

JEREMY J. SUTLIFF, PETITIONER-APPELLEE, VS. MARIA ELCEE B. SUTLIFF, RESPONDENT-APPELLANT

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GONZALES-SISON, M., J.:[*]

Respondent-Appellant Maria Elcee B. Sutliff (“Appellant”) appeals the Decision[1] dated 2 July 2013 in Civil Case No. CV-726-MN promulgated by the Regional Trial Court (“RTC”), Branch 169, of Malabon City, granting Petitioner-Appellee’s (“Appellee”) Petition for Annulment of Marriage[2] (under Article 36 of the Family Code). Likewise assailed is the Order[3] dated 5 September 2013, denying appellants’ Motion for New Trial.

The assailed Decision disposes:

“WHEREFORE, premises considered, judgment is hereby rendered:

- (1) Declaring the marriage between Jeremy J. Sutliff and Maria Elcee B. Sutliff void ab initio; and,
- (2) Terminating their property regime.

Let copies of this Decision be furnished the respondent, the Office of the Solicitor General, the Public Prosecutor, and the Local Civil Registrars of the Cities of Malabon and Quezon. Upon the finality of the Decision and after the registration of the Entry of Judgment granting the petition in the Local Civil Registries of the Cities of Malabon and Quezon, the Court shall forthwith issue the corresponding Decree of Nullity of Marriage. Petitioner is required to cause the registration of said Decree in the National Census and Statistics Office and the aforementioned local civil registries. He shall report his compliance with this requirement within thirty (30) days from receipt of the Decree.

SO ORDERED.”

In denying Appellant’s Motion for New Trial, the RTC disposed:

“In her Motion for New Trial, respondent alleged that she ‘was never summoned to appear before the Court to answer the Petition for Nullification of Marriage filed by the petitioner or attend the pre-trial conference. However, based on the records of this case, it appears that the respondent personally received the copies of the petition with annexes last April 5, 2013. As such, the respondent voluntarily submitted her person to the jurisdiction of this Court. Respondent, therefore, cannot claim that she was unaware of the proceedings in this case.

SO ORDERED.”

The antecedents are as follows:

In his Petition, appellee alleged that he was an American Citizen, then residing in Makati City, and that he and appellant were married at Mario’s Restaurant in Quezon City; their marriage certificate[4] indicated that the marriage was solemnized on 18 December 2010.

According to Appellee, his union with Appellant resulted from a hasty relationship; that they met only Appellant in 2008 through an online social site (friendsorama.com); that they bonded quickly and had become romantically

involved but awaited for the annulment of Appellant's prior marriage, for which Appellee, upon Appellant's behest, had sent \$7,000.00.

Appellee alleged that he arrived here in 2008, upon Appellee's invitation; that they rented a condominium unit in Ortigas. During this time, Appellee allegedly insisted to meet Appellant's family, which she turned down. They shopped and dined in expensive places and Appellant would please him in bed.

Appellee narrated that when he returned to the United States, Appellant had obligated him to send her a monthly stipend of \$800.00 for bills, tuition, and expenses for their upcoming wedding. He alleged that Appellant had, by then, oriented him to the Filipino practice of allowing the wife to handle family funds and budget.

According to Appellee, he returned to the Philippines in 2010. They settled in a modest condominium unit in Caloocan and awaited the results of Appellant's annulment case. They had planned to move to the United States, but Appellant's visa application was denied because she was still married to her previous husband.

Appellee alleged that after they got married, they moved to another apartment. He alleged that aside from Appellant, the latter's father, sister, her sister's step child and husband and a cousin-in-law, moved in with him; that Appellant obtained his automated teller machine (ATM) card and passport; and that Appellant had him ask for her permission every time he wanted to buy things for himself. He also averred that he was not allowed by Appellant to mingle with neighbors and other relatives, and was always at his side. He was even prohibited from speaking to the cousin-in-law, whom he knew as Daniel.

