

ELVIRA BERNAL-LEGASPI, PETITIONER-APPELLANT, VS. MARIO C. LEGASPI, JR., RESPONDENT-APPELLEE.

CV No. 90865, April 23, 2010

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Court of Appeals

The Case

On appeal by petitioner Elvira-Bernal-Legaspi ("Elvira") is the Decision[1] dated March 13, 2007 of the Regional Trial Court of Pasig City[2] ("RTC"), in JDRC No. 5450 entitled "Elvira Bernal-Legaspi, Petitioner versus Mario C. Legaspi, Respondent", the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the petition for the Declaration of Nullity of Marriage filed by petitioner Elvira-Bernal Legaspi is hereby DENIED for lack of merit.

So ordered."[3] (emphasis supplied)

The Facts

This case stems from a verified Petition for Habeas Corpus, Declaration of Nullity of marriage with Application for Support Pendente Lite[4] filed by Elvira against her husband, Mario C. Legaspi, Jr. ("Mario"). The allegations in the petition, as culled from the assailed Decision, are as follows:

"* * * Elvira alleged that she and the respondent were married on January 29, 1990 at the Metropolitan Trial Court of Cainta, Rizal before Hon. Dominador T. Domingo; and out of the said marriage they begot three (3) children namely: Celica, born January 12, 1991; Edward, born on August 4, 1992; and Camille, born on January 10, 199[3].

Petitioner further averred that she and the respondent met sometime in June 1989 and after a whirlwind relationship, petitioner and respondent decided to get married; that before the agreed date of the wedding, while the petitioner and the respondent were buying their wedding ring, petitioner, for reasons she could not fathom at that time, felt she wanted to back out of the wedding; that however, because all the relatives had already been informed of the wedding, she finally decided to proceed with the scheduled wedding; that soon after the marriage, respondent's psychological incapacity to comply with the essential obligations of marriage began to manifest; that respondent has been incapable of observing love and respect to the petitioner as evidenced by his excessive immaturity, excessive drinking, and violent attitude towards the petitioner; that petitioner[,] fearful for her life[,] was constrained to file a complaint against the respondent for Grave Threats before the Barangay Captain of Barangay Sta. Lucia, Pasig City; that to prevent further physical injuries that may be inflicted on the petitioner by the respondent, petitioner left their dwelling which she inherited from her parents on May 5, 2000 and lived separately from the respondent while the latter continued to stay in the said dwelling until he transferred to one of the units in the 4-door conjugal apartment after three (3) months; and that during their marriage, petitioner and respondent acquired a parcel of land located in Sta. Lucia Subdivision Pasig City with an area of One Hundred Eight Square Meters covered by TCT No. PT-87608 and a 4-door apartment constructed therein with an estimated value of P100,000.00 more or less."[5] (emphasis Ours).

On August 23, 2002, respondent Mario filed his Answer,[6] contending, as summarized by the court below, viz.:

"* * * (R)espondent admitted the personal circumstances of the parties, names and birthdates of the children, and the fact of his marriage with the petitioner. However, respondent specifically denied petitioner's allegation that he is suffering from personal disorder or psychologically incapacitated because he is doing his duties as father and mother to all their children. By way of special and affirmative defenses, the respondent alleged that: that though petitioner is not working[,] she is actually collecting the monthly rentals from their apartment units amounting to P30,000; that the aforesaid rentals are for petitioner's benefits only and that the one door with monthly rental P3,400 is the only one being collected by respondent; that he does not own a repair shop but he is merely accommodated by Roger Manalo to use the shop at 77 Baubata Compound, Sta Lucia, Pasig City whenever he has a customer therein; that he sometimes drinks with his friends or on some occasions whenever he attends birthdays or weddings; that respondent has been spending for foods of his children and always buy things for their personal needs and that in July 2002, for unknown reason petitioner had inflicted injury to their youngest daughter Camille, which was never done by respondent, hence, the custody of Camille should therefore be given to respondent." [7] (emphasis Ours)

On April 5, 2001, the Court rendered a Partial Decision[8] based on a Partial Compromise Agreement[9] between the parties where they agreed on the custody of their three (3) children, as well as the possession of a four-door apartment and the division of the rentals thereof.

