philippines, represented by the Office of the Solicitor General (“OSG”) is the Decision[1] dated June 23, 1999 of the Regional Trial Court of Valenzuela[2] (“RTC”), in Civil Case No. 121-V-99 entitled “Ma. Luisa Y. Abon, Petitioner versus Arturo Abon, Respondent”, the dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring the marriage of the petitioner and respondent on April 16, 1978 as NULL and VOID.

SO ORDERED.”[3] (emphasis supplied)

The Facts

This case stems from a verified Petition for Annulment of Marriage[4] filed by petitioner Ma. Luisa Y. Abon (“Luisa”) against her husband, Arturo Abon (“Arturo”). Petitioner’s allegations, as culled from the assailed Decision, are as follows:

“xxx; that she was married to ARTURO C. ABON on April 16, 1978 at St. John the Baptist Church in San Juan, Metro Manila, evidenced by their Marriage Contract (Exhibit ‘B’); that after the celebration of their marriage, they lived together as husband and wife and they were blessed with two (2) children namely, ARTHUR and AERON both surnamed ABON; that during the early part of their marriage[,] they were so sweet and romantic, however, after the birth of their first child[,] their relationship turned bitter and sour; that petitioner found out that respondent is an indifferent, irresponsible husband, he is not prepare[d] for marital duties and obligation[;] he feels that he is still bachelor enjoying nightlife pleasure in the company of ‘barkadas’ indulging in alcoholic session and chronic gambling; that the respondent is irresponsible father of the family[;] he does not even bother to express love[,] care and affection[,] not only to his children but also to the petitioner; he does not look for a job to support his family; that the petitioner discovered that she [sic] has a mistress and their relationship became chaotic, the respondent developed hate and angry attitude against petitioner[;] he has psychotic and neurotic manifestation and psychologically incapacitated to perform his duties and obligation as a father of the family and husband to the petitioner; that worst[,] the respondent in 1992 abandoned his family and choose [sic] to live with another woman[.] [H]ence, petitioner filed this case of annulment of marriage.”[5] (emphasis Ours)

On May 18, 1999, the RTC issued an Order[6] directing the State Prosecutor to conduct an investigation to determine whether collusion exists between the parties. In compliance therewith, 2nd Asst. City Prosecutor Bayani M. Jamias manifested that he “find[s] no evidence of collusion between the petitioner and the respondent in the filing of this instant complaint.”[7]

On June 14, 1999, the RTC noted that respondent Arturo did not file any responsive pleading nor appear at the scheduled hearing that day. As a result, petitioner was allowed to present evidence ex-parte.

On even date, Regine Marmee Cosico, a psychologist, and petitioner Luisa herself were presented as witnesses. They were not cross-examined by the trial prosecutor. Thereafter, the court admitted petitioner's formal offer of evidence and petitioner rested her case. The case was deemed submitted for decision on that very same day.

On June 23, 1999, the RTC rendered the herein assailed Decision declaring the marriage between petitioner Luisa and respondent Arturo null and void.

The Ruling of the Court

In its assailed June 23, 1999 Decision, the RTC held:

“Based on the evidence presented, both testimonial and documentary, this court take cognizance on [sic] the report conducted by the witness/psychologist REGINE MARMEE C. COSICO which is the most vital basis whether this Court would deny or grant this petition.

As testified to by the said witness, that she conducted psychological test on the petitioner and respondent by administering the Draw-A-Person Test, House Tree Test and Sach's Sentence Completion Test and prepared her Report (Exhibit 'A'), test revealed that respondent is psychologically incapacitated of complying [with] his essential marital obligations as manifested by the following indicators:

a)

Irresponsible husband where he is financially dependent on this petitioner[']s earning for their family expenditures;

b)

A contract gambler;

c)

An alcoholic;

d)

A womanizer; and

e)

Posses[s] a grossly abusive conduct and behavior toward petitioner which unnecessarily exposed the latter to contempt, ridicule [sic] and public humiliation.

