

ENRIQUE A. RABAYA, PLAINTIFF-APPELLEE, VS. EMERENCIANA LABAYA-RABAYA, DEFENDANT-APPELLANT.

Ponente: QUIJANO-PADILLA, J.

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QUIJANO-PADILLA, J.:

This is an appeal from the Decision[1] dated February 1, 2010 of the Regional Trial Court, 7[th] Judicial Region, Branch 24, Cebu City, declaring void ab initio the marital union of Enrique A. Rabaya and Emerenciana L. Rabaya under Article 36 of the Family Code in Civil Case No. CEB-30326.

The Facts

Plaintiff-appellee Enrique A. Rabaya [Enrique] had a cousin who is a photographer by profession. Sometime in 1969, defendant-appellant Emerenciana L. Rabaya [Emerenciana] attended her cousin's wedding and the hired photographer was Enrique's cousin. As fate would have it, the two of them met during that occasion. Enrique then started to court Emerenciana. Enrique at that time was 24 years old and was in college taking up Civil Engineering while Emerenciana, who hailed from Sindangan, Zamboanga was 18 years old and finished dressmaking, a vocational course.

Their relationship soon became intimate and eventually led to the pregnancy of Emerenciana. At that time, since Enrique has not yet finished his studies he frankly told Emerenciana that he could not marry her because his priority was to finish his course, so Emerenciana went back home in Zamboanga. When Enrique was about to graduate, Emerenciana returned to Cebu, threatening Enrique to marry her otherwise she would do all means in order to disqualify Enrique to take the Civil Engineering's Licensure Examinations. Feeling compelled, Enrique asked for Emerenciana's hand in marriage and they were wed on March 11, 1973. They bore five [5] children.

Enrique built a home for his own family at the Rabaya compound in Mandaue, near the homes of his parents and siblings so that he will remain close with his family. He had several stable jobs but rose to the ranks at the Development Bank of the Philippines as Assistant Manager of the Credit and Appraisal Department.[2]

The luck he was experiencing in his career could not be said of his family life. He soon found out that Emerenciana turned out to be very irresponsible in both her motherly and wifely duties. Moreover, she went into the habit of indiscriminately contracting loans behind his back, sometimes forging his signature when it was needed. She contracted loans from different people including his relatives and from several banks. Later on, when she failed to pay them, the creditors started suing her and as her husband, he was impleaded in some of the cases. In order to pay off the loans, he started selling his personal and real properties to bail out Emerenciana from her indebtedness.

Since Emerenciana was not gainfully employed, Enrique financed the construction of a garment factory for her to manage. However, she was not able to sustain the business as she does not know how to manage its finances. Apart from that she got into altercations with her employees for treating them badly and not giving them the salaries due them. One occasion worth pointing out was that when one of her employees died, the other employees passed the hat and contributed from their meager salaries in order to extend financial aid to the

bereaved family of the deceased. Emerenciana volunteered to personally hand the contribution to the family but instead she misappropriated the same.

In addition, Emerenciana often quarrels with Enrique's relatives in the compound and everyone else has to adjust to her temperament. She does not respect property rights as illustrated when without any permission she cut through the screen of the fence of Enrique's sister, which was built precisely to deter her from throwing their trash at the former's place. On another occasion, she got attracted to a set of earrings and necklace owned by Enrique's cousin and borrowed the same. Instead of returning the jewelry, she pawned the same and it only came to the knowledge of Enrique much later when the cousin asked for the pawn ticket and offered to redeem it instead. The pawn ticket was lost so the cousin did not recover the jewelry.

Because of her attitude, Enrique felt alienated from his wife so that sometime in 1994 when everything had taken its toll, Enrique decided to move out of their conjugal home and went back to the house of his mother as all their children were already grown-ups. In the end, all that he wanted was to sever their marriage. Thus, he filed the instant petition for declaration of nullity of marriage based on Article 36 of the Family Code on June 9, 2004.[3]

Psychologist Maryjun Y. Delgado who interviewed Enrique found out in her Psychological Assessment Report[4] dated May 3, 2006, the following:

“Enrique's family system and values have been intact and it provided him the basic emotional and mental batteries to face the problems brought about by his wife. The religious, harmonious and supportive family life he had been exposed with offered for him the development of a disciplined, responsible, calm, resilient, reliable and practical personality characteristics that indicates that he is normally functioning as a person, and that he reacted to various life's troubles sensibly.

