

CHARITO G. FERRER, PETITIONER-APPELLANT, VS. ROLLY G. UMALI, RESPONDENT-APPELLEE.

Ponente: SORONGON, E.D., J.

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The Constitution sets out a policy of protecting and strengthening the family as the basic social institution, and marriage is 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 with the plaintiff. Unless the evidence presented clearly reveals a situation where the parties, or one of them, could not have validly entered into a marriage by reason of a grave and serious psychological illness existing at the time it was celebrated, we are compelled to uphold the indissolubility of the marital tie.[1]

STATEMENT OF THE CASE

This is an appeal from the Decision[2] dated September 18, 2012 of the Regional Trial Court (RTC) of Makati City, Branch 136, dismissing the petition for declaration of nullity of marriage filed by Charito G. Ferrer (petitioner-appellant) against her husband Rolly G. Umali (respondent-appellee).

STATEMENT OF FACTS

Petitioner-appellant and respondent-appellee crossed path in 1992 while working at Uniwide Sales, Inc. in Libis, Quezon City as Filing Clerk and Merchandiser, respectively. During their five-month stint thereat they became closer to each other that they went out regularly. Their relationship deepen and blossomed that on September 09, 1995, they decided to get married in a Catholic ceremony in Angono, Rizal.[3]

After their wedding, respondent took their cash gifts because he needed them to repay the money of his employer in Cuenca, Batangas which he spent for his personal use. Petitioner-appellant would ask the respondent-appellee about his dishonest ways but their talks would often end up in fights with respondent-appellee verbally abusing and threatening her.[4] On one occasion, petitioner-appellant found in their bedroom an elongated aluminum foil and a small plastic of white powder that looked like “tawas.” She confronted respondent-appellee about it and the latter admitted that he was using drugs.[5] Also, respondent-appellee despite being employed did not give her any financial support. So that when they encountered financial difficulties, she asked permission from him to find a job in Manila not knowing she was already pregnant. In Manila she had a miscarriage wherein she was hospitalized.[6] She informed respondent-appellee about her physical condition and asked helped for her hospital expenses but respondent-appellee told her; “Natuto kang umalis, matuto kang umuwi tatal nandiyan ka na, eh di sila ang magpa-hospital sa'yo, malas ka talaga at malas yung batang dinadala mo!”[7]

Petitioner-appellant decided to go home to Lipa but she was not able to see the respondent-appellee. She learned from his relatives that he was already living with another woman in an undisclosed place. Later she received a call from her husband. She wanted to be reunited with him but he told her that he is setting her free and he is now

living with another woman who bore him a child. She was shocked and felt devastated.[8]

The couple lived together as husband and wife for only 3 months and they have been separated for 18 years already. They had no child and acquired no conjugal property. Respondent-appellee has not communicated with petitioner-appellant and has sired four children with Liezl Marandan.[9]

Ms. Maria Ligaya Bien-Andres (Ms. Andres), a psychologist and petitioner's longtime friend and churchmate[10] administered a series of psychological examinations on petitioner-appellant. She found her to be emotionally adaptable, with no "psychopathology." In contrast, she speculates that respondent-appellee is suffering from psychological disorder which is rooted to his lack of parental love.[11] In her Psychological Report, she gave the following assessment of the respondent-appellee:

"Rolly displayed absence of deep emotional response to provide for his wife's essential and basic needs, her failure in supporting her physical, emotional, social and financial requirements which are necessary in building up a marriage are evidences of psychological incapacity to carry out and assume his role as a husband and responsible head of his family."[12]

As mentioned earlier, the RTC rendered the assailed Decision dismissing the petition upon the ground that petitioner-appellant failed to identify the root cause of the psychological incapacity of her husband. On October 11, 2012, she filed a Motion for Reconsideration but the same was similarly denied in the Order dated January 18, 2013.

ISSUES

In this appeal petitioner-appellant assigns the following errors:

I. WHETHER OR NOT THE LOWER COURT ERRED IN DENYING THE PETITION FOR DECLARATION OF NULLITY OF MARRIAGE BASED ON THE STRICT APPLICATION OF THE MOLINA CASE.

