

ESTELA KHAN-SUYAT, PLAINTIFF-APPELLANT, VS. EDWIN M. SUYAT, DEFENDANT, REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

Ponente: VILLARAMA, JR., J.

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VILLARAMA, JR., J.:

This is an appeal from the Decision[1] dated January 26, 2005 of the Regional Trial Court Las Pinas City, Metro Manila, dismissing the complaint for declaration of nullity of marriage on the ground of psychological incapacity under Article 36 of the Family Code.

The facts of the case:

Plaintiff Estela Khan-Suyat and defendant Edwin M. Suyat were married on March 29, 1989 at the YMCA Executive Building, Arroceros Street, Manila with Rev. Atty. Juanito D. Carlos as the solemnizing officer.[2] The union produced three (3) children, namely: Erik Gerard, born on October 23, 1990; Ernest Manuel, born on February 23, 1992; and Errol Cedric, born on January 29, 1993.[3]

On April 5, 2001, plaintiff filed a verified complaint in the Regional Trial Court of Las Pinas City, Metro Manila seeking judicial declaration of nullity of her marriage with defendant pursuant to Article 36 of the Family Code (Civil Case No. LP-01-0108).

Plaintiff alleged that she and defendant were married in civil rites on March 29, 1989, which was subsequently ratified in a religious wedding ceremony on June 12, 1989 at the Parish of St. John Bosco, San Lorenzo Village, Makati, Metro Manila. They have three (3) children who have been under her custody and living with her. She and her husband have known each other since their early teens, being neighbors and childhood friends since 1976. Their friendship eventually blossomed into a romantic relationship in college. From the early months of their relationship, defendant has already been displaying signs of inability to assume his obligations and commitments, as shown by the following: (a) when plaintiff who is two (2) years older than defendant, graduated from college, he did not want to finish his studies any more and did not complete his course at the AMA Computer College; (b) with the help of her father, defendant landed a job as Checker at the American President Lines but his lack of appreciation for his job showed in his constant absences and tardiness, which led to his frequent suspensions; whenever he would get into trouble at his work, he would seek the help of her father to bail him out but he was terminated in 1994 when he went on absence without leave (AWOL); and (c) defendant's job as Checker took him to the pier at Manila frequently and it was there he got acquainted with people who shared his habit of drug use he learned during his teens, and which habit he carried on throughout his marriage with the plaintiff. In contrast, plaintiff got a decent job as an accounting clerk in a shipping firm and was able to save enough money to buy a small piece of land in Molino, Bacoor, Cavite, in order to invest in their future. Prior to their church wedding, plaintiff and defendant agreed to divide equally the expenses but on their wedding day, defendant had no money to pay the restaurant where they held the reception and they were forced to borrow money from his sister-in-law just to save face. On their honeymoon, they were unable to perform the sexual act because defendant was infected

with a sexually-transmitted disease (STD) which he contracted from another woman during his stag party.

Plaintiff claimed that during their marriage, it became more apparent to her that defendant was suffering from a psychological disorder that rendered him incapable of discharging his marital obligations to his wife as well as his parental responsibilities to their three (3) children. Defendant persisted in the use of prohibited drugs, the negative effects of which permeated every aspect of his life and affected his family. He became irresponsible to the point of losing his job, despite the fact that he had a wife and three (3) children to support. Since then, defendant has not had any gainful employment and does not appear to have any intention to apply himself to some worthy occupation. This has led him to rely on plaintiff for financial support as she became the sole breadwinner of the family. Even at present when they had been living separately, defendant continues to ask money from plaintiff and in fact, has even gone to the point of getting his children's Christmas money. Defendant also failed to render support to plaintiff in her career and personal development, thereby violating her self-dignity, eroding her self-worth and undermining her self-confidence. Whenever plaintiff would render overtime work in order to make ends meet, or whenever plaintiff was sent by her employer outside the country to attend seminars and training programs, or if he simply did not have his way, defendant would burst into fits of rage and jealousy, inflicting physical and verbal harm on plaintiff and their helpless children. He was likewise utterly incapable of fidelity to his wife as during their de facto separation, defendant engaged in extra-marital affair which produced an offspring sometime in October or November 2000. Defendant's lover was, in fact, seen by their children inside his room during one (1) of their visits to their grandparents' house where defendant is staying. Because of the foregoing, which unequivocally showed the defendant incapable of performing his essential marital obligations, plaintiff and defendant finally parted ways in February 1997.[4]

Summons was duly served upon the defendant, copy of the complaint and said summons were received by his brother Edward Suyat on May 29, 2001.[5] However, no responsive pleading was filed by the defendant, and on motion of plaintiff's counsel, the trial court issued an order directing the City Prosecutor of Las Pinas City to conduct an investigation to determine whether or not collusion exists between the parties and to further take care that the evidence is not fabricated or suppressed.[6]

The Solicitor General entered his appearance with motion to be served with copies of pleadings, documentary exhibits and transcript of stenographic notes.[7] On August 6, 2001, Prosecutor Cynthia Maamba-Luang submitted a Report and Manifestation that she had conducted the investigation and found no indication of possible collusion between the parties in filing the case.[8] Thereafter, trial proceeded.

