

**TERESITA CRUZ-MERECIDO, PETITIONER-APPELLEE, V. JULIAN F. MERECIDO, RESPONDENT, REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.**

Ponente: BRUSELAS, JR. J.

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**BRUSELAS, JR. J.:**

Before us is an appeal from a decision[1] of the Regional Trial Court (RTC), the dispositive portion of which reads:

“WHEREFORE, finding merit to the petition, judgment is hereby rendered:

1. DECLARING null and void ab initio the marriage between petitioner TERESITA CRUZ MERECIDO and respondent JULIAN F. MERECIDO solemnized on January 16, 1982 in the (sic) PARAÑAQUE CITY or any other marriages between them, on the ground of psychological incapacity of the respondent and incidental finding on the part of petitioner.

2. ORDERING the Local Civil Registrar of Parañaque City, and National Statistics Office to cancel the marriage between the petitioner and the respondent as appearing in the Registry of Marriages.

There are no other issues in this case.

Let copies of this Decision be furnished the Registrar of the Parañaque City, The Office of the Solicitor General, the Office of the City Prosecutor, Parañaque City and the Office of the National Statistics Office (NSO).

SO ORDERED.”

The events that led to the instant appeal are as follows:

Petitioner-appellee Teresita Merecido (Teresita) filed a petition for declaration of nullity of her marriage with respondent-appellee Julian Merecido (Julian). She alleged that they got married on 16 January 1982 in a ceremony solemnized by Rev. Fr. Daniel Courtens at the St. Andrew's Church, Parañaque, Metro Manila. They were blessed with two children namely, Marcella and Joan. After their marriage, Teresita started to experience Julian's psychological incapacity to comply with his marital obligations. During their honeymoon, Teresita learned that Julian had a lot of debts and she had to pawn her jewelry to pay for the said debts. When she confronted Julian regarding his debts, the latter got angry and broke some things and threw them away. Julian hurled invectives at her and cursed her and her family. He also physically assaulted her, causing her to retreat to prevent further harm. After delivering their first child, Teresita went to London and left their child to her mother's care. The parties kept a long distance relationship. It was always she who would call up her husband and the latter would always quarrel with her over unfounded accusations of infidelity. When she got pregnant with their second child, Julian disowned it and claimed she got impregnated by another man. Even her friends complained of Julian's ill attitude and called her a martyr as she was able to live with her husband. Julian would always humiliate her in public and even in front of her friends. While pregnant with their second child and their car would not start,

Julian demanded that she push the car. Julian's treatment of their children was also not ideal. At one instance, he poured cold water on their eldest child who had to call her up at work to ask for help. When the children would get sick, Julian would refuse to even lift a finger to take care of them. Teresita went before the High Court in London, England and filed a Petition for the Dissolution of her marriage with Julian and the same was granted on 17 July 2007.

Finally, Teresita averred that Julian was diagnosed as suffering from Antisocial Personality Disorder which rendered him psychologically incapacitated to comply with the essential marital obligations of marriage that became manifest only after the solemnization of their marriage. According to Teresita, this was the educated medical diagnosis of Dr. Elias Adamos, the physician and clinical psychologist who prepared the Psychological Impression[2] on Julian. Dr. Adamos also pronounced as incurable Julian's psychological incapacity.

Copies of the petition and summons were served on Julian through Marilou F. Cruz by way of substituted service.[3] Julian did not file his answer to the petition as the summons required.

On 15 April 2011, the Solicitor General filed his Notice of Appearance[4] and simultaneously authorized the City Prosecutor of Parañaque to appear in the proceedings of the case before the RTC.

