

MA. CRISELDA C. FERNANDO, PETITIONER-APPELLANT, VS. JOSE ROBERTO ENRIQUE SJ FERNANDO, RESPONDENT-APPELLEE.

Ponente: CARANDANG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9d098abbd7a2/>

CARANDANG, J.:

Before Us is the appeal interposed by petitioner-appellant Ma. Criselda C. Fernando from the Decision dated November 20, 2012 of the Regional Trial Court (RTC), Branch 107 of Quezon City, in Civil Case No. Q-09-64267, which dismissed petitioner-appellant's Petition for Declaration of Nullity of Marriage.[1]

The antecedents are as follows:

On February 11, 2009, petitioner-appellant Ma. Criselda C. Fernando (Criselda) filed a petition for declaration of nullity of marriage seeking the annulment of her marriage with respondent-appellee Jose Roberto Enrique SJ Fernando (Roberto) under Article 36 of the Family Code due to their inability to have sexual intercourse in the entire course of their being together as husband and wife. Roberto was served with Summons on March 9, 2009,[2] but did not file any responsive pleading to the Petition. Hence, the RTC issued an Order dated April 7, 2009 directing the public prosecutor assigned with the trial court to investigate whether the parties were in collusion. Subsequently, on September 9, 2000, Assistant City Prosecutor Evelyn M. Pascual-Lee submitted her Collusion Report recommending that the case be heard on the merits finding that no collusion existed between the parties.[3] Thus, trial on the merits ensued.

In support of her Petition, Criselda took the witness stand. She also presented her mother, Teresita Canlas, and Ms. Nery Tayag, a clinical psychologist. From the testimonies of Criselda and her witnesses, the following facts were established:

Criselda and Roberto first met in May 2000, and became a dating couple after a month or so. During the six to eight months of their relationship, they engaged in pre-marital sex, around two to three times.[4] Their pre-marital sexual intercourse, however, stopped at the instance of Roberto after a year of dating, which Criselda assumed that he was being old fashioned[5] and wanted to get married first before engaging into sex.[6]

On November 21, 2002, Criselda and Roberto exchanged marital vows at St. James the Great Parish in Ayala Alabang Village, Muntinlupa City.[7] According to Criselda, they did not have sexual contact during their honeymoon, which she thought was just due to exhaustion because of the wedding celebration. As it turned out, however, the couple did not have any sexual intercourse at all since their marriage despite actually living together from 2002 until Criselda decided to live separately from Roberto in 2007.[8]

During the first year of their marriage, Criselda tried to understand their situation and did not nag Roberto for their lack of sexual intimacy; and that she thought that Roberto was depressed for being jobless after retiring early, and embarrassed since she was the one holding a job. On the succeeding years, however, she thought it unusual not to have sexual intercourse with her husband; they both sought counseling, wherein Roberto revealed that he “gets turned on” when the girl initiates the sex; and that because of Roberto's revelation, Criselda tried to initiate their sexual intimacy about 20 to 30 times, but nothing happened, not even an arousal or erection from

Roberto.[9] Criselda intimated that she wanted children with Roberto, but the latter only answered “next year.”[10]

To bolster her claim that Roberto is suffering from psychological incapacity, Criselda presented Ms. Nedy Tayag, a psychologist, who testified that based on the tests she administered and results of her clinical interviews with Criselda and one her friends, she found out that both Criselda and Roberto are suffering from psychological incapacity; that Criselda was diagnosed to have Narcissistic Personality Disorder while she found Roberto to be suffering from Schizoid Personality Disorder.[11]

On November 20, 2012, the RTC rendered its Decision dismissing the Petition, with the following ratiocination:

“The Court finds that no sufficient evidence was presented to prove gravity, incurability and juridical antecedence.

Other than the findings of Ms. Nedy Tayag, the psychologist who evaluated the parties in this case, there was no sufficient evidence presented to prove that the parties are suffering from a personality disorder before the celebration and during their marriage. As can be adduced from the testimony of the petitioner and her witness, the parties did not encounter any marital problem except of the alleged failure of the respondent to have sexual intercourse with the petitioner, allegedly from the time they got married up to the time they separated which is more or less covering a period of five (5) years. xxx

xxx xxx xxx

IS the alleged refusal of the respondent to have sexual intercourse with the petitioner from the time they got married to the time they separated which is more or less 5 years considered as senseless and protracted to be considered as psychological incapacity on the part of the respondent?

xxx xxx xxx

From the evidence adduced there was no convincing evidence showing senseless and protracted refusal of the respondent to have sexual intercourse with the petitioner.

