

**LOLITA DE ERIT, PETITIONER-APPELLEE, VS. GEORGE DE ERIT,
RESPONDENT-APPELLEE. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

Ponente: BARRIOS, M. M., J.

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BARRIOS, M. M., J.:

This is an appeal from the Decision dated 02 May 2011 of the Regional Trial Court, Branch 20, Imus, Cavite, the dispositive portion of which reads:

“X X X

WHEREFORE, judgment is hereby rendered declaring the marriage of Lolita Garcia-De Erit and George De. (sic) Erit as void ab initio. As a necessary consequence of this pronouncement, petitioner shall cease using the surname of her husband having lost the right over the same and so as to avoid a misimpression that she is still the legal wife of respondent.

Furnish a copy of this decision the Office of the Solicitor-General, the National Statistics Office and the Local Civil Registrar of Dasmarinas, Cavite so that the appropriate amendment and/or cancellation of the parties' marriage can be effected in its registry. Furnish, likewise, the parties and counsel.

SO ORDERED.”

THE ANTECEDENT FACTS

Private parties were both nineteen (19) years of age when they met in 1984. Petitioner-appellee had just graduated high school at the time, while respondent-appellee was a high school drop-out who was then serving in church as a “sakristan.” After a short courtship of about three (3) or four (4) months, respondent-appellee started living with petitioner-appellee at the home of the latter's mother. Petitioner-appellee eventually became pregnant and later gave birth to Ma. Etchiel de Erit on 01 November 1985. Pressured by petitioner-appellee's family and worried about what other people would say about their arrangement, the couple contracted their marriage on 27 April 1986 when they were just twenty-one (21) years of age. They then had two (2) more children, George de Erit who was born on 09 September 1987 and Ezekiel de Erit, born on 01 July 1989.

During the early years of their marriage, both private parties did not have jobs and depended on petitioner-appellee's mother and brothers for support. Petitioner-appellee knew about respondent-appellee's family background: they had a bad vice of gambling. She thought, however, that respondent-appellee was different because he was a sakristan in church. Unfortunately, respondent-appellee did not want to look for work and spent time with friends, even when they were already married. When respondent-appellee did find a job, he would usually gamble away his earnings. He also had trouble maintaining his job as he usually got fired for being unable to report for work on time due to his late-night gambling activities. Even the money petitioner-appellee earned and left at home for the sustenance of the children was also utilized by respondent-appellee for gambling.

When petitioner-appellee would berate respondent-appellee, the latter would slap and hit petitioner-appellee that

caused bruises on her face and body. At one time, their eldest daughter even witnessed respondent-appellee banging petitioner-appellee's head on the wall. Oftentimes, respondent-appellee would also hit the children when he was irritated or drunk. Petitioner-appellee endured the misery she suffered in the hands of her husband. She grew up without a father; and she did not want her children to suffer the same fate. But then, after a serious fight in 2002, they separated. In 2006, petitioner-appellee found out that respondent-appellee already had a new family.

On 27 September 2010, petitioner-appellee filed a petition before the court a quo to declare her marriage to respondent-appellee as null and void grounded on Article 36 of the Family Code of the Philippines. Petitioner presented the Psychological Evaluation Report accomplished by Julian Montano, Ph.D. which stated that petitioner-appellee was afflicted with a Dependent Personality Disorder while respondent-appellee had an Antisocial Personality Disorder. He thus found both of them to be psychologically incapacitated to perform the essential obligations of marriage.

Meanwhile, oppositor-appellant authorized the Office of the Provincial Prosecutor in Imus, Cavite to represent the State. In this connection, Provincial Prosecutor Rosa Villarin made a report to the court a quo that she cannot conclusively determine whether collusion existed because the private parties failed to appear before her during the scheduled investigation. She was present during the presentation of petitioner-appellee and Dr. Julian Montano, and was able to cross-examine both witnesses.

After trial, the court a quo declared the marriage as null and void ab initio in its assailed Decision dated 02 May 2011. Oppositor-appellant filed a Motion for Reconsideration, which was denied by the court a quo in an Order dated 15 August 2011. Oppositor-appellant thus filed the instant appeal, raising the following as errors:

I.

THIS (sic) COURT A QUO ERRED IN DECLARING THE MARRIAGE OF THE PARTIES NULL AND VOID EVEN IF THERE IS NO CONCLUSIVE PROOF OF NON-COLLUSION BETWEEN THE PARTIES.

II.

THIS (sic) HONORABLE COURT ERRED IN DECLARING THE MARRIAGE OF THE PARTIES NULL AND VOID EVEN IF THE TOTALITY OF THE EVIDENCE PRESENTED FAILED TO ESTABLISH THE PARTIES' PSYCHOLOGICAL INCAPACITIES TO PERFORM THE ESSENTIAL MARITAL OBLIGATIONS.