On October 25, 2002, petitioner Elvira sought to amend her petition to incorporate therein the clinical findings of clinical psychologist, Nedy Lorenzo Tayag.

Pre-trial was conducted on January 23, 2003 with the lone issue of "whether the marriage of the parties may be declared null and void on the ground of psychological incapacity of either petitioner or respondent or both." [10] Subsequently, trial ensued.

The Ruling of the Court

On March 13, 2007, the RTC rendered its now assailed Decision, viz.:

"Article 36 of the Family Code provides that:

'Art. 36.-A marriage contracted by any party who is 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 manifested only after its solemnization.'

In a landmark case entitled *Leouel Santos vs. Court of Appeals*, the Supreme Court ruled that 'psychological incapacity should refer to no less than a mental (not physical) incapacity, and that there is hardly any 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 utter insensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage was celebrated. The psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence and (c) incurability.'

With the decision in the case of *Republic of the Philippines vs. Court of Appeals, Rodivel Olaviano Molina*[,] the doctrine of psychological incapacity (Art. 36, Family Code) was further clarified and elucidated. Therein, the Court through Justice Panganiban observed that 'the evidence (to establish psychological incapacity) must convince the court that the parties or one of them, was mentally or psychically ill to such extent that the person could not have known the obligations he was assuming of knowing them, could not have given valid assumption thereto.' Jurisprudence since then had recognized that psychological incapacity 'is a malady so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume.'

In the much recent case entitled *Leonilo Antonio versus Marie Ivonne F. Reyes*, the Supreme Court held that 'It

has been consistently recognized by this Court that the intent of the Family Code Committee was to design the law as to allow some resiliency in its application, by avoiding specific examples that would limit the applicability of the provision under the principle of ejusdem generis. Rather, the preference of the revision committee was for 'the judge to interpret the provision on a case to case basis, guided by the experience, in the findings of experts and researchers in psychologic disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.'

This Court is now guided by these principles in resolving this petition.

The Court is mindful of the policy of the 1987 Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family.

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 regards to parents and their children. Such non-complied marital obligations must also be stated in the petition, proven by evidence and included in the text of [the] decision.

The petitioner, through counsel, tried to persuade this Court by presenting Ms. Nedy L. Tayag, Clinical Psychologist, as an expert witness to prove that respondent is suffering from Narcissistic Personality Disorder with underlying Anti-Social Personal Disorder which is grave, incurable and characterized by judicial antecedence, hence, psychologically incapacitated to comply with the essential martial obligations. Despite however the presentation of an expert witness, as careful scrutiny of the records reveals that the testimony in open court of petitioner Elvira is insufficient to prove her allegation of respondent's psychological incapacity.

A perusal of the cross-examination on petitioner Elvira conducted by Atty. Chuchi Tan, counsel for the respondent, reveals that respondent provides their children their basic needs such as food, shelter, clothes and other personal necessities. Likewise, the petitioner was not able to convince this Court that the lot and apartment units were acquired through her own efforts. She failed to provide documentary evidence to support her claim and contrary to her testimony, her petition particularly no. 24 thereof alleged that during their marriage, petitioner and respondent acquired a parcel of land located in Sta. Lucia Subdivision, Pasig City and 4 door apartment units constructed thereon. Further, petitioner Elvira admitted that although she is not gainfully employed, she collects rental income of all the apartment units in the amount of P30,000.00.

Likewise, her petition further alleged that even prior to their marriage, for reasons she could not fathom at that time, she felt that she wanted to back out from their wedding which she confirmed when asked during her cross-examination.

It was even proven during the trial of this case that petitioner had inflicted physical injury to their youngest child Camille which prompted respondent Mario to take Camille into his custody.

While it is true that respondent had inflicted physical injury on the petitioner, the same could not be said to have been caused by a psychological disorder. The refusal of the petitioner to have sexual intercourse with the respondent had angered him. This Court does not condones (sic) the physical abuses inflicted on the petitioner but merely reiterates the jurisprudences laid down by the Supreme Court that violent attitudes of respondent towards the petitioner is not a sufficient ground to constitute psychological incapacity.