ESTELA KHAN-SUYAT testified that she is 38 years old, presently residing at 298 I. Santos St., Phase 3 Gatchalian Subdivision, Las Pinas City and works as Business Manager of McGraw Hill Education. She and defendant Edwin M. Suyat were married in civil rites on March 29, 1989 at the YMCA Executive Building, Arroceros St., Manila solemnized by Rev. Juanito D. Carlos, as evidenced by a Marriage Contract (Exhibit "H"). Said civil wedding was subsequently ratified by a religious ceremony on June 12, 1989 at the Don Bosco Parish Church in Makati before Rev. William Baluob. She and her husband begot three (3) children: the eldest is Eric Gerard (12 years old) born on October 23, 1990; the second child is Ernest Manuel born on February 23, 1992; and the youngest is Errol Cedric born on January 29, 1993 as indicated in their respective Birth Certificates (Exhibits "I", "J" and "K"). The three (3) children are all living with her.[9]

Plaintiff first met her husband in 1976 when her family moved from Pasay to Las Pinas City at the time she was about twelve (12) years old. Defendant who was their neighbor, was then about ten (10) years old, two (2) years younger than her. On her fourth (4th) year in college (1984), they went steady for five (5) years. Defendant's father is a seaman who is always out of the country on board a vessel while his mother is also not always around as she manages a beer- house garden and is also a fish vendor at Navotas. He does not get along well with his

siblings as they say he is very irritable or temperamental. Her relationship with defendant was turbulent as they had constant fights; he likes hanging out with his peers and is very immature and irresponsible. He does not give serious attention to his studies as he often misses his class; he just uses his studies to get allowance from his mother. Their relationship was affected because she would advise him to be serious with his studies but he would often say it does not matter as he is in charge of his life. Defendant first enrolled at Adamson University to take up Computer Science. After a year he transferred to Ateneo, and then after six (6) months he transferred to AMA Computer College where he dropped out without finishing his course.[10]

After plaintiff graduated from college in 1985, she worked as accounting clerk at Reyes and Lim Company for twelve (12) years. For about a year, she was employed at Touch Media Corporation as accounting and administrative manager. Thereafter, she transferred to McGraw Hill where she presently works as Business Manager. While they were still steady, it was she who sometimes spends for their dates as defendant was unemployed although his father sometimes send money for him. Defendant said it would not be worthwhile to continue studying as he would get incomplete or failing grades. After dropping out of college, defendant just bummed around for five (5) years. In 1999, defendant got a contractual job as Checker at the American President Lines because she requested her father, who was then working as Operations Manager of said company, to get him a job. Defendant worked at the pier as such Checker for seven (7) years. He was terminated in 1994 because he had gone absent without leave (AWOL). She heard stories about her husband's escapades with his friends; he had been known for using drugs even when they were still single. While they were still steady, he courted a neighbor two (2) blocks away. Defendant was living at his parents' house just across the street.[11]

When they got married, defendant would not wake up until 11:00 o'clock; most of the time he is always absent so he was suspended from his work. She thought of ways to make him work and talked to him about it. They always end up arguing as she wanted him to get to work because if he does not get his salary, they do not have money to pay their bills, to support the family and to buy milk. As to the woman he courted when they were still single, defendant admitted it to her after they got married. Her family knows defendant's family background since they were neighbors. But her family, especially her father, does not approve of their relationship; they wanted someone better for her knowing that defendant was unemployed and did not finish his studies. Still, she went ahead and married him because she loved him; she thought he would change as "love conquers all." There are times she thought she would be better off without him but then he would resort to emotional blackmail threatening her that he will commit suicide and she believed it; he once brought a gun. However, defendant has not changed, he is still lazy; he would just go to work at least three (3) times a week. At the time he was unemployed, he just stayed home. She had to prepare her kids' things and bring them to her mother's house so they will be taken care of. Defendant does not have the patience to take care of their children. Most often, he would just wake up, eat, sometimes go out of the house to his friends, come home again to eat his lunch, then take a "siesta", go out for a while and then come back home for dinner. The children are all scared of their father, especially the youngest because whenever defendant is mad at her, or when he does not get his way, he would use the kids and often shout. He would sometime spank or whip his children with his belt. He also hurts her because he is the jealous type. When she worked overtime in order to earn extra money to support the family and was not yet home by 6:00, defendant gets mad at her. Defendant would even inspect the taxi she rode to check if someone was with her, or check her body to make sure that she has not been out dating another man. When he gets mad at her, he would crush her face making her admit that she had been out dating. Sometimes he would push her on the wall but made sure he would not leave any mark because he was afraid of her father.[12]