Appellee recounted that during the time they lived together, he had checked his statement of account and found that his balance was zero and his \$10,000.00 from the U.S. Government was missing. When he confronted his wife about this, the latter cursed at and hit him violently; Appellant's father then entered the fray and threatened him with harm.

One night, according to Appellee, he had gone to the bathroom. He was about to enter when the knob turned; out came Appellant and the "cousin-in-law", Daniel. He struck Daniel and a commotion ensued. He was thereafter suppressed by Daniel, his father-in-law, and Appellant. He was warned to keep quiet about the incident.

He alleged that afterwards, he learned that Daniel was Appellant's former husband; that Appellant's real plan was to use their marriage for Appellant to be able to live in the U.S., divorce Appellee, and cause her family to be transferred there, even including Daniel.

Appellee averred that he had realized that no love supported their marriage; that Appellant made one final withdrawal from his ATM before she handed it back to him; and that he essentially brought back his freedom.

He then consulted a clinical psychologist, Ms. Jennifer Factora-Ebio, who concluded that Appellant and Appellee suffer from personality disorders.

According to Ms. Ebio[5], Appellant suffers from an Anti-Social type of Personality Disorder, reflected in her aberrant attitude and behavior; her failure to conform to social norms respecting lawful behavior (she committed with Appellee despite being married); her willingness to make up lies to gain the trust of Appellee; her "reckless disregard" of others' welfare, seen in her manipulation and subsequent betrayal of Appellee; and her lack of remorse at what she had done.

Ms. Ebio concluded that Appellant's disorder rendered her psychologically incapacitated from assuming her essential marital roles and obligations. She also found such disorder as ingrained, deep-seated, permanent and incurable, traceable to her formative years, during which the permissive behavior of her father disabled her from distinguishing right from wrong, misleading her to think that she was always right.

On the other hand, Ms. Ebio concluded that Appellee suffered from a “Passive-Aggressive type” of Personality Disorder. He had, because of his problems during his developmental years – an irresponsible, drunk and addict father and an abusive mother – learned to keep his feelings and sentiments to himself and developed a negative attitude.

After discussing her evaluations, Ms. Ebio wrote that Appellant was psychologically incapacitated from assuming her marital roles and obligations, and recommended the dissolution of their marriage.

Appellee further alleged that he and Appellant had no children and that they acquired property of no significant value.

Thus, Appellee prayed for the RTC to declare his marriage with Appellant null and void and to terminate their property relations.

On 10 July 2012, summons was served to Appellant's address stated in the Petition[6], No. 59-D Escanilla Street, Barangay Concepcion, Malabon City. Per the Officer's Return[7], the attempt proved futile. Thus, substituted service of summons was resorted to, as a result of which one Ariel Buenaventura residing at the address acknowledged receipt of the summons[8].

On 13 August 2012, the prosecutor reported that he had concluded after an investigation that no collusion existed between the parties[9].

In the pre-trial order[10], the RTC defined the issue as follows: Whether or not there exists a legal ground to declare the nullity of the marriage between the parties under Article 36 of the Family Code of the Philippines.

During the trial, Appellant testified on the matters alleged in his Petition and his Judicial Affidavit, which he identified. He was thereafter cross-examined by the public prosecutor.

The Appellee also presented one Violeta I. Cruz (“Violeta”). Violeta identified her Judicial Affidavit[11]; in that Affidavit, she stated that she was a common friend of the parties; that Appellant had hatched the entire plan so that Appellant and her family, plus Daniel, could go and live in the United States. It was also planned that Appellant would divorce the Appellee.

Appellee's third and last witness was Ms. Ebio, who discussed and affirmed the results of her examination. She also identified her Psychological Evaluation Report on these matters[12]. She clarified that her evaluation of Appellant's behavior was based on “collective data” gathered from her interviews and results of psychological tests administered on petitioner-appellee.

Appellee then formally offered his evidence and these were all admitted by the RTC[13].