A fortiori [sic], the Court finds that the totality of evidence presented fell short of proving that respondent, Mario Legaspi, was psychologically incapacitated to assume his marital obligation. The grounds relied upon by the petitioner such as immaturity, violent attitude towards the petitioner[,] excessive drinking and failure to provide with material support were not properly established to support a finding of psychological incapacity of the respondent." (emphasis Ours; citations omitted)

Aggrieved, petitioner Elvira filed on March 18, 2007 her Motion for Reconsideration[12] which however was

denied by the RTC in an Order[13] dated October 2, 2007.

On October 30, 2007, petitioner Elvira filed her Notice of Appeal.[14]

Issues

In her Brief,[15] petitioner-appellant Elvira pointed out that:

i.

THE COURT A QUO GRAVELY ERRED IN DENYING APPELLANT'S PETITION FOR DECLARATION OF NULLITY OF MARRIAGE.

ii.

THE DECISION RENDERED WAS BASED ON MISAPPRECIATION OF FACTS."[16]

At the core, therefore, of this appeal is the question of:

WHETHER OR NOT THE TRIAL COURT ERRED IN DENYING THE PRESENT PETITION FOR DECLARATION OF NULLITY OF MARRIAGE.

OUR RULING

Relying principally on the psychological report presented in evidence by Dr. Nedy Lorenzo Tayag, petitioner-appellant Elvira avers that she was able to establish the psychological incapacity of her husband, respondent-appellee Mario, with preponderant evidence.[17] She contends that the totality of evidence she presented - which was not controverted by respondent-appellee - should have been accepted as the true facts of the case.[18] She thus submits that the RTC should have declared their marriage null and void from the beginning.

We are not persuaded.

Article 36 of the Family Code of the Philippines 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." (emphasis Ours)

It bears stressing that the "psychological incapacity" contemplated in this article was not meant to comprehend all such possible cases of psychoses.[19] Rather, it refers only to 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.[20]

If a petition for nullity based on psychological incapacity is to be given due course, its gravity, root cause, incurability and the fact that it existed prior to or at the time of celebration of the marriage must always be proved.[21] The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage, it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and it must be incurable or, if it were otherwise, the cure would be beyond the means of the party involved.[22]

In Republic vs. Court of Appeals,[23] the Supreme Court laid down definitive guidelines in the interpretation and application of Article 36 of the Family Code, viz.:

"(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. This

is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it 'as the foundation of the nation'. It decrees marriage as legally 'inviolable', thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be 'protected' by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

(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. Article 36 of the Family Code requires that the incapacity must be psychological - not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of *Ejusdem generis*, nevertheless such root cause must be identified as f a psychological illness and its incapacitating nature I fully explained. Expert evidence may be given by qualified psychiatrists and clinically psychologists.

(3) The incapacity must be proven to be existing at the 'time of the celebration' of the marriage. The evidence must show that the illness was existing when the parties exchanged their I do's'. The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment or prior thereto.

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, 'mild characterological peculiarities, mood changes, occasional emotional outbursts; cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not refusal, neglect or difficulty, must less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

(6)The essential marital obligations must be those embraced by Article 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. Such non-complied marital obligations(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

(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. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date of the case is deemed submitted for resolution of the

court.***" (emphasis Ours, italics supplied; citation omitted)

Verily, the above-mentioned requisites must be strictly complied with, as the grant of a petition for nullity of marriage based on psychological incapacity can be confined only to the most serious cases of personality disorders that clearly demonstrate an utter insensitivity or inability to give meaning and significance to the marriage.[24]

We analyzed, guided by the foregoing jurisprudence, the totality of petitioner-appellant's evidence yet found it insufficient to prove that respondent-appellee was indeed psychologically incapacitated.

Petitioner-appellants' testimony merely alleged that respondent-appellee: (1) did not entrust to her his earnings but spent the same for himself and his barkada, with little left for the family's basic necessities such as food, water and light,[25] (2) often quarrels with her for little or no reason at all and over minor things;[26] (3) drinks excessively and comes home late or at the wee hours of the morning;[27] and (4) has a violent attitude towards her.[28]

These acts, however, do not constitute "psychological incapacity" as contemplated in Article 36 which is more than just a "difficulty," a "refusal" or a "neglect" in the performance of some marital obligations.[29] It is not enough that respondent-appellee had difficulty or was unwilling to perform such marital obligations. Proof of a natal or supervening disabling factor, an adverse integral element in respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations, should have been shown.[30] This, petitioner-appellant failed to do.