And as a result of this examination[,], she made this evaluation. That both petitioner and respondent must try to accept reality that they had led a regretful life with their marital relationship and must try to change their negative habits and work towards personality growth and [sic] further self-improvement. Since both of them realized they cannot grow together in the past and this time they have to grow apart as separate individuals. Both petitioner and respondent got the right to choose another way of life in their future where now they will

find their happiness through their independent ways.

From the evidence by petitioner, it is apparently established that respondent is psychologically incapacitated of complying with his essential marital obligations, which obligations were defined and laid down in the case of Republic vs. CA ET. AL., G.R. No. 108763, Feb. 13, 1997, as those embraced in Articles 68, 69, 70 and 71 of the Family Code regards [sic] husband and wife as well as Articles 220, 221 and 225 as regards parents and children. xxx”[8] (emphasis Ours)

On July 2, 1999, the OSG filed its Opposition[9] contending that “the allegations in the petition do not suffice to annul the present marriage between petitioner Ma. Luisa Y Abon and respondent Arturo C. Abon.”[10]

On July 5, 1999, the OSG, through registered mail, filed its Notice of Appeal.[11]

Issues

In its Brief,[12] oppositor OSG alleged that:

“THE TRIAL COURT ERRED IN GRANTING THE PETITION DESPITE ABSENCE OF A VALID GROUND FOR DECLARATION OF NULLITY OF MARRIAGE.”[13]

Such is the issue which We shall resolve in this appeal.

Our Ruling

In challenging the RTC’s declaration of nullity of marriage between petitioner Luisa and respondent Arturo, oppositor OSG avers that psychological incapacity, as defined by law and jurisprudence, was not proven here. It contends that the guidelines in the application and interpretation of Article 36 of the Family Code, as laid down by the Supreme Court in Republic vs. Court of Appeals and Molina, 268 SCRA 198, were not complied with in the present case.[14] The psychological report prepared by witness/psychologist Regine Marmee Cosico does not justify a declaration of nullity of marriage.[15] The OSG thus prays for the reversal of that the June 23, 1999 Decision of the RTC.

We agree.

Article 36 of the Family Code of the Philippines 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.” (emphasis Ours)

It bears stressing that the “psychological incapacity” contemplated in this article was not meant to comprehend all such possible cases of psychoses.[16] Rather, it is limited in scope to 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.[17]

Verily, if a petition for nullity based on psychological incapacity is to be given due course, its gravity, root cause, incurability and the fact that it existed prior to or at the time of celebration of the marriage must always be proved.[18] 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 if otherwise, the cure must be beyond the means of the party involved.[19]

As correctly argued by the OSG, the guidelines in the interpretation and application of Article 36 of the Family Code, as laid down by the Supreme Court in Republic vs. Court of Appeals,[20] must be strictly complied with.

Consequently, the grant of a petition for nullity of marriage based on psychological incapacity should have been confined only to the most serious cases of personality disorders that clearly demonstrate an utter insensitivity or inability to give meaning and significance to the marriage.[21]

Here, petitioner Luisa merely alleged during her direct examination that respondent Arturo: (1) is an indifferent and irresponsible husband who is not prepared for marital duties and obligations;[22] (2) still felt like a bachelor enjoying nightlife pleasure in the company of his “barkadas,” indulging in drinking session;[23] (3) was a chronic gambler;[24] (4) no longer expressed love, care and affection to her and their children;[25] (5) did not even look for a job to support his family;[26] and (6) had a mistress.[27]

Evidently, they do not constitute “psychological incapacity” as contemplated in Article 36, which is more than just a “difficulty,” a “refusal” or a “neglect” in the performance of some marital obligations.[28] It is not enough that respondent Arturo had difficulty or was unwilling to perform his marital obligations. Proof of a natal or supervening disabling factor, an adverse integral element in respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations, should have been shown.[29] This, petitioner Luisa failed to do.

Witness Regine Marmee Cosico’s psychological report – which was regarded by the trial court as “the most vital basis” in denying or granting the petition - hardly proved petitioner’s cause. While the RTC categorically stated in its assailed ruling that Cosico “conducted psychological test on the petitioner and respondent,” records show, however, that it was only petitioner Luisa who was actually examined by Cosico. During her direct examination, Cosico testified, viz.:

“Q

Are you the same psychologist who has examined the petitioner Maria Luisa Abon in this case of Annulment of Marriage filed against respondent Arturo Abon?