At the trial, Teresita and Dr. Adamos testified. Teresita submitted as evidence her marriage contract,[5] Decree of Dissolution of Marriage made final and absolute on August 31, 2007 in the High Court of Justice Principal Registry of the Family Division in London, England,[6] her Psychological Evaluation,[7] Psychological Impression on Julian and the Affidavit of Dr. Elias Adamos.[8]

On 9 March 2012, the RTC rendered a decision, declaring null and void ab initio the marriage of Teresita and Julian. According to the RTC, the criterion for psychological capacity had been met in the present case. First, the totality of the evidence presented fully supported the findings of the expert witness relative to Julian being psychologically incapacitated to fulfill his essential marital obligations. Julian was found to be psychologically incapacitated to such an extent that he could not have known the marital obligations he was assuming, or knowing them, he could no longer comply with his essential duties under the marriage. Second, there was sufficient evidence to prove that Julian's inability to perform his marital obligations was a result of not mere intentional refusal on his part but was caused by psychological abnormality. Such psychological incapacity of Julian was already present at the time of marriage but became manifest only after the solemnization of their marriage. It was medically and clinically diagnosed as grave, permanent, incurable and had juridical antecedents. Third, Julian, evidently, was unable to comply with the essential marital obligations as embraced by Articles 68 to 71 of the Family Code.

The Republic, thru the Solicitor General, filed a motion for reconsideration, which was denied in an Order dated 13 July 2012.[9]

On 6 August 2012, the Solicitor General filed his Notice of Appeal[10] which the trial court granted in an Order[11] dated 12 September 2012.

In his appeal, the Solicitor General assigns the following alleged errors, committed by the RTC:

“I. THE STATE WAS DEPRIVED OF ITS DAY IN COURT.

II. THE TOTALITY OF EVIDENCE PRESENTED FAILED TO ESTABLISH THE PSYCHOLOGICAL INCAPACITY OF RESPONDENT.

III. THE EVIDENCE PRESENTED BY APPELLEE IS WEAK AND HIGHLY UNRELIABLE.”

The Solicitor General submits that the failure of Teresita to provide them with copies of the petition, the formal

offer of evidence, the psychological report, and other pertinent documents rendered the proceedings fatally defective. Without such documents, the Solicitor General was divested of the opportunity to scrutinize the petition itself to determine the propriety of its filing and the evidence in its support.

The Solicitor General also contends that Teresita's allegations failed to prove that Julian's psychological incapacity was so grave that it deprived him of full comprehension of the essential marital obligations; or knowing them, could not have given valid assumption thereof. In fact, Teresita herself admitted that they were able to keep a long distance relationship while she was in London, despite their constant quarrels. The nullification of Teresita's marriage with Julian based on frequent marital squabbles and financial difficulties have absolutely no moorings in jurisprudence. Moreover, the psychologist did not discuss at length why such abnormality was incurable or permanent, and the basis thereof. His opinion was a sweeping generalization that Julian's case was simply hopeless. In fact, there was no indication that there was an attempt to remedy such disorder.

Finally, the Solicitor General argues that the evidence presented by Teresita was weak and highly unreliable. Teresita relied heavily on the psychological evaluation conducted by Dr. Adamos. Dr. Adamos diagnosed Julian as suffering from Antisocial Personality Disorder. Julian was characterized as a deceitful person who engages in activities that could lead to his arrest. He accordingly has a temper and instances of drug and alcohol abuse. Because of these traits, Dr. Adamos testified that Julian was unable to identify the obligations of married life and prevent him from working due to his inability to conform to rules. Teresita, on the other hand, was having Narcissistic Personality Disorder and that she was a battered wife. There was no indication on how Dr. Adamos could have reached the above conclusions. There was no discussion on the effect of Julian's disorder and/or Teresita's being supposedly a battered wife on their relationship. There was no indication on how Dr. Adamos could have reached the above conclusions. There was no means of ascertaining whether there was a thorough and in-depth assessment of the parties mainly because the Solicitor General was never furnished a copy of such evaluation. Moreover, there was no indication that there was an evaluation made on Julian himself. The conclusions of Dr. Adamos were based on facts as relayed to him by Teresita. Considering that Dr. Adamos' testimony and findings were based only on the Teresita's description of Julian and of two other informants and not on an independent evidence proving the same, it was therefore, clearly hearsay.