Worse, Dr. Nedy Tayag's assessment of respondent-appellee's psychological state hardly proved petitioner-appellant's cause. In her report.[31] Dr. Tayag stated, viz.:

"Respondent is MARIO CABATI LEGASPI, 44 years old, Filipino, Pasig City. He is said to be the third of five siblings, having two brothers and two sisters and grew up in a rather dysfunctional family. He was unable to complete his high school education due to lack of motivation. He is said to be a perennial headache to his elders. He worked as a mechanic and ventured on buy and sell business but he was unable to provide enough financial support to petitioner and their children. He is described to be a habitual drunkard, a chronic gambler and a physically abusive as well as an irresponsible family man.

* * * * *

REMARKS

The undersigned is of the opinion that respondent is psychologically incapacitated to perform the obligations necessitated by marriage inasmuch as he is totally ill prepared for such commitment. Obviously, the motivations of both parties were then governed by a desire to put a semblance of security and morality to their physical relationship rather than to actually start a family. Nevertheless, petitioner have (sic) stood up to the challenge of married life and have shown herself dedicated to her marital vows despite the apparent lack of interest on the part of her husband.

The actuations manifested by respondent throughout his marriage to petitioner indicate that he is suffering from a form of personality deficit, which deferred him from appropriately discharging his duties and responsibilities as a married man. On the clinical point of view, respondent may be said to be suffering from Narcissistic Personality disorder with underlying Anti-Social Personality Disorder, a condition deemed to be severe, grave and already engrained deeply within the adaptive system and have disrupted his otherwise normal functioning particularly related to heterosexual adjustments.

* * * * *

The psychologically disordered condition of respondent can be attributed to the various unfavorable factors that were present during his formative years particularly the kind of familial constellation he had which deeply influenced his pattern of adjustments and interactions. Having been exposed to an environment where observance of values and discipline were inconsistent if not virtually non-existent, he has learned to adopt traits that are deemed to be socially deviant and prompted him to become self-oriented. He has learned to exploit others to gain his best interests particularly that he grew up as a person deprived of genuine love, affection and care. Such has become an integral part of his lifestyle and since it started early in life, it is already rooted deeply within his personality structure thereby rendering such to be permanent and incurable.

The psychological incapacity of respondent is characterized by judicial antecedence, as it existed even before the time of their marriage. With due consideration to the findings made, it could be well concluded that the dysfunctional marital union between petitioner and respondent is already way beyond repair as it was in the first place not founded on mutual love, trust, respect and commitment. The undersigned therefore recommends that the marriage be declared null and void on the account of respondent's grave and incurable personality disorder." [32] (emphasis Ours)

The Court notes that Dr. Tayag was not able to personally examine respondent-appellee as the latter did not appear for said psychological examination. Dr. Tayag merely relied on information given by petitioner-appellant, who obviously was biased in her opinions and descriptions. Thus, the observations proffered by Dr. Tayag - relating to respondent-appellee's behavioral patterns, family background, childhood and formative years - can hardly be considered as sufficient to warrant a conclusion on respondent's psychological incapacity.

In fact, Dr. Tayag's report was plain hearsay evidence as she had no personal knowledge of the alleged facts she testified on. [33] Being so, her testimony should have been ignored for being unscientific and unreliable. [34] For, settled is the rule that while there is no requirement that a party to be declared psychologically incapacitated be personally examined by a physician or a psychologist (as a condition sine qua non), there is nevertheless a need to prove the psychological incapacity through 'independent evidence adduced by the person alleging said disorder.' [35]

Besides, it appears that the Dr. Nedy Lorenzo Tayag, the clinical psychologist presented by herein petitioner-appellant - who found respondent-appellee to be psychologically incapacitated and suffering from Narcissistic Personality Disorder with underlying Anti-Social Personality Disorder, is the very same psychologist presented in *Bier vs. Bier*, [36] *Rumbaua vs. Rumbaua* [37] and *Alcazar vs. Alcazar*, [38] whose findings that the respondents therein were suffering from the same narcissistic personality disorder were consistently held by the Supreme Court as insufficient and unfounded.

