

DINDO CAPARAS, PETITIONER-APPELLANT, VS. CHERRYLYNN LACANILAO-CAPARAS, RESPONDENT-APPELLEE.

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is an appeal to reverse and set aside the 1] Decision[1] dated October 10, 2012 of the Regional Trial Court, Branch 225 of Quezon City, in Civil Case No. Q-09-65681, dismissing for insufficiency of evidence the petition for the declaration of nullity of marriage and 2] its Order dated January 02, 2013 denying the petitioner's motion for reconsideration.

The facts are:

On September 24, 2009, petitioner Dindo Caparas (or Dindo) filed a petition[2] for declaration of nullity of his marriage with Cherrylynn Lacanila-Caparas (or Cherrylynn), docketed as Civil Case Q-09-65681 before the Regional Trial Court, Branch 225 of Quezon City. He anchored his petition on ground of psychological incapacity under Article 36 of the Family Code. Petitioner claimed that both of them were psychologically incapacitated to comply with the essential marital obligations of their marriage, and such incapacity became manifest only after marriage.

The Office of the Solicitor General (OSG) filed its "Notice of Appearance" on November 27, 2009 and it deputized the Office of the City Prosecutor of Quezon City to appear on the State's behalf. On February 4, 2010, summons[3] was served, by substituted service, to Cherrylynn but she did not answer the petition.

On April 15, 2010, the trial court issued an Order[4] directing the prosecutor to conduct an investigation to determine whether there is collusion between the parties. On February 04, 2010, Assistant City Prosecutor Kaime C. Villanueva filed an "Investigation Report" manifesting that only the petitioner appeared despite notice. Prosecutor Villanueva reported that he found no collusion between the parties in filing the instant petition and he recommended that trial on the merits be conducted. The pre-trial proceeding was terminated on September 20, 2010. Trial then ensued.

Petitioner presented himself and two (2) witnesses Nedy L. Tayag, a Clinical Psychologist, and Novelita Zingapan, a friend. As documentary evidence, he offered the following documents: 1] Certificate of Marriage issued by the NSO/Office of the Civil Registrar General of Quezon City;[5] 2] Psychologist Evaluation Report of Nedy L. Tayag;[6] 3] Investigation Report of Asst. City Prosecutor Villanueva;[7] 4] Notice of Appearance filed by OSG;[8] 5] Judicial-Affidavit of Nedy Tayag;[9] 6] Judicial-Affidavit of Petitioner Dindo Caparas;[10] and, 7] Judicial- Affidavit of Novelita Zingapan.[11]

Petitioner affirmed the contents of his Judicial Affidavit and he also identified in court all of the supporting documents he offered as evidence. According to petitioner, he met respondent Cherrylynn in San Mateo, Rizal where he was assigned as a youth pastor for the Evangelical Church. He courted her and they became sweethearts. On February 20, 2003, he married Cherrylynn in civil rites. To keep their marriage a secret, they did not cohabit as husband and wife but they continued to see each other. Several months thereafter, Cherrylynn developed a very

strong desire to work abroad as a caregiver. Slowly, her attitude changed and she lost interest in his company. When he confronted her, Cherrylynn admitted that she wanted out of their relationship and she even confessed of her extra-marital affair. Petitioner tried to win her back but he failed. No children were born out of their marriage and they have no conjugal properties. At present, Cherrylynn is living with her paramour and has a child with him.

Novelita Zingapan corroborated the testimony of petitioner that respondent had been seeing other men before and even after her marriage with petitioner. She was a friend not only of the petitioner but also of the respondent. Even before their marriage, both of them confided to her their respective personal problems. Respondent once told her that her parents wanted a rich man for her and to escape from such pressure, she wed petitioner. But after the wedding ceremony, respondent continued staying with her parents.

Petitioner sought the services of a Clinical Psychologist, Nedy Tayag, who found him as well as his wife Cherrylynn suffering from personality disorder.

Testifying for petitioner, Nedy Tayag declared that she interviewed petitioner and one of petitioner's friend. Cherrylynn did not appear despite proper invitation. He affirmed the contents of her Judicial Affidavit as well as his report on the psychological condition of petitioner and respondent. Based on her psychological evaluation, petitioner is suffering from a disorder known as "Passive-Aggressive Personality Disorder" while respondent is afflicted with grave psychological disorder known as "Narcissistic Personality Disorder". The pertinent portion of his report reads:

"REMARKS:

After a careful study on the facts presented, the undersigned has come up with an undisputable finding that the eventual downfall of marriage between petitioner and respondent was brought forth by the inability of both parties from properly assuming their respective marital roles. Both petitioner and respondent were found to be totally unfit in handling mature responsibilities and obligations due mainly to their ingrained inflexible and maladaptive patterns of relating to and perceiving both their environment and themselves. Such had completely hampered their functioning especially in terms of maintaining a healthy heterosexual dealing.

On the part of petitioner, he is found to be suffering from a disorder known as PASSIVE-AGGRESSIVE PERSONALITY DISORDER as manifested by his pervasive pattern of negativistic attitudes and passive resistance to the demands of his milieu particularly to his roles as the other half of respondent. x x x.

x x x

x x xRespondent on the other hand is found suffering from a grave psychological disorder known as NARCISSISTIC PERSONALITY DISORDER which is mainly manifested through her grandiosity, need for admiration and lack of empathy. x x x.

x x x

x x xThe personality disorders of petitioner and respondent are deemed to be severe, serious, permanent, grave and chronic in proportion and are incapable of treatment amidst available interventions. Such have already been deeply embedded in their system as such have started since their childhood years which made it to be the basic component of their personality structure.