A

Yes, sir.

Q

How did you conduct your examination?

A

Through paper and pencil test. I also interviewed her and gave her a psychological examination, sir.

Q

What kind of psychological examination did you conduct on her?

A

I gave her the following: Draw-A-Person Test; Sach[']s Sentence Completion Test; House-Tree- Person Test; and Enneagram Quick Test, sir.

X X X X X X X X

Q

Out of the examinations you conducted on the petitioner, what were your findings?

A

I found that the respondent is psychologically incapacitated to perform his duties and obligation as [a] father and head of the family and cannot perform his marital duties and obligations.”[30] (emphasis Ours)

It thus appears that Cosico was not able to personally examine respondent Arturo because the latter did not appear for Cosico's psychological examination. Cosico merely relied on the information provided by petitioner Luisa who, obviously, was biased in her opinions and descriptions. The observations pertaining to the psychological state of respondent Arturo, as proffered by Cosico, can hardly be considered as sufficient to warrant a conclusion on respondent's psychological incapacity.

To be sure, Cosico's testimony was actually hearsay evidence as she had no personal knowledge of the alleged facts she testified on.[31] For this reason, her testimony should have been dismissed for being unscientific and unreliable.[32] For, settled is the rule that while there is no requirement that a party, to be declared psychologically incapacitated must be personally examined by a physician or a psychologist (as a condition sine qua non), there nevertheless is a need to prove the psychological incapacity through independent evidence adduced by the person alleging said disorder.[33] Such does not exist here.

Worse, as observed by this Court, it appears that the parties have colluded in having their marriage annulled.

Collusion implies a secret understanding whereby one party plays into another's hands for fraudulent purposes.[34] And pertinently, Article 48 of the Family Code of the Philippines provides that in all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.[35] The reason for this is not only to ensure that the interest of the State is represented and protected in proceedings for annulment and declaration of nullity of marriages, it more importantly is necessary that the collusion of parties, or the fabrication or suppression of evidence,[36] be prevented.

In this case, We find it strange that despite proper service of summons[37] on respondent Arturo, he not only failed to attend the scheduled hearing on June 14, 1999, he worsely failed to file any responsive pleading in this case. Even on appeal, it was only petitioner Luisa who filed her Appellee's Brief.[38] Arturo did not file any.

But going back to the proceedings below, it appears that the trial court was too hasty in deciding the present case. Records show that when the respondent failed to appear at the scheduled hearing, the court allowed the petitioner to present evidence ex-parte, allowed her witnesses' testimony to be terminated and declared the case as one that was deemed submitted for decision within a span of only one (1) day, i.e., on June 14, 1999. The court did not even give respondent Arturo his day in court to refute petitioner's evidence.

Worst, the RTC only relied on the self-serving testimony of petitioner Luisa. The court below clearly ignored the ruling in *Ancheta vs. Ancheta*,[39] viz.:

“The task of protecting marriage as an inviolable social institution requires vigilant and zealous participation and not mere pro-forma compliance. The protection of marriage as a sacred institution requires not just the defense of a true and genuine union but the exposure of an invalid one as well.

A grant of annulment of marriage or legal separation by default is fraught with the danger of collusion. Hence, in all cases for annulment, declaration of nullity of marriage and legal separation, the prosecuting attorney or fiscal is ordered to appear on behalf of the State for the purpose of preventing any collusion between the parties and to take care that their evidence is not fabricated or suppressed. If the defendant-spouse fails to answer the complaint, the court cannot declare him or her in default but instead, should order the prosecuting attorney to determine if collusion exists between the parties. The prosecuting attorney or fiscal may oppose the application for legal separation or annulment through the presentation of his own evidence, if in his opinion, the proof adduced is dubious and fabricated.