Indeed, as observed by the Supreme Court in *Ngo Te vs. Yu-Te* [39] there is indeed a need for a court-appointed psychologist/expert who will independently assess and evaluate the psychological state of the parties in these cases. For, as explained by the High Tribunal in said cases:

"This is not to mention, but we mention nevertheless for emphasis, that the presentation of expert proof presupposes a thorough and 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. Parenthetically the Court, at this point, finds it fitting to suggest the inclusion in the Rule on Declaration of absolute Nullity of Void Marriages and Annulment of Voidable Marriages, an option for the trial judge to refer the case to a court-appointed psychologist/expert for an independent assessment and evaluation of the psychological state of the parties. This will assist the courts, who are no experts in the field of psychology, to arrive at an intelligent and judicious determination of the case. The rule, however, does not dispense with the parties' prerogative to present their own expert witnesses." (emphasis Ours)

Again, the state has a high stake in the preservation of marriage rooted in its recognition of the sanctity of married

life and its mission to protect and strengthen the family as a basic autonomous social institution.[40] Hence, any doubts should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. Presumption is always in favor of the validity of marriage.[41]

WHEREFORE, the instant appeal is DISMISSED for lack of merit.

SO ORDERED.

Acosta and Bueser,[*] JJ., concur.

[*] Court of Appeals Reports Annotated, Vol. 48

[1] Records, pages 265-272.

[2] Branch 159.

[3] Records, page 272.

[4] Records, pages 1-8.

[5] Records, pages 265-266.

[6] Ibid., pages 58-60.

[7] Ibid., pages 266.

[8] Ibid., pages 32-33.

[9] Ibid., pages 23-24.

[10] Records, pages 108-109.

[11] Records, pages 270-272.

[12] Records, pages 274-288.

[13] Ibid., pages 293-294.

[14] Ibid., page 295-296.

[15] Rollo, pages 37-63.

[16] Ibid., page 39.

[17] Rollo, page 69.

[18] Ibid.

[19] Santos vs. Court of Appeals, 240 SCRA 20 34 (1995).

[20] Ibid.

[21] Bier vs. Bier, G.R. No. 173294, February 27, 2008, citing Navarro, Jr. v. Cecilio-Navarro, G.R. No. 162049, 13 April 2007, 521 SCRA 121, 127-128; Republic v. Tanyag-San Jose, G.R. No. 166328, 28 February 2007, 517 SCRA 123, 133, Republic v. Iyoy, G.R. No. 152577, 21 September 2005, 470 SCRA 508, 526; Carating-Siaingco v. Siaingco, G.R. No. 158896, 27 October 2004; 441 SCRA 422, 433 and 438; Dedel v. CA, 466 Phil 226, 232-233 (2004); Choa v. Choa, G.R. No. 143376, 26 November 2002, 392 SCRA 641, 650-651; Hernandez v.

CA, 377 Phil 919 (1999); Republic v. CA and Manila, supra note 4; and Santos v. CA, 310 Phil. 22, 39 (1995).

[22] Ibid., citing Santos vs. Court of Appeals, supra.

[23] 268 SCRA 198, 209-213 (1997).

[24] Rumbaua vs. Rumbaua, G.R. No. 166738, August 14, 2009.

[25] Sworn Statement of Elvira Bernal-Legaspi, Records, page 132.

[26] Ibid.

[27] Ibid at page 133.

[28] Ibid.

[29] Alcazar vs. Alcazar, G.R. No. 174451, October 13, 2009.

[30] Note 21, supra.

[31] Records, pages 85-94.

[32] Records, pages 89, 91-94.

[33] Bier vs. Bier, supra.

[34] Ibid, citing Republic vs. Tanyag San Jose, G.R. No. 168328, 28 February 2007, 517 SCRA 123, 133.

[35] Ibid.

[36] G.R. No. 173294, February 27, 2008.

[37] G.R. No. 166738, August 14, 2009.

[38] G.R. No. 174451, October 13, 2009.

[39] G.R. No. 161793, February 13, 2009.

[40] Note 29, supra.

[41] Ibid., citing Carating-Sia yngco vs. Sia yngco, 484 Phil. 396, 412 (2004)

[*] Acting Junior Member, per Office Order No. 34-10-ABR dated March 30, 2010. 2622

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