As to the characteristics of her husband which existed even before their marriage, plaintiff recalled that he was the generous type but often loses his temper. He was already a drug user and this persisted even after they got married. It became even worse as he was more emotional, temperamental and violent not only to her but to their

children. His irresponsibility also persisted as he does not want to go to work but preferred to stay home and watch television. While he was still a student, it was already difficult as he often fails to attend his classes. Defendant does not give support to their children even now that they are living separately. She does not ask support from him because for her, it was his responsibility and when they discussed it when they separated, defendant said he could not support them as he does not have a job so how can he give them money. What made her finally decide to separate from her husband is the incident that took place one (1) night when she and the kids came from her parents' house where they had dinner. Defendant waited at their apartment for them, but when they arrived and he found out they did not bring him any dinner, he was irritated. He played darts as if provoking her into a fight but she kept silent knowing his tendency to become violent and she did not want to upset their kids. She instead suggested to him that she can buy him food in the neighborhood but he was angry saying how could she do it and not thought about him. She still remained silent and went on cleaning the house and the feeding bottles of her kids, but he followed her around provoking her into a fight which she avoided. She was really afraid of him that night as he played darts while looking at her as if he does not recognize her any more. What she did was take the children to bed so they would not see their father in that way; she then pretended to sleep also and just ignored her husband. However, defendant jumped on the bed saying she should not expect him to sleep with a hungry stomach and kept jumping on while she pleaded for him to stop and asked him to discuss the matter the following morning. He did not stop jumping and bumped on the floor, waking up the kids. He used the darts as if targeting them and so she went out of the bedroom to call her parents for help. But defendant cut the phone line and was starting to get really violent. She tried to grab the keys as she cannot get out to seek help from her parents but defendant was able to get the keys and the kids started to cry. She took her children back to the bedroom, locked themselves inside and pushed all the cabinets to block the doorway. They stayed the whole night locked in the bedroom and at early morning, about five o'clock (5:00), she woke up her kids and they silently slipped out of the house because her husband was also sleeping so she was able to get the keys, got out of the house and ran to her parents. [13]

On cross-examination, plaintiff admitted that being her neighbor, she was well aware of defendant's traits even before entering into a relationship with him as boy friend, and when he was still her boy friend, their relationship was already turbulent. She also knew even before they got married that because of defendant's attitude, he would not last in any single job. Yet, he promised her that he would change for more than three (3) times although he broke it each time. She married him nevertheless and accepted him for what he is; there were times he was working, but initially in 1989 he had no job. She admitted she plunged into marriage ready to take whatever it would result into. [14]

DR. VALENTINA DEL FONSO GARCIA, a psychiatrist, was presented by plaintiff as an expert witness. She testified that plaintiff visited her clinic on November 4, 2001 and requested for a psychiatric evaluation in connection with her petition for declaration of nullity of her marriage with the defendant. She had a psychiatric assessment by first, conducting an in-depth clinical psychiatric interview of plaintiff, mental status examination of plaintiff, as well as interview of their three [3] children (on January 4, 2002). The psychiatric interview covered extractions of anamnesis that would include information regarding the different developmental stages of the subjects, proof of inquiry and possible psychopathology. The series of mental status examinations was intended to assess the cognitive or the intellectual functions, the legal functions, as well as the emotional and corrective stages. She sent a registered mail with return card to the defendant but the latter did not go to visit her clinic, despite the said request for psychiatric interview and several follow-up telephone calls. [15]

Based on the data she had gathered from plaintiff and the children who were able to directly observe defendant's behavior, she was able to give a psychological profile of the defendant, the most significant of which concerns his family dynamics and personal background including his educational and psychological/mental status. What can be

seen is a individual who lacked sufficient parental guidance such that he grew up to be a defiant and oppositional advancement academically; he actually can not see for the father and mother who is attending a beerhouse store; the parents could very well support the children financially but actually excluded at Ateneo. Defendant, however, failed in said school, so he went to Adamson but again failed, studied at Olongapo College but was not able to graduate. He had brief employment stints as driver and xerox machine operator. It seems that when defendant got married in 1989 he was not prepared financially, emotionally and morally to fulfill his obligations; his psychopathology led to the separation in 1997.[16]