II. WHETHER OR NOT THE LOWER COURT ERRED IN ITS FAILURE TO APPRECIATE THAT THE TOTALITY OF THE EVIDENCE PRESENTED SHOWED PSYCHOLOGICAL INCAPACITY ON THE PART OF RESPONDENT TO FULFILL THE ESSENTIAL OBLIGATIONS OF MARRIAGE.

The appeal is devoid of merit and we uphold the validity petitioner-appellant's marriage with respondent-appellee on the ground that the alleged psychological incapacity of the latter was not sufficiently established.

DISCUSSION

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.[13] It refers to a serious psychological illness afflicting a party even before the celebration of the marriage and 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.[14] 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.[15]

Republic v. Court of Appeals[16] laid down the guidelines in the interpretation and application of the said Article. Thus:

(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.

Using the above guidelines, we find the totality of petitioner-appellant’s evidence, i.e. her testimony and that of

the psychologist as well as the latter's psychological report and evaluation are insufficient to prove respondent-appellee's psychological incapacity pursuant to Article 36 of the Family Code.

Petitioner-appellant completely relied on the psychological examination conducted by her psychologist to establish the psychological incapacity of respondent-appellee. Unfortunately, the result of the examination and her findings are vague as to the root cause, gravity, and incurability of his supposed psychological incapacity.

First, in cases of nullity of marriage based on Article 36 of the Family Code, as amended, the Supreme Court has consistently held that the psychological illness and its root cause must be proven to exist from the inception of the marriage. The root cause of the psychological incapacity, accordingly, must be identified as a psychological illness, with its incapacitating nature fully explained and established by the totality of the evidence presented during trial.[17] This was not shown in this particular case because the report of Ms. Bien- Andres did not explain the root cause of respondent-appellee's alleged psychological incapacity. Her evaluation merely made a general conclusion that the respondent is psychologically incapacitated to perform his essential marital obligations due to his lack of parental love. However, there was no factual basis upon which such conclusion was derived. She did not specify which of respondent-appellee's acts or omissions typified such disorder and the extent of its seriousness which rendered him incapacitated to perform his basic marital duties.

As held in the case of *Suazo v. Suazo*[18], the presentation of expert proof in cases for declaration of nullity of marriage based on psychological incapacity presupposes a thorough and an in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a grave, severe and incurable presence of psychological incapacity. It is hence indispensable that the evidence must show a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself. Here, the evaluation of Ms. Andres fell short of the said requirement. [19]

Second, Ms. Andres admitted in her report that she did not interview respondent-appellee and rather based her findings from the information relayed to her by petitioner-appellant. From there she speculated that the lack of parental love is the root cause of respondent-appellee's problem. Unfortunately, petitioner-appellant's description of her husband contained a measure of bias and partiality that Ms. Andres should have sought other sources in determining the true psychological condition of respondent-appellee. Thus, the RTC is correct in saying that no such independent evidence has ever been adduced. Ms. Andres did not seek out and meet with other persons who could have shed light on and established the conduct of the spouses before and during the marriage. To be sure, evidence from independent sources who intimately knew respondent-appellee before and after the celebration of the marriage would have made a lot of difference and could have added weight to the psychologist's report.[20] For that reason, Ms. Andres' report lacked depth and objectivity. The case of *Marcos*[21] which states 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 as long as the incapacity can be proven by independent means, is certainly not on all fours with this case.