The psychological incapacity of petitioner and respondent is of a juridical antecedence as it was already in their system even prior to the solemnization of their marriage. Their relationship is absolutely irreconcilable since it was not founded on mutual love, trust, respect and commitment to each other. Hence, the undersigned recommends the absolute nullity of marriage between petitioner and respondent be granted."

On October 10, 2012, the petition was dismissed for insufficiency of evidence. The RTC was not convinced that the totality of the evidence presented is adequate to sustain a finding that petitioner and respondent are

psychologically incapacitated to comply with the essential marital obligations. The trial court ruled that there is nothing extra-ordinary in petitioner's life, including his family background, that could have caused his psychological disturbance. Likewise, the trial court doubted the psychologist's evaluation that respondent is suffering from Narcissistic Personality Disorder because the information about respondent's childhood was given by petitioner, an interested party, who did not live with her during her childhood days, and others interviewed only narrated about respondent's relationship with petitioner.

Petitioner's motion for reconsideration was denied, hence, the instant appeal on the following grounds:

- I. The trial court erred in missing out manifestations of the appellee's inability to comply with the essential marital obligations.
- II. The trial court erred in missing out the proof of juridical antecedence.
- III. The trial court erred in missing out that appellant was found to be psychologically incapacitated to comply with essential marital obligations.
- IV. The trial court engaged in speculation.
- V. The trial court erred in not following the ruling in *Hernandez vs. CA* and *Republic vs. Quintero-Hermano*.

The trial court committed no reversible error in denying petitioner's petition for nullity of his marriage with respondent.

The 1995 case of *Santos vs. CA* declared that psychological incapacity as ground for nullity of marriage must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. The defect 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." It must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage."

In *Republic vs CA and Molina*,^[12] the High Court laid down the parameters in interpreting psychological incapacity under Article 36 of the Family Code, which 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.

In the present case, there is a clear evidentiary gap that significantly affects petitioner's cause. His testimony is centered only on the extra-marital affair of his wife and nothing was offered to prove his own psychological incapacity at the time of the celebration of their marriage. As the trial court correctly ruled, We cannot rely on the psychologist's finding that petitioner is suffering from "Passive-Aggressive Personality Disorder" to comply with the essential marital obligations. The psychologist's report did not conclusively show the root cause, gravity and incurability of petitioner's psychological condition. On the basis of the testimony of the petitioner, he was a very supportive husband to his wife. In fact, during their boyfriend-girlfriend relationship, he did not mind if Cherrylynn was still entertaining suitors because he trusted her. He even understood Cherrylynn keeping their marriage a secret. Like the trial court, We find nothing extra-ordinary in petitioner's family background to cause a psychological disorder on him, the finding of the psychologist that Dindo is suffering from a disorder known as "Passive-Aggressive Personality Disorder" is without factual basis.

Taking into account the source of the information of the psychologist, We cannot also rely on his evaluation that respondent Cherrylynn is equally suffering from a psychological disorder to comply with the essential marital

obligations of their marriage. With that meager information from petitioner and his friend, it is not possible for a psychologist to render an accurate and conclusive medical diagnosis of respondent's psychological incapacity that is grave, severe and incurable. The veracity of the psychologist's finding about respondent's personality disorder is highly suspect, for it was based entirely on petitioner's assumed knowledge of respondent's family background and upbringing. Nothing was mentioned by petitioner's friend about the childhood of the respondent. It is hard to believe that petitioner knows everything about the family background and upbringing of respondent because they did not cohabit as husband and wife after their marriage. This is not the psychological report that We can rely on as basis to render a conclusion that respondent is suffering from psychological incapacity. It lacks the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder. Neither the law nor jurisprudence requires, of course, that the person sought to be declared psychologically incapacitated be personally examined by a physician or psychologist as a condition sine qua non to arrive at such declaration.[13] If a psychological disorder can be proven by independent means, no reason exists why such independent proof cannot be admitted and given credit.[14] Unfortunately, no such independent evidence appears on record.

While latest cases allow nullity of marriage based on the “totality of the evidence” with the caveat that Molina doctrine is not set in stone, and that the interpretation of Article 36 relies heavily on a case-to-case perception, the facts and circumstances attendant to present case do not warrant a deviation from it.

Petitioner-appellant's reliance in the cases of Hernandez vs. CA[15] and Republic vs. Quintero-Hernando[16] is misplaced. In both cases, the petitions for nullity of marriage were denied for failure to establish the psychological incapacity of the spouse to fulfill marital responsibilities. The fact that petitioner-appellant submitted himself to a psychological evaluation and there was a psychological report does not in itself establish the existence of the psychological incapacity, especially in this case as the psychological report is extremely doubtful.

WHEREFORE, premises considered, the instant appeal is DENIED. The October 10, 2012 Decision and January 2, 2013 Order of the trial court in Civil Case no. 09-65681 are AFFIRMED.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

[1] Record, pp. 124-131

[2] Record, pp. 1-4

[3] Record, p. 37

[4] Record, p. 42

[5] Record, pp. 93-94 [Exh. “A”]

[6] Record, pp. 95-105 [Exh. “B”]

[7] Record, p. 45 [Exh. “C”]

[8] Record, p. 35 [Exh. “D”]

[9] Record, pp. 106-109 [Exh. “E”]

[10] Record, pp. 56-57 [Exh. “F”]

[11] Record, pp. 83-84 [Exh. “G”]

[12] 335 Phil 664 (1997)

[13] Marcos vs Marcos, G.R. No. 136490, October 19, 2000, 343 SCRA 755

[14] Republic vs. Tanyag-SanJose, G.R. No. 168328, February 28, 2007, 517 SCRA 123

[15] G.R. No. 126010, December 8, 1999

[16] G.R. No. 149498, May 20, 2004

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