According to Dr. Garcia, defendant was suffering from a personality disorder which is actually the mixed type -- meaning, he displays narcissistic manifestation alongside anti-social traits an paranoid features, even as a child and teenager. Prior to his marriage to plaintiff in 1989, defendant has a pattern of consistent failure to honor his obligations both as a student, as a son and as wage earner. Precisely, this personality disorder would affect defendant's capacity to fulfill his marital obligations being incompetent, compulsive and irritable that held to physical aggression involving the children and the mother herself. In all three (3) important areas of marital functions: financial, emotional and sexual, defendant has failed. Financially, it was his wife employed as business manager who provides for the material needs of their children whereas the father (defendant) who was described by his children as someone who in the vernacular was just "Kain tulog at pahinga lang sa bahay." Defendant was just backed up and encouraged by plaintiff's father, but defendant was a neglectful father to his three (3) children who witnessed how their mother was hurt by defendant's physical impression. Sexually, defendant was an aggressive and inconsiderate partner; his libido was so high that there were occasions when plaintiff would be depleted or exhausted from working in favor of the children but still defendant would force her to have sexual intercourse with him. They had three (3) children in succession who were born in 1990, 1992 and 1993, and yet he was not really competent in feeding the children, giving them good education, nurturing them and giving them moral and emotional assistance that they need. She opined that defendant's condition is incurable and permanent, the pattern had been established through the years from the time he was still a child, to his teen years and to this date. Based on documents and books concerning the personality disorder of this type, it is going to be chronic or not chronic or life-long. She had encountered similar conditions like what defendant has, and she came to the conclusion that because of its permanence, the disorder would be unresponsive to psychiatric cures or procedures. She prepared a 13-page Psychiatric Report on the case of plaintiff and defendant (Exhibit "M"), which contains her findings and conclusions.[17]

Insofar as her findings on plaintiff, Dr. Garcia concluded that she is psychologically competent to fulfill her functions notwithstanding symptoms extensive manifestations or in the presence of avoidance manifestations which is not a personality disorder. She strongly recommends the nullification of the marriage of plaintiff and defendant, believing that there is wisdom and justice considering the psychological incapacity of the husband which antedated their marriage. [18]

On cross-examination, Dr. Garcia said that she had so far approximately 500 cases of psychiatric evaluations with respect to cases for declaration of nullity of marriage. She acknowledged tat there is no such word in the dictionary as "psychological incapacity" and neither does it exist in the DSM-4 where she based her findings to guide her assessment. She explained that most psychiatrists do not have universal consensus as to the meaning of "psychological incapacity" but as far as the law is concerned, it says that a psychologically incapacitated individual is someone who fails to give the love, affection, support and understanding. Therefore, we are looking into certain psychiatric disorders which could mean psychological incapacity, given that definition. When asked about the difference between a psychological plot and a psychological theory, the witness replied that considering the criteria laid down by the Supreme Court on psychological incapacity, the same should be permanent, incurable and existent before the marriage (root causes). She thus believes that given a scenario wherein a couple,

specifically one (1) or two (2) of the spouses is or are severely incapacitated with maladaptive traits, she would say that the law has its limit. As a ground for nullity of marriage, it gives some kind of emotional release and emotional emancipation from the marital bondage, such that there is wisdom and justice. As to the possibility of putting such psychologically incapacitated spouses in a vicious cycle upon remarriage, the witness stated that this would be the potential partner's own lookout. Besides, she knows a few personality disordered individuals who can still relatively work it out, given a partner who is more tolerant, more self-serving and more understanding; they should undergo premarital counseling and seek advice as to the cause for his or her decision to get married. In her own evaluation in this case, she found merit in the nullification of the couple's marriage because the defendant is blatantly psychologically incapacitated, so that given another woman to be his partner, the relationship is going to fail. In the case of defendant, it is a personality disorder not otherwise specified, both anti-social and narcissistic features exist simultaneously, two (2) kinds of maladaptive traits. Plaintiff was able to put up with such personality disorder of defendant for the twelve (12) years they stayed married. As for plaintiff, since they went steady from 1985 to 1989, there was that desire in her to back out of the relationship but since she has a strong Catholic foundation -- she actually dreamed of becoming a nun -- she had that guilt because of the premarital sex she had with defendant, which explains her reluctance to let go of the relationship even though she was suffering from the complications of his maladaptive traits. [19]