Third, separately from the lack of the requisite factual basis, the psychologist's report merely relied on the alleged negative traits of respondent-appellee as claimed by the petitioner-appellant including the: (1) failure to provide for petitioner's essential and basic needs; (2) failure to support the petitioner's emotional, social and financial requirements; and (3) the respondent's subsequent second marriage to another woman with whom he had children. For petitioner-appellant, these are indicia of psychological incapacity to carry out and assume his role as a husband and a responsible head of their family. In the end, the psychologist plainly opined – without stating the psychological basis for her conclusion that there is sufficient reason to believe that the respondent is psychologically incapacitated to perform his marital duties.[22]

We find this kind of report and conclusion grossly inadequate. The root cause of respondent-appellee's psychological condition was notably not fully identified. The report also failed to prove the gravity or severity of respondent-appellee's alleged condition, specifically, why and to what extent the disorder is serious, and how it renders him incapacitated to comply with his basic marital duties. Significantly, the report did not even categorically state the particular type of personality disorder found. Finally, the report failed to establish the incurability of respondent-appellee's condition. As explained by the Supreme Court:

The expert opinion of a psychiatrist arrived at after a maximum of seven (7) hours of interview, and unsupported by separate psychological tests, cannot tie the hands of the trial court and prevent it from making its own factual finding on what happened in this case. 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. (emphasis supplied) [23]

The report was likewise totally devoid of any information or insight into respondent-appellee's early life and associations, how he acted before and at the time of the marriage, and how the symptoms of a disordered personality developed. Simply put, the psychologist failed to trace the history of his psychological disorder and to relate it to an existing incapacity at the time of the celebration of the marriage. As held in the case of *Suazo*[24], there must be proof of a natal or supervening disabling factor that effectively incapacitated the respondent spouse from complying with the basic marital obligations. Thus:

It is not enough that the respondent, alleged to be psychologically incapacitated, had difficulty in complying with his marital obligations, or was unwilling to perform these obligations. Proof of a natal or supervening disabling factor – an adverse integral element in the respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations – must be shown. Mere difficulty, refusal or neglect in the performance of marital obligations or ill will on the part of the spouse is different from incapacity rooted in some debilitating psychological condition or illness; irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility and the like, do not by themselves warrant a finding of psychological incapacity under Article 36, as the same may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage. (emphasis supplied)[25]

All told, the RTC did not err in declaring the marriage of petitioner and respondent as valid and subsisting. Indeed, the evidence presented in its totality is insufficient to establish respondent-appellee's psychological incapacity as strictly mandated by Article 36 of the Family Code.

WHEREFORE, the APPEAL is DISMISSED. The appealed Decision of the court a quo is accordingly AFFIRMED.

SO ORDERED.

Reyes, Jr., A.B., Chairman, and Rosario, R.R., JJ., concur.

[1] *Republic of the Philippines v. Galang*, G.R. No. 168335, June 6, 2011.

[2] *Rollo*, pp. 11-17.

[3] *Rollo*, p. 28.

[4] *Id.*

[5] *Id.*

[6] Rollo, p. 29.

[7] Id.

[8] Id.

[9] Id.

[10] Rollo, p. 45.

[11] Id.

[12] Rollo, p. 38.

[13] Republic of the Philippines v. The Hon. Court of Appeals (Ninth Division) and Eduardo C. De Quintos, Jr., G.R. No. 159594, November 12, 2012 citing the case of Yambao v. Republic, G.R. No. 184063, January 24, 2011, 640 SCRA 355, 367.

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

[15] Supra at note no. 13.

[16] G.R. No. 108763, February 13, 1997, 268 SCRA 198.

[17] Republic of the Philippines v. The Hon. Court of Appeals (Ninth Division) and Eduardo C. De Quintos, Jr., G.R. No. 159594, November 12, 2012 citing the case of Ligeralde v. Patalinghug, G.R. No. 168796, April 15, 2010, 618 SCRA 315.

[18] G.R. No. 164493, March 12, 2010, 615 SCRA 154.

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

[20] Supra at note no. 1.

[21] Marcos v. Marcos, G.R. No. 136490, October 19, 2000.

[22] Id.

[23] Republic of the Philippines v. The Hon. Court of Appeals (Ninth Division) and Eduardo C. De Quintos, Jr., G.R. No. 159594, November 12, 2012 citing the case of Lim v. Sta. Cruz-Lim, G.R. No. 176464, February 4, 2010, 611 SCRA 569.

[24] Supra at note no. 18.

[25] Id.

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