Thereafter, the RTC issued the assailed Decision granting the Petition and holding the marriage of Appellant and Appellee as null and void due to both parties' psychological incapacity to be aware of their essential marital obligations enshrined in the Family Code.

The RTC relied principally on the psychological evaluation report by Ms. Ebio.

It found that based on the report, the respective psychological disorders of the parties “rendered them psychologically incapacitated to comply with their essential marital obligations”. It ruled that these disorders were permanent and antedated the marriage.

The RTC considered the report as credible and ruled that Appellant's failure to answer the Petition proved its allegations true.

Thus, it held that the marriage of the parties were null and void and ordered the termination of their property regime.

On 22 July 2013, Appellant filed a Motion for New Trial alleging the Appellee's commission of extrinsic fraud. The extrinsic fraud, alleged Appellant, consisted in Appellee's furnishing the RTC with an address which was not her true address, which was known in fact to petitioner-Appellee, and which was at 164 Perpetua St., Caloocan City, as supported by a Barangay Clearance[14].

Appellant also averred that the Ariel Buenaventura which received a copy of the summons (by substituted service) was not her relative, and she actually did not know this person. This Ariel Buenaventura, alleged Appellant, also does not appear to live even in Malabon City at the address given in the Petition (No. 59-D Escanilla St., Brgy., Concepcion, Malabon City) as per Barangay Certificate and Commission on Elections (COMELEC) Certification.[15] She also annexed a Certification from the Office of the Punong Barangay of Malabon City stating that she was not a resident of the barangay.

Appellant contended that because of Appellee's deliberate ploy of withholding her true address, she was unable to present her case. She averred that she had a meritorious defense, as detailed in her Affidavit of Merit[16]. She also alleged that it was untrue that they had no children, as their union bore them a child, Jorja Franchezka Sutliff, as per a Certificate of Live Birth[17].

On 5 September 2013, the RTC denied her Motion for lack of merit. According the RTC, as of 5 April 2013 she had already obtained copies of the Petition and its annexes, and by doing so, had voluntarily submitted her person to the RTC's jurisdiction, and so cannot claim non-awareness of the proceedings.

Hence this appeal.

Appellant assigned the following errors:

THE HONORABLE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR IN FINDING FOR THE DECLARATION OF NULLITY OF THE MARRIAGE OF APPELLANT AND APPELLEE ON THE GROUND OF PSYCHOLOGICAL INCAPACITY OF THE APPELLANT.

THE HONORABLE REGIONAL TRIAL COURT COMMITTED REVERSIBLE ERROR IN DENYING THE MOTION FOR NEW TRIAL AND FINDING THAT THERE IS NO EXTRINSIC FRAUD TEHREBY PREVENTING APPELLANT TO PRESENT HER EVIDENCE.

Anent the first ground, Appellant briefly reasons that Appellee's testimony deserved only scant consideration, because he had misrepresented Appellant's address in order to ensure that his Petition would be uncontested. Appellant also points out that Appellee also lied when the latter alleged that they had no children – the truth was they had a daughter.

Appellant also avers that Violeta Cruz lied in her testimony, only to corroborate Appellant's allegations. Appellant points out that Violeta Cruz is actually a relative of Appellee's concubine, since the middle name of Appellee's child with her was “Cruz”.

Finally, Appellant pleads for this Court to disregard the testimony of Ms. Ebio considering that all the facts regarding Appellant supplied to her came only from the Appellee.

Anent the second ground, Appellant only prays that she be allowed to present her evidence, including documentary evidence issued by the Government.

Hence, Appellant prays for this Honorable Court to reverse the RTC's Decision and to remand the case to the

RTC for reception of further evidence.

On 19 August 2014, Appellant filed a Manifestation[18]. She alleged therein that she received a copy of Summons for Appellee's Complaint for Divorce filed in Nevada, U.S.A. She reiterated that while Appellee stated therein that they had no children, the truth was that they had a daughter.

We now resolve this case.

Preliminarily, We resolve serious procedural matters.