On re-direct examination, the witness affirmed that the fact that there is no universal consensus on what psychological incapacity is, does not mitigate her findings insofar as the marital obligations is concerned. In this case, there is definitely psychological incapacity on the part of defendant insofar as his family is concerned.[20] On re-cross examination, the witness admitted that in making her conclusion, she relied on what was related to her by the plaintiff and their three (3) children who were unanimous in saying that defendant is psychologically incapacitated to fulfill the essential marital obligations.[21]

On January 26, 2005, the trial court rendered judgment[22] holding that the totality of evidence presented by the plaintiff failed to establish defendant's alleged psychological incapacity, thus:

"The Court is convinced that as shown by the evidence presented by plaintiff, defendant truly failed in some respect to comply with his legal obligations as man and father of his family. However, the same totality of evidence likewise betrays an undeniable fact that from the very beginning of their marital relationship up to the time they separated, defendant tried in his own way to at least measure up with his essential obligations both as man and father of his family. However, seeing that there is no way he could satisfy financially plaintiff's high expectations on him, he eventually chose to neglect his duties intentionally.

"To this effect, it should be noted at the outset that, as admitted by plaintiff herself (par. 4, p. 3, Exhibit 'M'), except for some misconducts which were dispensable and natural for a young and single man, defendant did not show any psychological problem before his marriage. From the very beginning, plaintiff very well knew that defendant lacked the required education for him to land in a well-paying job (p. 19, TSN, 17 April 2002); but she loved him though very much that she defied even her own parents and relatives and took him as her husband (pp. 34-35, TSN, 17 April 2002). Plaintiff's contention may be true that during the first five years after their marriage defendant practically was jobless and relied only on plaintiff's own income for the sustenance of their family. Not to justify however this shortcoming of defendant, behind this contention is also plaintiff's own admission (par. 2, p. 6, Exhibit 'M') that although educationally handicapped but surely knowing that he should earn in any way to at least help in the expenses of his family, defendant tried to work even as a lowly xerox machine operator. If later on defendant felt that he disliked his work, it does not really indicate that he has a distorted psychology for it is just but natural for a person, especially herein defendant in the presence of a wife who has 'sharp tongue; (par. 4, p. 4, Exhibit 'M'), of a spouse who always nags at him (p. 32, TSN, 17 April 2002) when he earns nothing, and of a partner who used to pressure him to be at par with her success (par. 2, p. 12, Exhibit 'M'), to aspire for a better and more decent job as in fact he showed when he stayed for

more than seven years in his subsequent work as a checker in a shipping company, the American President Lines (pp. 24-25, TSN, 17 April 2002). Unfortunately, there came a time when understandably defendant became dissatisfied again and ultimately lost all his enthusiasms until finally he neglected altogether all his obligations. This may not be the proper attitude of a mature man but considering the family background where defendant grew, it certainly becomes unfair for defendant to be considered psychologically incapacitated. In fact, plaintiff herself likewise believes in this (par. 2, p.5, Exhibit 'M'), a belief that begot three children in the process. Truly thus, 'allegations of conflicting personalities, irreconcilable differences, incessant quarrels and/or beatings, unpredictable mood swings, infidelities, vice, abandonment, and or difficulty, neglect, or failure in the performance of some marital obligations, do not suffice to establish psychological incapacity (Republic vs. Court of Appeals and Roridel Olaviano Molina, G.R. No. 108763 [13 February 1997]).

"The Psychiatric Evaluation (Exhibit 'M') where defendant is found to be psychologically incapacitated may be truthful in some respect but as every psychologist or psychiatrist knows, narcissistic personality disorder is commonly present in the psychology of every individual especially among Filipinos and it becomes a true disorder only when it already affects pervasively the mental dispositions of a person vis-à-vis his relationships with another person. However, as discussed above, there is no clear compelling evidence for the said evaluation to be considered conclusive evidence.

"The Court is not unaware of the sad plight in life plaintiff may suffer by being eternally bound by her marriage with defendant; however, marriage is not just an adventure but a lifetime commitment and thus unless further parameters are set by law, marriage shall forever remain the foundation of the family and an inviolable social institution that in case of doubt, the presumption of its validity and continuance remains.

"WHEREFORE, the complaint for declaration of nullity of marriage is hereby DENIED for lack of merit, and accordingly, the same complaint is DISMISSED.

"SO ORDERED." [23] [underscoring supplied]

A motion for reconsideration and supplement thereto were filed by the plaintiff but the trial court in its Order dated May 16, 2005 reiterated that "the totality of evidence presented in support of the complaint is tattered with doubts which lean towards the conclusion that the failure in some respects of defendant to comply in full with his marital obligations is more of a personal difficulty rather than the alleged psychological incapacity." [24]

Plaintiff is now before this Court seeking to reverse the decision of the trial court contending that ---

"1. The trial court erred in finding that the evidence was insufficient to prove that Appellee is psychologically incapacitated to comply with the essential obligations of marriage.