The petitioner failed to present any sufficient evidence showing that she and the respondent were not cognizant of their basic marital obligations at the time of the celebration of their marriage. The petitioner likewise failed to establish the fact that during their marriage, the respondent and the petitioner were suffering from psychological defect which deprived them to assume the essential duties of marriage and its concomitant responsibilities.

Though the Court recognizes the psychological evaluation prepared by Ms. Nedy Tayag, yet the Supreme Court in the case of Marcos vs. Marcos, GR No. 136490, October 19, 2000, lead to another judicial teaching that the Court, may or may not accept, the testimony of the psychologist or psychiatrist as it should based its decision on the totality of the evidence presented other than the findings of a psychologist or psychiatrist.

Given the foregoing yardstick, the totality of the evidence presented by the petitioner to prove his psychological incapacity is clearly insufficient to sustain a finding of psychological incapacity on his part. Foremost of which is the failure of the petitioner to prove that his alleged personality disorder was already existing at the time of the celebration of their marriage nor there was any evidence to show that he was indeed psychologically incapacitated during the marriage (gravity).

In sum, this Court cannot declare the dissolution of the marriage for failure of the petitioner to show that his alleged psychological incapacity is characterized by gravity, juridical antecedence and incurability.

WHEREFORE, the instant petition for declaration of void marriage is denied. The above-entitled case is DISMISSED.

SO ORDERED.”[12]

On motion for reconsideration,[13] the RTC denied the same per Order dated March 4, 2013.[14]

Aggrieved, petitioner-appellant Criselda appealed the RTC's Decision with the following as assigned errors:[15]

I. THE HONORABLE TRIAL COURT ERRED WHEN IT CONCLUDED THAT RESPONDENT-APPELLEE WAS HAVING SEXUAL INTERCOURSE WITH PETITIONER-APPELLANT DURING THEIR MARRIAGE;

II. THE HONORABLE TRIAL COURT ERRED WHEN IT CONCLUDED THAT PETITIONER-APPELLANT FAILED TO SHOW THAT THE PSYCHOLOGICAL INCAPACITY IS CHARACTERIZED BY GRAVITY, JURIDICAL ANTECEDENCE AND INCURABILITY.

Petitioner-appellant argues that the RTC erred in concluding that respondent Roberto can engage in sexual intercourse based on a text message of another woman claiming to have had “fun last night,” which meant that the trial court entertained doubts on petitioner-appellant's claim that she and respondent never had any sexual intercourse during their marriage; that the term “I had fun last night” is a vague and general to suggest sexual encounter; and that there was nothing in the said text message implying that respondent Roberto had sexual intercourse with another woman.[16] As to the alleged failure to adduce evidence to prove her case, petitioner-appellant argues that the RTC erred in disregarding the findings of the expert witness, Ms. Nedy Tayag.[17]

Oppositor-appellee Republic of the Philippines through the Office of the Solicitor General aver that the findings of Ms. Nedy Tayag “were baseless and unsupported by any reliable information and data;” that her clinical findings failed to explain the juridical antecedence of the parties' respective disorders; and that the psychological report was merely a narration of the parties' past, without identifying the root causes of the parties' alleged disorders.[18] It further averred that Ms. Tayag's conclusions on respondent-appellee Roberto's psychological makeup were merely suppositions since she had not been able to interview him or anybody who personally knew him during his childhood.[19]

We resolve to grant the appeal.

One of the equally important rights and obligations between husband and wife is the obligation “to live together, observe mutual love, respect and fidelity, and render mutual help and support.”[20] Such obligation, as the others, are geared towards the “establishment of conjugal and family life.”[21] Specifically, by observing the mutual obligation to love, that is “to procreate children based on the universal principle that procreation of children through sexual cooperation xxx the basic end of marriage” is achieved.[22] And, the “constant non-fulfillment of this obligation will finally destroy the integrity or wholeness of the marriage.”[23] (emphasis Ours) Thus, “the senseless and protracted refusal of one of the parties to fulfill the above marital obligation is equivalent to psychological incapacity”[24] as defined in Article 36 of the Family Code.[25]

