

RAMON DL. DE BELEN, PETITIONER-APPELLEE, VS. HAYDEE RIZA DE BELEN, RESPONDENT-APPELLEE,

Ponente: GARCIA-FERNANDEZ, J.

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GARCIA-FERNANDEZ, J.:

This is an appeal by oppositor-appellant Republic of the Philippines from the Orders dated April 14[1] and July 19, 2010[2], rendered by the Regional Trial Court of Gapan City, Nueva Ecija, Branch 34 in Civil Case No. 3324-07 entitled "Ramon DL. De Belen versus Haydee Riza Be Belen."

The facts of the case are as follows:

Petitioner-appellee Ramon DL. De Belen (Ramon) and respondent-appellee Haydee Riza De Belen (Haydee) met sometime in 1993 when the latter came to visit a relative in Jaen, Nueva Ecija, where Ramon lived. Ramon was a young nursing student while Haydee was working as a guest relations officer in a night club in Makati City. Ramon found Haydee to be well-dressed, pretty and sexy while she found him attractive in his nursing uniform. The courtship lasted for two weeks and they became sweethearts before Haydee went back to Makati City. Ramon visited Haydee in Makati City where they slept together. Haydee went to Ramon's house in Jaen, Nueva Ecija and stayed there for several days. Later on, Haydee became pregnant so they decided to live together without the benefit of marriage in the house of Ramon's parents in Jaen, Nueva Ecija. Ramon continued his studies while Haydee stayed at home. Before Haydee gave birth to their first child, she complained how Ramon's parents treated her and their inability to provide for her needs. She allegedly criticized Ramon's family, which led to violent quarrels between the couple. At Haydee's insistence, Ramon's parents rented a place for them. Since Ramon was still studying, they were wholly dependent upon the latter's parents for food and support. Haydee was unhappy with such arrangement and oftentimes she would complain and hurl invectives against Ramon's family. In time, Ramon and Haydee's fight became violent. There was an instance where Haydee, with a knife on hand, threatened to kill Ramon. When Ramon's mother intervened, Haydee drove her out of their house and told her not to meddle.[3]

On February 23, 1996, Ramon and Haydee got married before the then municipal mayor of Jaen, Nueva Ecija, Antonio Esquivel.[4] After college, Ramon worked at the National Irrigation Administration (NIA). Haydee worked in a fast food restaurant but she complained about her low wages. She sold Avon products but was not able to remit her collections to the principal. Thereafter, Ramon paid the amount which Haydee failed to remit to Avon. In 2003, Haydee, without consulting Ramon about her plans, announced that she was leaving the country to work as a club entertainer in Japan. At that time, they already had three children. Haydee worked in Japan for six months. Barely three months after she left the country, Ramon found it difficult to communicate with her because she avoided his calls. When Haydee's contract in Japan ended, she came home but with a different attitude. She refused to hug and kiss Ramon at the airport and was cold to him. During a sexual congress, Haydee repeatedly uttered the name "Satosi", who, Ramon found out, was the man who was nude in the picture on Haydee's cell phone. Haydee admitted that Satosi was her Japanese lover, who helped her financially while she was in Japan. Two weeks later, Satosi arrived in the Philippines and Haydee nonchalantly announced that she was meeting him

at the airport. She told Ramon "to share her" with Satosi while the latter was in the country.[5]

In February 2004, Haydee took their three children to Tacloban City without Ramon's consent. Ramon was forced to travel with them to Tacloban to dissuade her from leaving him. However, Haydee decided to live separately from him. Thus, Ramon went back to his hometown in Jaen, Nueva Ecija. That was the last time Ramon saw Haydee and their children.[6]

On September 21, 2007, petitioner-appellee filed a petition for declaration of absolute nullity of marriage under Article 36 of the Family Code against respondent-appellee before the Regional Trial Court of Gapan City, Nueva Ecija, Branch 34. The petition was docketed as Civil Case No. 3324-07.[7]

On March 17, 2008, the Office of the Solicitor General (OSG) formally entered its appearance as counsel for the Republic of the Philippines.[8] The OSG deputized and authorized the Office of the Provincial Prosecutor of Nueva Ecija to assist the OSG in the hearings of the case.[9] On June 27, 2009, pre-trial was conducted in the absence of respondent-appellee or her counsel despite notice. Trial on the merits was held but the respondent-appellee did not appear during the hearings of the case.