"2. The trial court erred in basing its conclusions on matters not supported by the evidence on record." [25]

The appeal lacks merit.

Article 36 of the Family Code provides ---

"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."

In Santos vs. Court of Appeals, [26] the Supreme Court declared 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 the marriage. This psychologic condition must exist at the time the marriage is celebrated. It should 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 which, as expressed by Article 68

of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. Such psychological incapacity to be a ground for declaring the marriage void ab initio must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability.[27]

Subsequently, in *Republic of the Philippines vs. Molina*[28] the Supreme Court laid down the following guidelines in the interpretation and application of Article 36 of the Family Code:

"(1) The burden of proof to show the nullity of 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 physically 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 a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical 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 a refusal, neglect or difficulty, much 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 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. Such non-complied marital obligation(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 respect by our courts. x x x

"x x x

"(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 the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the defensor vinculi contemplated under Canon 1095." [29] [underscoring supplied]

Molina had provided for an additional requirement that the Solicitor General issue a certification stating his reasons for his agreement or opposition to the petition. This requirement however was dispensed with following the implementation of A.M. No. 02-11-10-SC, or the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages. Still, Article 48 of the Family Code mandates that the appearance of the prosecuting attorney or fiscal assigned be on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed.[30] Further, it was clarified in *Marcos vs. Marcos*[31] that the guidelines do not require that the respondent should be examined by a physician or a psychologist as a condition sine qua non for declaration of psychological incapacity. If the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to.

In *Republic vs. Dagdag*,[32] the Supreme Court held:

"Whether or not psychological incapacity exists in a given case calling for annulment of a marriage, depends crucially, more than in any field of the law, on the facts of the case. Each case must be judged, not on the basis of a priori assumptions, predilections or generalizations but according to its own facts. In regard to psychological incapacity as a ground for annulment of marriage, it is trite to say that no case is on 'all fours' with another case. The trial judge must take pains in examining the factual milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court." [33]

In the case at bar, the trial court found the totality of evidence adduced by appellant during the trial insufficient to prove the alleged psychological incapacity of the defendant husband. Noting that despite his educational handicap, defendant tried to work and in fact stayed for seven (7) years in his job as Checker at the pier, and even prior to that had a brief stint as a lowly xerox machine operator, the trial court declared that defendant actually complied with his obligation to provide financial support to his wife and children. Although defendant eventually lost his job and intentionally neglected his obligations to appellant wife and their children, the trial court, invoking judicial precedents, ruled that such irresponsibility, laziness and immaturity, as well as his narcissistic traits as testified on by the psychiatrist engaged by appellant, Dr. Valentina Garcia, are not equivalent to psychological incapacity. Thus, the findings contained in Dr. Garcia's Psychiatric Evaluation (Exhibit "M") cannot be considered conclusive evidence of defendant's supposed psychological illness warranting the dissolution of his marriage with appellant pursuant to Article 36.

Appellant assails the trial court in failing to appreciate her predicament while still living with her husband, as contained in the Psychiatric Evaluation submitted by Dr. Garcia (Exhibit "M") that defendant even before their marriage showed he could not be faithful as shown by his courting another girl in the neighborhood at the same time appellant was his girl friend, having been afflicted with STD he contracted from a woman during his stag party, and his failure to give love and respect to appellant after their marriage by forcing her to have sex two (2) or three (3) times every night, without regard to her tired condition from working all day and taking care of their

children. Moreover, during their marriage, appellant suffered verbal and physical abuses from defendant; his continuing drug addiction aggravated his ill temper and violent nature. In 2000, defendant started living with another woman and sired an illegitimate child; he even introduced the woman to his children as a nun, but they now know that she is his mistress and that he has another kid. The trial court likewise ignored the fact that defendant did not support his family nor helped in the management of the household; he was unmotivated even before his marriage with appellant, and simply squandered his opportunities for a good education by transferring from one (1) college to another until he dropped out of school altogether. And when pressed to work for the needs of his family, defendant and appellant would just end up arguing; in fact, he bummed around for five (5) years and got a job only through the help of appellant's father. On the other hand, the expert testimony of Dr. Garcia clearly disclosed that defendant is suffering from a "mixed-type" of personality disorder, or one (1) "not otherwise specified" as per the criteria in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV), and Dr. Garcia observed the "co-existence of two maladaptive traits:", i.e., narcissistic traits and anti-social features, which condition is shown to be permanent or incurable.