The Supreme Court in Republic of the Philippines vs. Court of Appeals and Molina[26] laid down the guidelines in applying Article 36 as follows:

- “(1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. xxx xxx xxx
- (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. xxx xxx xxx
- (3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage. xxx xxx xxx
- (4) Such incapacity must also be shown to be medically or clinically permanent or incurable. xxx xxx xxx

(5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. xxx xxx xxx

(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 xxx xxx xxx

(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. . . . (Emphasis supplied)”[27]

Taking the totality of the evidence presented in this case, We find that petitioner-appellant has sufficiently complied with the above guidelines in the Molina case to warrant annulment of marriage based on respondent's psychological incapacity under Article 36 of the Family Code.

Petitioner-appellant has proven the psychological incapacity of her husband. The RTC erred in making generalities and stretching conclusions beyond imagination to doubt respondent-appellee's psychological incapacity, and by not considering the undisputed findings of petitioner-appellant's expert witness, Ms. Nedy Tayag, who found respondent-appellee suffering from schizoid personality disorder describing him as follows:[28]

“On the part of respondents, he was found suffering from a disease known as SCHIZOID PERSONALITY DISORDER as manifested by his obvious detachment from social relationship and restricted range of expression of emotions. During his union with his wife, he has exhibited emotional coldness, detachment and flattened affect towards her such that he would rather spend most of his time doing his own thing than being with his wife. He neither desires nor enjoys close relationship which was definitely true on the way he behaved throughout his union with petitioner. He always chooses to do activities in solitary ways and petitioner was too frustrated with him due mainly to the attention and affection the woman was demanding from him. xxx”

We further disagree with the arguments of the Office of the Solicitor General that Ms. Tayag's conclusions are baseless considering that she had not interviewed respondent-appellee. As held by the Supreme Court in Marcos vs. Marcos,[29] the personal examination of the respondent-appellee is not a requirement in the declaration of nullity of marriage based on psychological incapacity as long as the totality of the evidence sustains the basis of annulment of the marriage.[30] Petitioner-appellant was able to testify the facts as presented; and presented her mother, with whom she had confided the troubles with respondent-appellee, and who even personally advised respondent-appellee to seek medical or psychological help, which the latter refused.[31]

As alleged in the petition, respondent-appellee's psychological incapacity has been identified as stated above and proven to be existing even before the celebration of the marriage, incurable and grave enough to disable respondent-appellee to fulfill his marital obligation. Petitioner-appellant has been consistent that her pre-marital sex encounter with respondent-appellee had stopped at the instance of the latter for reasons known only respondent-appellee; that their lack of sexual intimacy continued when they were living together after their marriage; that upon seeking counsel with a marriage counselor, respondent-appellee revealed that he gets aroused only when his partner initiates foreplay; and taking the cue, petitioner-appellant tried to remedy the situation by initiating sexual intimacy but respondent was unable to get erection or be aroused. To make matters worse, respondent-appellee has not been gainfully employed and consistently negated the basic goal of marriage, that is, to establish a conjugal and family life. As explained by Ms. Nedy Tayag, respondent-appellee's schizoid personality disorder manifests as such, specifically describing him in this manner:[32]

“Q:

What is this kind of disorder?

A:

Schizoid Personality Disorder has a detachment from social relationship and a restricted range of expression of emotions in interpersonal settings, beginning by early adulthood up to the present in a variety of contexts, such as he neither desires nor enjoys close relationships, including being part of a family and always chooses solitary activities. He has little, if any, interest in having sexual experiences with another person, takes pleasure in few, if any, activities and lack close friends or confidants other than first-degree activities, he appears indifferent to the praise or criticism of others and show emotional coldness, detachment, or flattened affection. As such, this disorder is considered to be grave, severe, long lasting and incurable.

“Q:

What are the manifestations in Respondent of this personality disorder during the marriage?

A:

This is manifested by his obvious detachment from his wife, to the extent he failed and refused to consummate their marriage during the first night they were married. In fact, he failed and refused to consummate their marriage for five years they were together, more or less, despite the invitations from the wife. During his union with his wife, he has exhibited emotional coldness, detachment and flattened affection towards her such that he would rather spend most of his time doing his own thing rather than being with his wife.

“Q:

What else did you find out?