OUR RULING

The appeal has merit.

At the onset, We immediately note that the Provincial Prosecutor of Cavite has not properly performed the mandate provided in Article 48 of the Family Code. It directs the prosecuting attorney or fiscal assigned to the court "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." To underscore its importance, a simple statement as to whether or not there is collusion, a pro forma opposition to the petition and a brief cross-examination of the petitioner's witnesses, without doing anything more, is not considered as active participation adequate to protect the State's policy to preserve a marriage and prevent its dissolution at the whim of the parties.[1] In this instance, the trial prosecutor merely reported that she is not in a position to determine whether or not collusion exists because both parties did not report to her. Undoubtedly, the law requires more than just a superficial effort to perform a legal obligation, especially since the petitioning spouse and the respondent spouse did not appear, and furthermore, as

there is no opposition nor controverting evidence that was presented on behalf of the State.

More importantly, the pieces of evidence presented to support the complaint for annulment are not sufficient to prove that either spouse is psychologically incapacitated to perform the essential marital covenants. Under Article 36 of the Family Code, the ground for declaration of nullity of marriage speaks of the downright incapacity or inability of a spouse to take cognizance of and to assume the basic marital obligations due to a serious psychological disorder that completely disables him or her from understanding and discharging the essential marital obligations. At the same time, the psychological disorder must be grave, must have existed at the time of marriage, and must be incurable.[2]

It need be stressed that the law intended to confine the ground of psychological incapacity to the most serious cases of personality disorders which renders a person utterly incapable of performing or understanding the significance of marriage. It is not a mere difficulty, refusal or neglect in the performance of marital obligations.[3] In this connection, the Supreme Court has already ruled that a spouse's "immaturity, habitual alcoholism, unbearable jealousy, maltreatment, constitutional laziness and abandonment of his family (are) circumstances (which) cannot be equated with psychological incapacity within the contemplation of the Family Code." [4] These circumstances fall within the ambit of Article 55 of the Family Code which deals with physical violence, moral pressure, moral corruption, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like, which are grounds for legal separation.[5]

We take note that in the Psychological Evaluation Report submitted by petitioner-appellee, it is stated that the source of marital dissatisfaction was primarily rooted in the unsuccessful communication of intimacy and mutual disclosure. They were "unable to resolve in mutually satisfying ways their extensive conflicts about their sexual relationship and financial priorities." [6] In the end, the report concluded that petitioner-appellee had a dependent personality disorder, and that respondent-appellee had an antisocial personality disorder.

Regrettably, the report did not explain what these personality disorders ultimately meant in relation to the ability of private parties to perform the essential marital obligations. It was only shown that petitioner-appellee had a tendency to be depressive and pessimistic, that she had a low self-esteem, and that she had a tendency to be critical, thoughtless and inconsiderate.[7] As with respondent-appellee, he was described as compulsive, irritable, irresponsible, non-conformist, and with a reckless disregard of the safety of others.[8] Moreover, the evaluation of respondent-appellee came from interviews conducted on petitioner-appellee and their children who live with petitioner-appellee.[9] Without further corroboration from other sources who may have better knowledge of respondent-appellee's character prior to the marriage, it is not nonsensical to consider that the information Dr. Montano gathered may have been tainted with bias, and hence, fail to pass the rigid and stringent level of evidentiary scrutiny required in cases such as the present action.[10]

To be sure, this Court does not condone the irrational behavior of respondent-appellee towards his wife and family. However, the law defines what psychological incapacity actually means, that such psychological illness must be present at the inception of the marriage, and that it must be grave, continuing, and permanent. If the evidence presented is less than this standard, the presumption must lean in favor of the validity of marriage.[11]

WHEREFORE, in view of the foregoing, the appealed Decision dated 02 May 2011 is REVERSED and SET ASIDE. The Petition dated 27 September 2010 is DISMISSED for lack of merit.

SO ORDERED.

Reyes, Jr., (Chairperson) and Pizarro, JJ., concur.

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- [1] Nilda V. Navales v. Reynaldo Navales, G.R. No. 167523, 27 June 2008.
- [2] Valerio E. Kalaw v. Ma. Elena Fernandez, G.R. No. 166357, 19 September 2011.
- [3] Navales, supra note 1.
- [4] Republic of the Philippines v. Norma Cuison-Melgar and Eulogio A. Melgar, G.R. No. 139676, 31 March 2006.
- [5] Navales, supra note 1.
- [6] Records, p.29.
- [7] Id., pp.29-32.
- [8] Id., pp.32-34.
- [9] Id., p.28.
- [10] Jose Reynaldo Ochoa v. Bona J. Alano and Republic of the Philippines, G.R. No. 167459, 26 January 2011.
- [11] Benjamin Ting v. Carmen Velez-Ting, G.R. No. 166562, 31 March 2009.

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