We find the appeal meritorious.

The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, which became effective on 15 March 2003, recognizes the authority of the Solicitor General to intervene and take part in the proceedings for annulment and declaration of nullity of marriages before the RTC and on appeal to higher courts. The pertinent provisions of the said Rule are reproduced below –

“Sec. 5. Contents and form of petition. –

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(4) It shall be filed in six copies. The petitioner shall serve a copy of the petition on the Office of the Solicitor General and the Office of the City or Provincial Prosecutor, within five days from the date of its filing and submit to the court proof of such service within the same period.

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Sec. 18. Memoranda. – The court may require the parties and the public prosecutor, in consultation with the Office of the Solicitor General, to file their respective memoranda in support of their claims within fifteen days from the date the trial is terminated. It may require the Office of the Solicitor General to file its own memorandum if the case is of significant interest to the State. No other pleadings or papers may be submitted

without leave of court. After the lapse of the period herein provided, the case will be considered submitted for decision, with or without the memoranda.

Sec. 19. Decision. –

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(2) The parties, including the Solicitor General and the public prosecutor, shall be served with copies of the decision personally or by registered mail. If the respondent summoned by publication failed to appear in the action, the dispositive part of the decision shall be published once in a newspaper of general circulation.

(3) The decision becomes final upon the expiration of fifteen days from notice to the parties. Entry of judgment shall be made if no motion for reconsideration or new trial, or appeal is filed by any of the parties, the public prosecutor, or the Solicitor General.

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Thus, we agree with the Solicitor General that the failure of Teresita to furnish him with a copy of the petition, the formal offer of evidence, the psychological report, and other pertinent documents had in effect denied the State of its right to participate in the prosecution of the case at the trial level. It must be noted that when the Solicitor General, in his Notice of Appearance, had authorized the public prosecutor of Parañaque City to appear in the proceedings of the case before the RTC, it did not necessarily follow that he had already waived his right to be furnished with pleadings, motions and other documents pertinent to the case and to participate in the proceedings before the RTC. In fact, in the said Notice, the Solicitor General even requested the RTC to require the parties to furnish him with copies of pleadings and motions, including the formal offer of evidence and transcript of stenographic notes. It was also clearly stated therein that the Solicitor General retains supervision and control of the representation of the case. As a consequence of Teresita's failure to furnish the Solicitor General with the said pertinent documents, the latter was not able to determine the propriety of the petition and to controvert the evidence presented by Teresita. In fact, other than the Notice of Appearance and the motion for reconsideration of the assailed decision, no other pleading, motion or position paper was filed by the Solicitor General before the RTC. Evidently, the State, thru the Solicitor General, was not able to actively participate in the prosecution of the case at the trial level to better guarantee the protection of the State's interests.

Be that as it may, the Court finds the totality of evidence presented by Teresita insufficient to prove Julian's psychological incapacity.

Article 36 of the Family Code, as amended, 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.

The term "psychological incapacity" to be a ground for the nullity of marriage under Article 36 of the Family Code, refers to a serious psychological illness afflicting a party even before the celebration of the marriage. These are the disorders that result in the utter insensitivity or inability of the afflicted party to give meaning and significance to the marriage he or she has contracted. Psychological incapacity must 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.[13]

In *Republic v. Court of Appeals*, the Court laid down the guidelines in the interpretation and application of Article 36. The Court held,

- (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.[14]
- (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.

In the present case and using the above guidelines, we find the testimonies of the Teresita and Dr. Adamos, and the latter's psychological report and evaluation insufficient to sustain a finding that Julian is psychologically incapacitated pursuant to Article 36 of the Family Code.