The Solicitor General on behalf of the state prays for the dismissal of the appeal finding no reversible error in the decision rendered by the court a quo. He argues that defendant's behavior and acts hardly lead to the conclusion that psychological incapacity to perform the essential marital obligations exists in this case. Citing jurisprudence, it is contended that irreconcilable differences, irresponsibility, emotional immaturity, sexual infidelity and even physical abuse, by themselves do not justify a finding of psychological incapacity. As to the supposed expert testimony of Dr. Garcia, the Solicitor General points out that the same is unreliable and unscientific. Her assessment of defendant husband as suffering from a mixed-type of personality disorder displaying "narcissistic manifestation alongside anti-social traits and paranoid features" was based merely on appellant's hearsay statements, which by their nature, are one (1)-sided and biased. Admittedly, Dr. Garcia did not conduct any psychological examination on defendant and hence, the conclusion that the latter's psychological incapacity was grave, antedated his marriage with appellant and permanent and incurable, being based on pure suppositions and second-hand information, may not be given any probative value.

We sustain the trial court's ruling.

The totality of appellant's evidence simply failed to prove that her husband was not cognizant of the basic marital obligations and that he was really incapable of fulfilling his duties due to some incapacity of a psychological nature, and not merely physical. As correctly evaluated by the trial court, evidence on record indicated otherwise, as after bumming around for five (5) years unable to land a decent job due to his failure to finish his schooling, he eventually worked as Checker in the pier through the help of his father-in-law. For seven (7) years, he stayed on that job even if he was supposedly often meted suspensions due to absences and hanged out with his peers who shared his drug use habit. Prior to this, he briefly labored as a xerox machine operator. Clearly, defendant was cognizant of his marital obligations to provide financial support to his family and initially tried to comply with such duty. And he did discharge such responsibilities albeit not completely. His eventual neglect of his responsibilities as father and husband, after losing his job in 1994, is truly an irresponsible, immature and despicable behavior on his part, but this, taken together with his infidelity before their marriage and being an inconsiderate sexual partner during their marriage, do not by themselves prove psychological incapacity as contemplated by Article 36. Even his violent temper and extreme laziness to help out with household chores and attending to the needs of his children, demonstrates refusal and neglect, but not necessarily inability to perform essential marital obligations due to a grave psychological illness.

Emotional immaturity and irresponsibility cannot be equated with psychological incapacity.[34] It must be shown that these acts are manifestations of a disordered personality which make respondent completely unable to

discharge the essential obligations of the marital state, not merely due to his youth, immaturity or sexual promiscuity. At best the circumstances relied upon by appellant are grounds for legal separation under Article 55 of the Family Code. Article 36 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. These refer only to grounds for legal separation, not for declaring a marriage void.[35]

As to defendant's alleged marital infidelity, it may be noted that appellant specifically mentioned the year 2000 when her husband supposedly sired a child with another woman who is his mistress. However, appellant testified earlier that she and her husband decided to separate and has since been living apart since 1997. There is therefore doubt as to whether defendant husband actually committed infidelity during their married life together. On the other hand, his courting another woman in the neighborhood at the same time appellant was his girl friend took place when they were not yet married, and though defendant admitted such infidelity after they got married in 1989, there is no showing that such act of unfaithfulness was repeated by defendant during their marriage. At any rate, sexual infidelity, by itself, is not sufficient proof that defendant is suffering from psychological incapacity. It must be shown that the acts of unfaithfulness are manifestations of a disordered personality which make defendant completely unable to discharge the essential obligations of marriage.[36]

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 and marital obligations; not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse.[37] Further, it was held that the Court cannot presume psychological defect from the mere fact of defendant husband's immaturity, habitual alcoholism, unbearable jealousy, maltreatment, constitutional laziness, and abandonment of his family.[38]

Neither could appellant's reliance on expert testimony strengthen her case to establish her husband's alleged psychological incapacity. Dr. Garcia's finding that defendant is suffering from a so-called "mixed-type" personality disorder alongside narcissistic manifestations and anti-social traits with paranoid features, was based mainly on her interview with appellant, complemented by interviews with the couple's three (3) children. Clearly, said witness was working on "pure suppositions and second-hand information fed to him by one side." Consequently, said testimony can be dismissed as "unscientific and unreliable." [39]