For Emerenciana, her family system had been disparaging, and so she formed and developed personality traits and behavior pattern that reflect a person with so much inner conflicts within herself. As she was growing up, the hard life did not create good and positive influence upon her. Instead, it twisted her beliefs and as a way to cope with the harsh reality of being lowly, she came to develop and nurture behavior patterns that are so irresponsible, impulsive, selfish, over-bearing, irritable, insensitive, deceitful and materialistic style of life.

Emerenciana's anti-social personality disorder is an INCURABLE personality aberration. This is for the fact that one of its diagnostic criterion indicates that it is stable and of long duration and traces its origin and onset from childhood experiences and adolescence stages. She developed her behavior from modeling of a mother who had no options but to loan and borrow money so that Emerenciana and her other siblings would be able to survive from poverty. As such, her personality structure is permanent to be an anti-social personality disorder. Cure is impossible and next to never.

Anti-social personality disorder is GRAVE and SERIOUS personality dysfunction. It disrupts and destroys relationships and even other people because individuals like Emerenciana do not care about how they feel. Her selfish wishes will always be a priority in her list, and she is the type who would not stop at anything just to have or get what she wants.

As a person Emerenciana is impaired to function in a harmonious relationship. Her arrogant and selfish disposition destroys her capacity for engaging in such kind. She could never appreciate other people and their deeds; she could only look into what they have because this is the permanent frame of reference she have kept for herself as a person.

Anti-social personality disorder probes into the personality structure of a person at an early age. It slowly offers the growth of thwarted personality traits and behavior pattern especially if the developing person has no one to guide her, or when the model is one twisted and dysfunctional person herself. Thus, persons like Emerenciana will be having a real hard time committing to a sustainable, harmonious and loving relationship.

At this juncture, it is finally concluded that Emerenciana is psychologically dysfunctional or psychologically incapacitated to perform her basic and essential obligations to Enrique especially that she is suffering from a grave, serious and incurable personality disorder.

It is then recommended that the marriage of Enrique A. Rabaya and Emerenciana Labaya-Rabaya on March 11, 1973 be declared absolutely null and void.”[5]

Emerenciana in her answer declared that she married Enrique on August 19, 1969 in a civil ceremony and they subsequently had a church ceremony on March 11, 1973, which was a simultaneous celebration of their wedding and the passing of her husband of the board exams.[6] At first, she was not yet sure about what she felt towards Enrique but since he was always kissing her and asked for her hand in marriage, she acceded to the proposal despite observing that the latter was a very jealous person. After their marriage and after having children, she developed feelings for Enrique and was in fact obligated to love him.[7]

When they were still together, Enrique did not extend any financial aid to her or to their children even if she only asked for a portion of his salary. Hence, she was constrained to look for ways and means to support their children.[8] She even resorted to borrowing money as capital for her garments manufacturing business. By 1994, they were in domestic squabble already because Enrique had an illicit affair with one Jasmine Salvacion Rabaya.,[9] one of her employees in her tailoring business. Enrique continued to cohabit with the other woman and converted into Islam in order to marry her. This prompted Emerenciana to file a Bigamy case against Enrique before RTC Branch 4, Iligan City, which found Enrique guilty of the said crime.[10] The case is still on appeal.

Thus, from the foregoing, Emerenciana prayed that their marriage be severed declaring Enrique as the one psychologically incapacitated.[11]

On August 9, 2004, the RTC in its Order[12] directed the prosecutor to investigate within 30 days if collusion exists. Records do not bear any compliance from the prosecutor.

On September 10, 2004, defendant-appellant filed her pre-trial brief[13] while plaintiff-appellee filed his pre-trial brief[14] on September 14, 2004.

After the presentation of their testimonial evidence, plaintiff-appellee offered Exhibits “A” to “L”[15] which were all duly admitted by the RTC.[16] Defendant-appellant did not offer any documentary evidence.

The RTC in the assailed Decision dated February 1, 2010, found both parties incapable of complying with their mutual obligations therefore declaring null and void the marriage. The pertinent portion of the decision, reads:

“To the mind of the Court, both parties are incapable of complying their mutual obligations towards love, fidelity, trust and respect for each other. There is no showing they exerted efforts to preserve the marriage which indicate psychological incapacitated (sic) to maintain the relationship. The Court finds that petitioner's actuations towards each other indeed manifest unmistakable signs of psychological incapacity to comply with the marital duties. With this frame of mind, undoubtedly, the parties would not and could not work in harmony with each other since they work against the concept of a healthy marriage.