#### Dr. Adamos' psychological examination and testimony

Dr. Adamos concluded in his psychological evaluation that Julian suffers from Anti-Social Personality Disorder that rendered him psychologically incapacitated to assume essential marital obligations. To support his findings and conclusion, he gathered information from Teresita and two other informants, which he narrated in his evaluation. Apparently relying on the same information, Dr. Adamos added that Julian's disorder was incurable and grave.

Dr. Adamos likewise testified that Julian's dysfunctional family was the root cause of his psychological disorder. According to Dr. Adamos, Julian had been constantly exposed to defective child-rearing practices; he had been exposed to sibling rivalry and moral punishment as a child; he was unable to outgrow his maternal affinity to his mother; he was known to be a troublemaker in the community even when he was still in his adolescence; he had histories of running away from home and of failure to conform with the rules in school; and he was into drugs and alcohol.[15] These perceived negative traits of Julian, to our mind, do not necessarily establish that the incapacity was rooted in the history of Julian antedating the marriage. Dr. Adamos, failed to elucidate on the circumstances that led Julian to act the way he did, for example, "why he was unable to outgrow his maternal affinity to his mother," "why he became a trouble maker," "why he was not able to conform with the rules in school," and "why he was into drugs and alcohol." This is an area where independent evidence could prove useful. Dr. Adamos, however, admitted that he only evaluated Julian's psychological condition based only on the information given by Teresita and two other unknown informants.

Given the source of the information upon which Dr. Adamos heavily relied upon, the court must evaluate the evidentiary worth of the opinion with due care and with the application of the more rigid and stringent set of

standards, i.e., that there must be a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a psychological incapacity that is grave, severe and incurable. In saying this, we do not suggest that a personal examination of the party alleged to be psychologically incapacitated is mandatory; jurisprudence holds that this type of examination is not a mandatory requirement. While such examination is desirable, we recognize that it may not be practical in all instances given the oftentimes estranged relations between the parties. For a determination though of a party's complete personality profile, information coming from persons intimately related to him (such as the party's close relatives and friends) may be helpful. This is an approach in the application of Article 36 that allows flexibility, and at the same time avoids, if not totally obliterates, the credibility gaps spawned by supposedly expert opinion based entirely on doubtful sources of information.[16]

Based on the foregoing, it may be said that the information given by Teresita cannot be relied upon to form a conclusive, objective finding on the psychological condition of Julian, she being a party directly interested. Teresita's bias for her cause cannot be doubted. In fact, in her psychological evaluation, it was stated therein that she was being evaluated in relation to her contemplation of having her marriage with Julian declared null and void. As to the other informants, no information was given by Dr. Adamos as to who these persons were. The same is true with the information given by the two informants, who were not even identified by Dr. Adamos in his report. In fact, Dr. Adamos did not even set forth in his findings what information were in fact given by the said informants. It is important to know how these informants are related to Julian and how long they had known Julian in order to assess the relevance of the information or opinion fed by them. It is possible that they may have only known Julian after his marriage with Teresita or they may not be intimately related to Julian, hence, the information given by them may not be helpful to identify the root cause of Julian's psychological incapacity. There being no other source of information coming from persons intimately related to Julian to support his findings and conclusion, the methodology employed by Dr. Adamos cannot therefore be characterized as in-depth, which is supposed to be the type of assessment to be made in evaluating a party alleged to be suffering from a psychological incapacity. Because of this, the "Psychological Impression" on Julian, which was prepared by Dr. Adamos, cannot be simply relied upon by the Court as basis for concluding that Julian was indeed suffering from psychological incapacity.

Teresita was also not able to establish with certainty that Julian's alleged psychological incapacity was medically or clinically permanent, incurable and grave. Dr. Adamos' testimony on the matter was vague. During his cross examination, Dr. Adamos testified:

Q; And are they serious, incurable and permanent, Doctor?