Even dispensing with the personal examination of defendant husband by a psychiatrist or psychologist, considering the relaxation of the rules so that such personal examination is no longer mandatory for the declaration of nullity of marriage under Article 36 of the Family Code of the Philippines, the totality of evidence presented by appellant as the spouse seeking the declaration of nullity of marriage must still prove the gravity, juridical antecedence, and incurability of the alleged psychological incapacity, which, however, it failed to do so in this case.[40]

We reiterate that 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.[41] We can see through appellant's extreme frustration and misery over her failed marriage as she seeks a way out. It may be that defendant husband turned out to be not a good provider, too lazy to find a stable job and persevere in his work, neglects or refuses to help take care of the household or the children, and has violent temper during fits of jealousy and when he could not have his way. Defendant's immature and irresponsible behavior was evident even before his marriage to appellant who lamented his lack of interest to finish college. Nevertheless, appellant still went ahead and decided to marry the defendant. While claiming that she had wanted to back out of their relationship prior to their marriage, appellant admitted she was reluctant to do so after having premarital sex with him in 1987. She had hoped defendant would change for the better once they get married, but this did not happen.

An unsatisfactory marriage, however, is not a null and void marriage. Mere showing of "irreconcilable differences" and "conflicting personalities" in no wise constitutes psychological incapacity.[42] The burden of proof to show the nullity of the marriage rests upon the petitioner and any doubt should be resolved in favor of the validity of the marriage.[43] Indeed, while the Court commiserates with appellant, regrettably, this is one of those situations where neither law nor society can provide the specific answers to every individual problem.[44] The Court has no choice but to apply law and jurisprudence accordingly, if it must be true to its mission under the rule of law. The Court's first and foremost duty is to apply the law no matter harsh it may be.[45]

WHEREFORE, premises considered, the present appeal is hereby DISMISSED for lack of merit. The appealed Decision dated January 26, 2005 of the Regional Trial Court Las Pinas City, Metro Manila in Civil Case No. LP-01-0108 is hereby AFFIRMED and UPHELD.

No pronouncement as to costs.

SO ORDERED.

Bersamin and Librea-Leagogo, JJ., concur.

[1] Penned by Judge Joselito dj. Vibandor.

[2] Exhibit "H", Records, p. 12.

[3] Exhibits "I", "J" and "K", Records, pp. 12-14.

[4] Records, pp. 1-10.

[5] Records, pp. 16-17.

[6] Records, pp. 18-21.

[7] Records, pp. 22-26.

[8] Records, p. 27.

[9] TSN, April 17, 2002, pp. 3-11.

[10] Ibid., pp. 11-17.

[11] Ibid., pp. 17-30.

[12] Ibid., pp. 31-40.

[13] TSN, August 7, 2002, pp. 5-15.

[14] Ibid., pp. 16-22.

[15] TSN, November 5, 2003, pp. 4-14.

[16] Ibid., pp. 15-17.

[17] Ibid., pp. 17-25.

[18] Ibid., pp. 26-28.

[19] TSN, January 28, 2004, pp. 3-17.

[20] Ibid., pp. 19-20.

[21] Ibid., pp. 22-23.

[22] Records, pp. 146-150.

[23] Ibid., pp. 149-150.

[24] Records, pp. 151-178.

[25] Rollo, p. 36.

[26] 240 SCRA 20

[27] Ibid., at pp. 33-34.

[28] 268 SCRA 198

[29] Ibid., at pp. 209-213.

[30] Antonio vs. Reyes, G. R. No. 155800, March 10, 2006.

[31] 343 SCRA 755

[32] 351 SCRA 425

[33] Ibid., at p. 431.

[34] Pesca vs. Pesca, 356 SCRA 588, 594.

[35] Dedel vs. Court of Appeals, 421 SCRA 461, citing Hernandez vs. Court of Appeals, 320 SCRA 76 and Marcos vs. Marcos, 343 SCRA 755, 765.

[36] Villalon vs. Villalon, G. R. No. 167206, 475 SCRA 572.

[37] Republic of the Philippines vs. Iyoy, 470 SCRA 508, citing Republic vs. Court of Appeals and Molina, 268 SCRA 198, 211.

[38] Republic of the Philippines vs. Melgar, G. R. No. 139676, March 31, 2006.

[39] Vide: Choa vs. Choa, 392 SCRA 641.

[40] Republic of the Philippines vs. Iyoy, supra.

[41] Carating-Siayngco vs. Siayngco, 441 SCRA 423, citing Sec. 12, Art. II, Constitution.

[42] Ibid., at p. 439.

[43] Hernandez vs. Court of Appeals, 320 SCRA 76.

[44] Carating-Siayngco vs. Siayngco, supra., at p. 439.

[45] Republic of the Philippines vs. Melgar, G. R. No. 139676, March 31, 2006.

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