The personality behavior of the herein parties, along with their grave indiscretion, made them unable to see the significance of their matrimonial rights and duties, thus, making them incapable to perform and fulfill such marital obligations. There is no point for the Court to unreasonably deny the prayer for the declaration of nullity of their marriage when both of them could not uphold a healthy spousal relationship with each other, which has consequently foreclosed all possibilities of reconciliation.

Although the Constitution protects marriage as a sacred union, there are instances when an aggrieved spouse may be entitled to the declaration of his or her marriage as so provided under the Family Code. In this case, the

Court finds that both parties are bereft of the ability to comply with their corresponding marital obligations, and such incapacity already existed at the time of the marriage as clearly manifested by their attitude towards marriage. The nature and gravity of their personality disorder prevented them to recognize, much less fulfill the basic duties and obligations that come with the marriage as so provided by the Family Code.

WHEREFORE, judgment is hereby entered declaring the marriage of ENRIQUE RABAYA and EMERENCIANA LABAYA-RABAYA on August 19, 1969 in Talisay City and the subsequent church wedding on MARCH 11, 1973 at the St. Joseph Parish Church, Tabunok, Talisay City as NULL and VOID ab initio in accordance with Article 36 of the Family Code. The property regime of the parties is hereby ordered dissolved pursuant to Article 99 of the Family Code, as there is no more marriage to speak of.

The Local Civil Registrar of Talisay City is hereby ordered to enter in the Marriage Registry, this Decree of Nullity and in compliance with the Absolute Nullity of Void Marriages.

Furnish copy of this decision to the Office of the Local Civil Registrar of Cebu City.

SO ORDERED.”[17]

Upon denial[18] of defendant-appellant's Motion for Reconsideration,[19] defendant-appellant raised the lone assignment of error which reads:

“THE TRIAL COURT ERRED IN DECLARING THE MARRIAGE OF THE DEFENDANT-APPELLANT AND PLAINTIFF-APPELLEE AS NULL AND VOID AB INITIO DUE TO THE PSYCHOLOGICAL INCAPACITY OF BOTH PARTIES.”[20]

Our Ruling

The Republic through the Office of the City Prosecutor in its appeal alleged that the testimony of the plaintiff-appellee was insufficient to prove that defendant-appellant was psychologically incapacitated. The fact that defendant-appellant had contracted several loans which she could not pay, does not in any way amount to her inability to perform her marital obligations. In assessing the evidence presented by plaintiff-appellee, Corazon Badayos' testimony should not be given weight and credence being plaintiff-appellee's sister, her testimony is biased. The testimony of the psychologist declaring defendant-appellant to have suffered from an anti-social personality disorder is baseless and one sided since the report was derived from the sole testimony of plaintiff-appellee only. The said psychologist did not endeavor to hear the other side of the story by interviewing defendant-appellant. Finally, the finding of the RTC that both parties are psychologically incapacitated was unsupported by evidence.

In the instant case, We have observed that the pre-trial took place even without the collusion report from the prosecutor.

Be that as it may, even with the absence of the collusion report, records reveal that the fiscal actively participated in the proceedings suffice it to say that his participation therein served the purpose in seeing that the evidence between the parties are not fabricated nor suppressed. As such, the non-submission of the collusion report could not invalidate the proceedings conducted before the trial court.

The facts of the instant case do not call for the strict application of Articles 48 and 60 of the Family Code. For one, defendant-appellant was not declared in default by the trial court for failure to answer. Defendant-appellant filed her answer to the complaint and contested the cause of action alleged by plaintiff-appellee. She actively participated in the proceedings below by filing several pleadings and cross-examining the witnesses of plaintiff-appellee. It is crystal clear that every stage of the litigation was characterized by a no-holds barred contest and not by collusion.[21]

Going now to the merits of the case.

Article 36 of the Family Code, 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.”

Psychological incapacity under Article 36 of the Family Code contemplates an 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 offspring; 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.[22]

More definitive guidelines in the interpretation and application of Article 36 of the Family Code of the Philippines were handed down by the Supreme Court in *Republic v. Court of Appeals*[23] as follows[24]:

“(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.