On October 26, 2009, the trial court rendered a decision and held that there is no sufficient ground to declare the marriage of petitioner-appellee and respondent-appellee null and void, to wit:

"In sum, the totality of the evidence presented by Ramon in support of his petition fails to establish that Haydee suffered from a serious personality disorder amounting to psychological incapacity within the contemplation of Article 36 of the Family Code of the Philippines. While Ramon and Haydee's marriage failed and appears to be without hope of reconciliation, the remedy is not always to have it declared void ab initio on the ground of psychological incapacity. A marriage, no matter how unsatisfactory, is not always a null and void marriage. And this court can only apply the letter and spirit of the law, no matter how harsh it may be.

WHEREFORE, premises considered, the instant petition is hereby DISMISSED for lack of merit.

SO ORDERED."

Thereafter, petitioner-appellee filed a Motion for Reconsideration[10] dated December 6, 2009, which was granted by the trial court in an Order dated April 14, 2010. The pertinent portion of the Order reads as follows:

"The arguments raised in the instant motion are enlightening and the court finds the same to be persuasive. After a second look at the basis of the decision of this case, the court is convinced that the respondent's infidelity, irritability, aggressiveness and lack of remorse, supported by the psychological report of the expert witness who performed an assessment and evaluation of the respondent's personality, are indeed manifestations of her distorted sense of morality and psychological incapacity to comply with her basic marital duties and responsibilities.

WHEREFORE, premises considered, the instant motion is hereby GRANTED. The decision dated October 26, 2009 is hereby RECONSIDERED AND SET ASIDE. As prayed for in the petition, the marriage between petitioner Ramon DL. De Belen and respondent Haydee Riza B. De Belen that was celebrated on February 23, 1996 at Jaen, Nueva Ecija is hereby declared NULL and VOID.

The Office of the Civil Registrar of Jaen, Nueva Ecija and the Central Civil Registrar, National Statistics Office, Manila are hereby ordered to cancel from their records the Certificate of Marriage between the parties and render the same of no legal force and effect.

SO ORDERED."

Oppositor-appellant, Republic of the Philippines, through the OSG filed a Motion for Reconsideration[11] of the order dated April 14, 2010. In an Order[12] dated July 19, 2010, the trial court denied the motion for

reconsideration.

Hence, this appeal.

Oppositor-appellant assigns this lone error to the trial court :

THE TRIAL COURT ERRED IN DECLARING THAT THE MARRIAGE BETWEEN PETITIONER-APPELLEE RAMON DL. DE BELEN AND RESPONDENT-APPELLEE HAYDEE RIZA DE BELEN IS NULL AND VOID AB INITIO. PETITIONER-APPELLEE FAILED TO ESTABLISH ALL THE ESSENTIAL REQUISITES OF RESPONDENT-APPELLEE'S PSYCHOLOGICAL INCAPACITY UNDER ARTICLE 36 OF THE FAMILY CODE OF THE PHILIPPINES.

Oppositor-appellant contends that the totality of the evidence presented in the petition for declaration of nullity did not sufficiently prove that respondent-appellee is psychologically incapacitated to comply with the essential marital obligations. Oppositor-appellant further contends that respondent-appellee's alleged psychological incapacity was derived from unreliable and hearsay information. The conclusions made by Dr. Anselmo D. Lupdag as regards respondent-appellee's psychological incapacity was derived not from respondent-appellee herself but from the information relayed to him by petitioner-appellee and from the latter's friends, Joselito Hernandez and Lennie C. Ocampo.

The appeal is meritorious.