Our constitution is committed to the policy of strengthening the family as a basic social institution. Our family law is based on the policy that marriage is not a mere contract, but a social institution in which the State is vitally interested. The

State can find no stronger anchor than on good, solid and happy families. The break-up of families weakens our social and moral fabric; hence, their preservation is not the concern of family members alone. Whether or not a marriage should continue to exist or a family should stay together must not depend on the whims and caprices of only one party, who claims that the other suffers psychological imbalance, incapacitating such party to fulfill his or her marital duties and obligations.”[40] (emphasis Ours)

The Court is thus obliged to set aside the appealed decision.

WHEREFORE, the instant appeal is GRANTED. The June 23, 1999 Decision of the Regional Trial Court of Valenzuela, Branch 75 declaring null and void the marriage between petitioner Ma. Luisa Y. Abon and respondent Arturo C. Abon is hereby REVERSED and SET ASIDE.

SO ORDERED.

Acosta and Gaerlan, [**] JJ., concur

[*] New Ponente, per re-raffle dated April 16, 2010, pursuant to the 2010 Zero Backlog Project.

[**]Acting Junior Member; Per Office Order No. 118-10-ABR dated May 18, 2010.

[1] Records, pages 22-24.

[2] Branch 75.

[3] Records, page 24.

[4] Ibid., pages 1-3.

[5] Records, page 23.

[6] Ibid., page 9.

[7] Ibid., page 10.

[8] Records, pages 23-24.

[9] Ibid., pages 28-31.

[10] Ibid., page 28.

[11] Ibid., pages 32-34-A.

[12] Rollo, pages 15-30.

[13] Ibid., page 17.

[14] Rollo, page 22-25.

[15] Ibid., page 22.

[16] Santos vs. Court of Appeals, 240 SCRA 20, 34 (1995).

[17] Note 16, supra.

[18] Bier vs. Bier, G.R. No. 173294, February 27, 2008, citing Navarro, Jr. v. Cecilio-Navarro, G.R. No. 162049, 13 April 2007, 521 SCRA 121, 127-128; Republic v. Tanyag-San Jose, G.R. No. 168328, 28 February 2007, 517 SCRA 123, 133; Republic v. Iyoy, G.R. No. 152577, 21 September 2005, 470 SCRA 508, 526; Carating-Sia yngco v. Sia yngco, G.R. No. 158896, 27 October 2004, 441 SCRA 422, 433 and 438; Dedel v. CA, 466 Phil 226, 232-233 (2004); Choa v. Choa, G.R. No. 143376, 26 November 2002, 392 SCRA 641, 650-651; Hernandez v. CA, 377 Phil 919 (1999); Republic v. CA and Manila, supra note 4; and Santos v. CA, 310 Phil 22, 39 (1995).

[19] Ibid., citing Santos vs. Court of Appeals, supra.

[20] 268 SCRA 198, 209-213 (1997).

[21] Rumbaua vs. Rumbaua, G.R. No. 166738, August 14, 2009.

[22] TSN, Direct Examination of Ma. Luisa Abon, June 14, 1999, page 5.

[23] Ibid., page 6.

[24] Ibid.

[25] Ibid.

[26] Ibid.

[27] Ibid.

[28] Alcazar vs. Alcazar, G.R. No. 174451, October 13, 2009.

[29] Bier vs. Bier, supra., citing Navarro Jr., v. Cecilio-Navarro, G.R. No. 162049, 13 April 2007, 521 SCRA 121, 127-128.

[30] TSN, Direct Examination of Ma. Luisa Abon, June 14, 1999, pages 3-4.

[31] Bier vs. Bier, supra.

[32] Ibid., citing Republic vs. Tanyag San Jose, G.R. No. 168328, 28 February 2007, 517 SCRA 123, 133.

[33] Ibid.

[34] Desierto vs. Ocampo, 452 SCRA 789, 810 (2005).

[35] Article 48, Family Code.

[36] Republic vs. Iyoy, 470 SCRA 508, 529 (2005).

[37] Records, page 7.

[38] Rollo, pages 35-36.

[39] 424 SCRA 725 (2004).

[40] Note 39, supra at page 740.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.