(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.

(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.”

Plaintiff-appellee failed to overcome the burden of proving that his marriage with defendant-appellant is void ab initio pursuant to Article 36 of the Family Code of the Philippines.

Plaintiff-appellee's testimony failed to show that defendant-appellant's condition is a manifestation of a disordered personality rooted in some incapacitating or debilitating psychological condition that rendered her unable to discharge her essential marital obligation.[25] In gist, plaintiff-appellee stated that he was blackmailed into marrying defendant-appellant because the latter threatened him that if he would do otherwise she would prevent him from taking the board exams; that defendant-appellant during their courtship was somewhat very strict and hot tempered, gutsy and easily flares up and is very jealous;[26] defendant-appellant does not know how to

manage the business put up by plaintiff-appellee for her; she was unkind to her laborers; she swindled the money pooled by her laborers which was intended for the family of their deceased co-employee; [27] and lastly because she habitually contracts loans without explaining for what they were intended for and plaintiff-appellee ended up paying for some of these loans and as a consequence of the unpaid loans there were several cases filed against him and his wife.

This is not to say that we are condoning defendant-appellant's incurring of loans and not paying them afterwards, but the testimony of plaintiff-appellee merely establishes that defendant-appellant is irresponsible in managing the finances by not paying her financial obligations, at most defendant-appellant's mismanagement of the family's finances merely constituted difficulty, refusal or neglect, during the marriage, in the handling of funds intended for the family's financial support.[28]

The psychological report presented by plaintiff-appellee did not bolster his cause. Ideally, the best results in the determination of psychological incapacity are achieved if the defendant-appellant herself is actually examined. This opportunity, however, did not arise in the present case because the psychologist opted not to conduct an interview with defendant-appellant after deciding that the documentary exhibits presented by plaintiff-appellee are sufficient, thus, only an indirect psychological examination took place. The psychologist admitted in her report that she derived her conclusions exclusively from the information given her by plaintiff-appellee. Expectedly, plaintiff-appellee's description of defendant-appellant would contain a considerable degree of bias; thus, a psychological evaluation based on this one-sided description alone can hardly be considered as credible or sufficient. We take into consideration the pronouncement by the Supreme Court in *Marcos v. Marcos*[29] that the person sought to be declared psychologically incapacitated need not be examined by the psychologist as a condition precedent to arrive at a conclusion. If the incapacity can be proven by independent means, no reason exists why such independent proof cannot be admitted to support a conclusion of psychological incapacity, independently of a psychologist's examination and report. In this case, however, no such independent evidence has ever been gathered and adduced. To be sure, evidence from independent sources who intimately knew defendant-appellant before and after the celebration of her marriage would have made a lot of difference and could have added weight to the psychologist's report. [30] Jurisprudence dictates that the declaration of nullity of marriage based on psychological incapacity presupposes a thorough and in-depth assessment of the parties by the psychologist or expert to make a conclusive diagnosis of a grave, severe and incurable presence of psychological incapacity. The probative force of the testimony of an expert does not lie in a mere statement of his theory or opinion, but rather in the assistance that he can render to the courts in showing the facts that serve as a basis for his criterion and the reasons upon which the logic of his conclusion is founded.[31]

In deference to the RTC, We are in unison with the prosecutor in declaring that the RTC had no basis in pronouncing that both parties were psychologically incapacitated. Although it was admitted that plaintiff-appellee already married someone, sexual infidelity in itself does not constitute psychological incapacity. Plaintiff-appellee's unfaithfulness must be established as a manifestation of a disordered personality, completely preventing the plaintiff-appellee from discharging the essential obligations of the marital state; there must be proof of a natal or supervening disabling factor that effectively incapacitated him from complying with the obligation to be faithful to his spouse.[32]

Moreover, We find that the totality of evidence adduced by plaintiff-appellee failed to prove that defendant-appellant was psychologically unfit to discharge the duties expected of her as a wife, and that she suffered from such psychological incapacity as of the date of the marriage.[33]