We remind Appellant, or more appropriately, Appellant's counsel, that the right to appeal is neither a natural right nor a part of due process; it is merely a statutory privilege, and may be exercised only in the manner and in accordance with the provisions of law. An appeal being a purely statutory right, an appealing party must strictly comply with the requisites laid down in the Rules of Court[19].

With respect to an Appellant's Brief for ordinary appealed cases, the Rules of Court, in Sec. 13 of Rule 44, provides the following requirements:

Sec. 13. Contents of appellant's brief.--The appellant's brief shall contain, in the order herein indicated, the following:

- (a) A subject index of the matter in the brief with a digest of the arguments and page references, and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited;
- (b) An assignment of errors intended to be urged, which errors shall be separately, distinctly and concisely stated without repetition and numbered consecutively;
- (c) Under the heading "Statement of the Case," a clear and concise statement of the nature of the action, a summary of the proceedings, the appealed rulings and orders of the court, the nature of the judgment and any other matters necessary to an understanding of the nature of the controversy, with page references to the record;
- (d) Under the heading "Statement of Facts," a clear and concise statement in a narrative form of the facts admitted by both parties and of those in controversy, together with the substance of the proof relating thereto in sufficient detail to make it clearly intelligible, with page references to the record;
- (e) A clear and concise statement of the issues of fact or law to be submitted to the court for its judgment;
- (f) Under the heading "Argument," the appellant's arguments on each assignment of error with page references to the record. The authorities relied upon shall be cited by the page of the report at which the case begins and the page of the report on which the citation is found;
- (g) Under the heading "Relief," a specification of the order or judgment which the appellant seeks; and
- (h) In cases not brought up by record on appeal, the appellant's brief shall contain, as an appendix, a copy of the judgment or final order appealed from.

Appellant's six-page Brief suffers from obvious infirmities.

The first is the absence of a subject index and a table of cases alphabetically arranged, textbooks and statutes cited with references to the pages where they are cited. The absence thereof violates Sec. 13 (a) of Rule 44.

In *Mendoza v. UCPB*[20], the Supreme Court discussed the importance of a subject index:

"[t]he first requirement of an appellant's brief is a subject index. The index is intended to facilitate the review of appeals by providing ready reference, functioning much like a table of contents. Unlike in other

jurisdictions, there is no limit on the length of appeal briefs or appeal memoranda filed before appellate courts. The danger of this is the very real possibility that the reviewing tribunal will be swamped with voluminous documents. This occurs even though the rules consistently urge the parties to be "brief" or "concise" in the drafting of pleadings, briefs, and other papers to be filed in court. The subject index makes readily available at one's fingertips the subject of the contents of the brief so that the need to thumb through the brief page after page to locate a party's arguments, or a particular citation, or whatever else needs to be found and considered, is obviated.

Second, Appellant's Brief does not contain any page references to the record, which does not comply with Sec. 13 (f) of Rule 44.

Third, Appellant's Brief does not even contain any citation of any legal sources or authorities, such as law, jurisprudence, or commentaries to support its arguments, again failing to comply with Sec. 13 (f) of Rule 44.

This Court, too, cannot turn a blind eye to the terse arguments the Brief contains. Errors, to be considered by the Court, must be properly argued in the Brief[21], unless they pertain to errors affecting jurisdiction, the validity of the judgment, or plain and clerical errors. In this case, Appellant's counsel offers only unusually brief and mostly irrelevant arguments to support his client's assigned errors, which generally does not bode well for the consideration of those errors.

Under Rule 50, an appeal may be dismissed by this Court on its own motion for, among others, an absence of page references to the record as required in section 13, paragraphs (a), (c), (d) and (f) of Rule 44.

However, it is likewise a cornerstone of procedural law that rules of procedure are not iron clad and may yield to the loftier demands of substantial justice and equity, being mere tools designed to facilitate the attainment of justice[22]. Moreover, it has also been held that even errors not assigned may be considered if only to reach a just and complete resolution of each case[23].