A. Sir, since the conditions that they are suffering from are conditions that are unable to identify to marriage and family life, these are grave and serious conditions. And since they have been present even during their childhood days, these are incurable and permanent abnormality, sir."[17]

In the Psychological Impression prepared by him, Dr. Adamos merely stated that the lack of empathy of Julian and his inability to discern the true nature of his behavior makes his abnormality permanent and incurable; and that Julian's antisocial personality disorder was a grave abnormality that affects marriage and family relations.

A perusal of the above testimony and psychological evaluation of Dr. Adamos shows that he failed to give any concrete explanation as to how he arrived at the conclusion as to the gravity and incurability of Julian's alleged psychological disorder. At most, his findings were mere generalizations unsupported by any factual basis.

Julian's physical beatings of and verbal abuse against Teresita and his refusal to take care of their children may indeed be manifestations of his alleged incapacity to comply with his marital obligations; nonetheless, the root

cause for such was not identified. If the root cause of the incapacity was not identified, then it cannot be satisfactorily established as a psychological or mental defect that is serious or grave; neither could it be proven to be in existence at the time of celebration of the marriage; nor that it is incurable.[18]

#### Teresita's testimony

Teresita testified in open court that right after she got married with Julian, the latter was already verbally abusing her. During their stay in London, Julian would always humiliate her in public. She further testified that they quarreled most of the time. It must be noted that all of these marital quarrels and verbal abuse occurred after their marriage, not before or at the time of the celebration of marriage. Under the law and its related jurisprudence, it is required that psychological incapacity must exist at the time of the celebration of marriage. Moreover, it is worthy to emphasize that Article 36 of the Family Code of the Philippines contemplates downright incapacity or inability to take cognizance of and to assume the basic marital obligations; not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse. Irreconcilable differences, conflicting personalities, emotional immaturity and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and abandonment, by themselves, do not warrant a finding of psychological incapacity under the said Article.[19]

From the foregoing, it has been shown that Teresita failed to discharge the burden of proof to show that Julian suffered from psychological incapacity, thus the petition to declare their marriage null and void must fail.

While the Court commiserates with Teresita for having an unhappy married life, their marriage cannot however be extinguished for this reason. Our strict handling of Article 36 will be a reminder of the inviolability of the marriage institution in our country and the foundation of the family that the law seeks to protect. The concept of psychological incapacity is not to be a mantra to legalize what in reality are convenient excuses of parties to separate and divorce.[20]

WHEREFORE, premises considered, we hereby GRANT the appeal and accordingly REVERSE and SET ASIDE the appealed judgment. The petition below is accordingly dismissed.

#### **IT IS SO ORDERED.**

Salazar-Fernando and Barrios,[\*] JJ., concur.

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[\*] Actg. Third Member vice J. Gaerlan per Office Order No. 270-14-RSF dated 06 June 2014.

[1] Written by Judge Jaime M. Guray, RTC of Parañaque City, Branch 260; Records, pp.180-190.

[2] Records, pp.234-242.

[3] Records, p. 100.

[4] Records, p. 157.

[5] Records, p. 219.

[6] Records, p. 220-221.

[7] Records 222-233.

[8] Records, pp. 243-251.

[9] Records, pp, 203-205.

[10] Records, p. 210.

[11] Records, p. 215.

[12] Republic of the Philippines vs. Crasus Iyoy, G.R. No. 152577, 21 September 2005, 470 SCRA 508.

[13] Rosalino Marable vs. Myrna Marable, G.R. No. 178741, 17 January 2011, 639 SCRA 557.

[14] Ibid.

[15] TSN, Dr. Elias Adamos, 4 April 2011.

[16] Jocelyn Suazo vs Angelito Suazo, G.R. No. 164493, 10 March 2010, 615 SCRA 154.

[17] TSN, Dr. Elias Adamos, 4 April 2011.

[18] Republic of the Philippines vs. Crasus Iyoy, G.R. No. 152577, 21 September 2005, 470 SCRA 508.

[19] Ibid

[20] Jocelyn Suazo vs, Angelito Suazo et al., G.R. 164493, 10 March 2010, 615 SCRA 154.

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