A:

Respondent neither desires nor enjoys close relationships which is shown on the way he behaved throughout his union with his wife. He also lacks confidants due mainly to his inhibited structure since it started as early as his childhood. It has totally caused him to be inflexible, maladaptive and functionally impaired especially with regard to maintaining a sound heterosexual relationship.

xxx xxx xxx

“Q:

Why do you say it is grave, serious, chronic, severe and incurable?

A:

It is grave as it is fully engrained into their system long before they met which eventually result in their severe inability to effect fidelity, trust, commitment, and responsibility. It is also serious which fully distorted their concept regarding marital relationship. In like manner, it is also incurable as up to this moment, no scientific breakthrough will help Petitioner and Respondent to acknowledge their incapacity through therapy or psychological counseling. This is shown by the Respondent during their marriage counseling before they separated when he refused to admit he is psychologically incapacitated to consummate their marriage and instead said that he would get turned-on when the woman initiates. However, despite several attempts by the wife that they make love, Respondent refused to do so. Aside from the fact that their irrational and abnormal behavior is not detriment to them but to others. The personality disorder of Petitioner and Respondent are indeed deeply rooted, it is already in their character. No amount of therapy, no matter how intensive, can possibly change the Petitioner and Respondent in so far as incapability to perform their essential marital obligations. Both parties are always in denial of their own personality disorder and therefore they would likewise resist any treatment or therapy.”

We need not discuss petitioner's psychological incapacity for lack of factual basis.

In sum, despite all efforts on the part of petitioner-appellant to overcome respondent-appellee's senseless refusal to take part in their mutual obligations as a husband, respondent-appellee's psychological incapacity prevailed so much so that he had not embraced the ideals of living together, observing mutual love, respect and fidelity, and rendering mutual help and support as embodied in Article 68 of the Family Code to start and sustain in what they hoped as their contracted marriage.

WHEREFORE, in view of the foregoing, the instant appeal is GRANTED. The assailed Decision dated November 20, 2012 and Order dated March 4, 2013 of the Regional Trial Court (RTC), Branch 107 of Quezon City, in Civil Case No. Q-09-64267, are SET ASIDE. In lieu, the petition for the declaration of nullity of marriage is GRANTED, and the marriage contracted by Ma. Criselda C. Fernando and Jose Roberto Enrique SJ Fernando is declared NULL and VOID ab initio under Article 36 of the Family Code for reasons discussed herein.

SO ORDERED.

Gonzales-Sison and Sorongon, JJ., concur.

-
- [1] Original Record, pp. 132-137.
 - [2] Original Record, p. 28.
 - [3] Original Record, p. 31.
 - [4] TSN June 22, 2010, pp. 5-7; and TSN November 22, 2010, p. 5.
 - [5] Original Record, p. 3 (Petition).
 - [6] TSN November 22, 2010, p. 5.
 - [7] Original Record, p. 89 (Marriage Certificate, Exhibit A)
 - [8] Original Record, p. 3 (Petition); TSN June 22, 2010, pp. 8-10.
 - [9] TSN June 22, 2010, pp. 8-12; TSN November 22, 2010, pp. 9-12.
 - [10] Original Record, p. 3 (Petition).
 - [11] Exhibit B, Psychological Report, original record, pp. 90-100.
 - [12] Original Record, pp. 135-137 (Decision).
 - [13] Original Record, p. 138.
 - [14] Original Record, p. 149.
 - [15] Rollo, p. 22.
 - [16] Rollo, pp. 23-24.
 - [17] Rollo, p. 28.
 - [18] Rollo, p. 123.
 - [19] Rollo, p. 124.
 - [20] Article 68, Family Code.

[21] Article 1, Family Code.

[22] Chi Ming Tsoi vs. Court of Appeals, G. R. No. 119190, January 16, 1997.

[23] Ibid.

[24] Ibid.

[25] Article 36 of the Family Code, as amended, states:

“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.”

[26] G. R. No. 108763, February 13, 1997.

[27] Cited in Marieta C. Azcueta vs. Republic of the Philippines and the Court of Appeals, G. R. No. 180668, May 26, 2009.

[28] Exhibit B, original record, p. 99-100.

[29] G.R. No. 136490, October 19, 2000.

[30] Cited in Marieta C. Azcueta vs. Republic of the Philippines, *supra*.

[31] TSN June 17, 2011, Teresita Canlas, pp. 8-12.

[32] Judicial Affidavit, Nedy Tayag, original record, pp. 123-124.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.