Shorn of any reference to psychology, we conclude that we have a case here of parties who have very human faults and frailties; who have been together for some time; and who are now tired of each other.[34] While

plaintiff-appellee's marriage with defendant-appellant failed and appears to be without hope of reconciliation, the remedy however is not always to have it declared void ab initio on the ground of psychological incapacity. An unsatisfactory marriage, however, is not a null and void marriage.[35] To be tired and to give up on one's situation and on one's husband are not necessarily signs of psychological illness; neither can falling out of love be so labeled. When these happen, the remedy for some is to cut the marital knot to allow the parties to go their separate ways. This simple remedy, however, is not available to us under our laws. Ours is still a limited remedy that addresses only a very specific situation – a relationship where no marriage could have validly been concluded because the parties, or one of them, by reason of a grave and incurable psychological illness existing when the marriage was celebrated, did not appreciate the obligations of marital life and, thus, could not have validly entered into a marriage. Outside of this situation, this Court is powerless to provide any permanent remedy.[36] No less than the Constitution recognizes the sanctity of marriage and the unity of the family; it decrees marriage as legally "inviolable" and protects it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.[37]

WHEREFORE, in view of the foregoing, the Decision dated February 1, 2010 of the Regional Trial Court, 7[th] Judicial Region, Branch 24, Cebu City, is hereby REVERSED and SET ASIDE and the petition for the declaration of nullity of marriage filed under Article 36 of the Family Code is dismissed for lack of merit.

SO ORDERED.

Hernando, J., Chairperson, and [*]Lopez, JJ., concur.

[*]Vice Justice Marie Christine Azcarraga-Jacob, Office Order No. 01-15-GTI, January 22, 2015

[1] Records, pp. 150-157, penned by the Honorable Judge Olegario R. Sarmiento, Jr.

[2] TSN, February 7, 2005, pp. 2-8

[3] Records, pp. 1-5

[4] Records, pp. 86-98

[5] Records, pp. 96-98

[6] TSN, July 7, 2008, p. 5

[7] TSN, July 7, 2008, p. 6

[8] TSN, July 7, 2008, p. 7

[9] TSN, September 16, 2008, p. 2

[10] Records, pp. 38-43

[11] Records, p. 35

[12] Records, p. 29

[13] Records, pp. 46-47

[14] Records, pp. 48-51

[15] Records, pp. 83-85

“A”- Marriage Contract of plaintiff-appellee and defendant-appellant;
“B”- Certification issued by the Local Civil Registrar of Sindangan, Zamboanga del Norte;
“C”- Birth Certificate of Enrique L. Rabaya, Jr. issued by the LCR of Cebu City;
“D”- Birth Certificate of Enrique Roldan L. Rabaya issued by the LCR of Zamboanga City;
“E”- Certificate of Live Birth of Maria Eleonor L. Rabaya issued by the LCR of Zamboanga City;
“F”- Certificate of Live Birth of Maria Ellenesa L. Rabaya issued by the LCR of Cebu City;
“G”- Compromise Agreement;
“H”- Complaint in CEB-19794;
“I”- Motion to set for hearing the Motion to Declare Defendants in Default in Civil Case No. 95-403, entitled Mindanao Development Bank vs. Sps. Rabaya for Replevin with Damages;
“J”- Judgment dated January 6, 1997;
“K”- Affidavit of Desistance; and
“L”- Psychological Assessment Report of Psychologist Maryjun Delgado

[16] Records, p. 104

[17] Records, pp. 156-157

[18] Records, p. 167

[19] Records, pp. 159-161

[20] Rollo, p. 70

[21] See Tuazon v. CA, G.R. No. 116607, April 10, 1996

[22] Republic v. CA, et al., G.R. No. 159594, November 12, 2012

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

[24] So v. Valera, G.R. No. 150677, June 5, 2009

[25] Republic v. Galang, G.R. No. 168335, June 6, 2011

[26] TSN, February 7, 2005, p. 5

[27] TSN, February 7, 2005, p. 8

[28] Toring v. Toring, G.R. No. 165321, August 3, 2010

[29] G.R. No. 136490, October 19, 2000

[30] Republic v. Galang, G.R. No. 168335, June 6, 2011

[31] Republic v. CA, et al., G.R. No. 159594, November 12, 2012

[32] Toring v. Toring, G.R. No. 165321, August 3, 2010

[33] Mendoza v. Republic, G.R. No. 157649, November 12, 2012

[34] So v. Valera, G.R. No.150677, June 5, 2009

[35] Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006

[36] So v. Valera, G.R. No.150677, June 5, 2009

[37] Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006

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