We are persuaded to take the liberal path even given Appellant's counsel's failings. For at stake here, ultimately, is the validity of the nullification of a cherished institution and the foundation of the family. For if We should strictly apply the rules, there would be no satisfaction gained from the dismissal of the case if by the process We would let pass an opportunity to review the dissolution of an inviolable social institution which the State must protect[24]. In any case, a dismissal of the appeal under the grounds under Sec. 1 of Rule 50 is not mandatory[25].

We start with the denial of Appellant's Motion for New Trial.

Sec. 1 of Rule 37 provides for the grounds of a Motion for New Trial, to wit:

- a) Fraud, accident, mistake, or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or
- b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Appellant relies on fraud in Par. (a) of the above Section.

Relevantly, to justify a new trial, the fraud must be one where it prevents a party from having a trial or from presenting his entire case to the court, or where it operates upon matters pertaining not to the judgment itself but to the manner in which it is procured; in other words, extrinsic fraud[26]. This type of fraud is similar to that fraud recognized in petitions for relief from judgment under Rule 38[27] and in petitions to annul judgment under Rule 47[28].

To recall, the RTC denied Appellant's Motion because she was found to have "personally received the copies of

the petition with annexes last April 5 2013". The RTC added that Appellant, by so procuring copies, voluntarily submitted her person to the the RTC's jurisdiction.

It must be noted that the RTC did not resolve Appellant's motion directly. Rather than determine the existence of extrinsic fraud, the RTC elected to hold that Appellant had, by her action of receiving copies of the Petition and its annexes, voluntarily submitted her person to the RTC's jurisdiction.

With respect to this statement, the RTC is misplaced.

Voluntary appearance would produce the effect of service of summons if the voluntary appearance is made before the court, either by a formal appearance, i.e., by delivering to the clerk a written direction ordering him to enter the appearance of the person who subscribes, or by an informal appearance, i.e., by simply filing a formal motion, or plea or answer, or by appearance in court even delivering formal notice[29].

We find, however, that the RTC's holding that merely receiving copies of the Petition, annexes and orders, is by itself insufficient to be labeled as an appearance before the court. The RTC should have clarified whether the Appellant had obtained such copies through motion or by an appearance before it. The records do not reflect that Appellant filed any manifestation or pleading before the Court, implying waiver of any contest over its jurisdiction over her. It has even been held that jurisdiction cannot be acquired by the court on the person of the defendant even if he knows of the case against him unless he is validly served with summons[30].

Moving on now to the existence of extrinsic fraud, We unfortunately find that Appellant's Motion for New Trial cannot be granted on such ground.

It is undisputed that Appellee, at the time of filing of his Petition, had a copy of their Certificate of Marriage which states Appellant's address as 164 Perpetua St., San Diego Subdivision, Caloocan City. This is supported by the Barangay Clearance from the City of Caloocan, from the Appellant. On the other hand, a Certification from Barangay Concepcion, Malabon City, indicates that neither Appellant or Ariel Buenaventura, the purported recipient of the summons, resides in Barangay Concepcion, in the address stated in Appellee's Petition.

Additionally, the allegations in the Petition disclose that appellant and appellee settled in Caloocan City prior to his leaving her, and never mentioned the couple as having stayed in Malabon.

All told, there appears to this Court a deliberate ploy to avoid the service of summons to Appellant so that she could not be informed of the existence of the case and its developments. Standing alone, such scheme qualifies, to Our mind, as extrinsic fraud; had her ignorance continued until the rendering of the Decision, there would be no difficulty in seeing the merits of her Motion.

Unfortunately, for Appellant's Motion for New Trial to prosper, extrinsic fraud must be shown to be the very factor which prevented Appellant from having her day in court[31]. Based on the records and Appellant's admission, however, We reach the conclusion that it cannot be said that Appellee's extrinsic fraud deprived her of the opportunity to be heard. For as reflected in the records[32], Appellant obtained a copy of the Petition, a copy of the summons, and the Order dated 3 March 2013 on 5 April 2013, weeks before the continuation of trial on 25 April 2013. The records then reflect that Appellant then never made any appearances or manifestations until the rendering of the Decision on 2 July 2013.