Article 36 of the Family Code of the Philippines states that "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 *Perez-Ferraris vs. Ferraris*[14], the Supreme Court held:

"As all people may have certain quirks and idiosyncrasies, or isolated characteristics associated with certain personality disorders, there is hardly a doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to marriage."[15]

In the instant case, Haydee was not truly incognitive of her basic marital obligations. She in fact had an insight into her behavior, which enabled her to fulfill some of her responsibilities in marriage specifically those concerning their children. Ramon merely stated that while living with his family in Jaen, Nueva Ecija, Haydee was discourteous to them and was inconsiderate in complaining about finances. She also hurled impolite and unkind words against him and his family. She was at times violent, irritable and quarrelsome. Nonetheless, her behavior was not shown to be a malady or disorder rooted on debilitating psychological condition. The psychological report by Dr. Lupdag even failed to explain how such behavior existed prior to Ramon and Haydee's marriage.

Haydee and Ramon showed a clash of personalities, but not clear psychological incapacity to recognize and assume the basic marital obligations to live together, observe mutual love, respect and fidelity, and render mutual help and support.[16] Ramon was aware of Haydee's work as a night club entertainer even before he married her.

He even allowed her, although reluctantly, to work as an entertainer in Japan. They were married for almost ten years and Haidee remained faithful to him before she went to Japan. Haydee was not a perfect wife yet her role as a mother to their three children was not questioned. Mere showing of "irreconcilable differences" and "conflicting personalities" in no wise constitutes psychological incapacity. It is not enough to prove that the parties failed to meet their responsibilities and duties as married persons; it is essential that they must be shown to be incapable of doing so, due to some psychological (not physical) illness.[17] Haydee's sexual infidelity does not also constitute psychological incapacity within the contemplation of the Family Code. This circumstance is a ground for legal separation under Article 55 of the Family Code. Article 36 of the Family Code is not to be equated with legal separation in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like.[18] While Haydee's marriage with Ramon failed and appears to be without hope of reconciliation, the remedy however, is not always a petition to have it declared void ab initio on the ground of psychological incapacity. Significantly, the Constitution sets out a policy of protecting and strengthening the family as the basic social institution and marriage as the foundation of the family. Marriage, as an inviolable institution protected by the State, cannot be dissolved at the whim of the parties. In petitions for the declaration of nullity of marriage, the burden of proof to show the nullity of marriage lies on the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.[19]

Further, the assessment of Haydee by Dr. Lupdag was based merely on descriptions communicated to him by Ramon and the latter's friends. The doctor never conducted any psychological examination on Haydee. Neither did he ever claim to have done so. Thus, the doctor had no personal knowledge of the facts relayed to him by Ramon and the two other witnesses. The doctor made conclusions based on pure suppositions and secondhand information fed to him by one side.[20]

WHEREFORE, the appeal is granted. The Orders dated April 14 and July 19, 2010[21] of the Regional Trial Court of Gapan City, Nueva Ecija, Branch 34 in Civil Case No. 3324-07 are REVERSED and SET ASIDE. The petition for declaration of absolute nullity of marriage is DISMISSED.

SO ORDERED.

Lampas Peralta, (Chairperson), and Acosta, JJ., concur.

[1] Records, pp. 191-192.

[2] Records, pp. 221-222.

[3] Records, pp. 158-161.

[4] Records, p. 158.

[5] Records, pp. 161-163.

[6] Records, p. 163.

[7] Records, pp. 2-7.

[8] Records, p. 165.

[9] Records, p. 166.

[10] Records, pp. 180-186.

[11] Records, pp. 193-206.

[12] Records, pp. 221-222.

[13] Rosalino L. Marable vs. Myrna F. Marable, G.R. No. 178741, January 17, 2011.

[14] G.R. No. 162368, July 17, 2006.

[15] Ibid.

[16] Article 68, Family Code.

[17] Republic of the Philippines vs. CA, G.R. No. 108763, February 13, 1997.

[18] Bedel vs. Bedel, G.R. No. 151867, January 29, 2004.

[19] Republic vs. Cabantug-Baguio, G.R. No. 171042, June 30, 2008.

[20] Choa vs. Choa, G.R. No. 143376, November 26, 2002.

[21] Records, pp. 221-222.

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