Thus, We find that while extrinsic fraud initially impaired Appellant from presenting her side, her prolonged inaction after she was informed of the ongoing proceedings superseded the extrinsic fraud as the cause of her non-appearance. As noted by the RTC, she even failed to get in touch with the public prosecutor, or at least manifest her presence before the RTC.

Thus, her Motion for New Trial lacked merit.

We now move to the more substantial discussions to resolve whether or not the RTC erroneously nullified Appellant's marriage with the Appellee on the ground of psychological incapacity.

To recall, according to the RTC, both the parties suffered from psychological incapacity brought about by their own psychological disorders.

The RTC discussed:

"It has been sufficiently shown through petitioner's testimony and that of his corroborative witness as well as the findings of the clinical psychologist that the petitioner and the respondent are afflicted with PASSIVE-AGGRESSIVE TYPE and ANTISOCIAL TYPE of personality disorders, respectively, which rendered them psychologically incapacitated to comply with their essential marital obligations. The same, which antedates the marriage, is permanent. Moreover, their personality disorders are deeply rooted and originated from early childhood and continued throughout adulthood. The same existed even prior to their marriage. It is already ingrained in their psyche and genetic make-up and reinforced by socio-cultural factors."

We disagree with the RTC.

The definition of psychological incapacity, one case[33] held, was not cast in intractable specifics; and 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.

Nevertheless, in the landmark case of Santos v. Court of Appeals[34], the Court ruled that psychological incapacity under Rule 36 must be characterized by a) gravity; b) juridical antecedence; and c) incurability. In Santos, the Court also discussed the same incapacity as "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" and that it must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage."

The later case of Republic v. Court of Appeals[35] ("Molina" or the "Molina Guidelines") then gave guidelines on the application of Art. 36, to wit:

"(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 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. x x x

(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 great respect by our courts 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."

Later, in *Te v. Te*[36], the Supreme Court recognized the need to temper the apparent rigid standards caused by the Molina guidelines, recognizing that:

"In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in Molina, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the "most liberal divorce procedure in the world." The unintended consequences of Molina, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. Far from what was intended by the Court, Molina has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying Molina, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals."

In a later case[37], the Supreme Court clarified that the flexible approach in the *Te* case, does not mean that the Molina guidelines are to be abandoned, but rather, that the stringent interpretation of Molina must give way.

We now re-examine this case from a viewpoint guided by the doctrine in *Te*.

Appellee presents a straightforward case of psychological incapacity on the part of the Appellant. He testified on her alleged manipulative, scheming behavior and has even obtained the services of a psychologist to establish that Appellee's conduct all stemmed from a deeply rooted and incurable psychological disorder. The RTC took Appellee's case one step further by decreeing that both parties are suffering from the extraordinary condition covered in Art. 36 of the Family Code. From a bird's eye view, every requirement has apparently been complied with; there is also a certification from the prosecutor that the parties have not colluded.

Yet from a substantial examination, We find the Appellant's Petition devoid of merit. We likewise find the RTC to have erroneously dissolved Appellant's and Appellee's marriage under Art. 36. His evidence does not establish that both parties suffer from psychological incapacity.

First, Ms. Ebio's Report does not establish the gravity and incurability of the parties's psychological disorders.

In *Suazo v. Suazo*[38], the Supreme Court found reason to doubt the psychologist's report wherein the facts regarding the alleged incapacitated spouse was wholly and exclusively provided by the petitioner. The Court discussed:

“Based on her declarations in open court, the psychologist evaluated Angelito's psychological condition only in an indirect manner - she derived all her conclusions from information coming from Jocelyn whose bias for her cause cannot of course be doubted. Given the source of the information upon which the psychologist heavily relied upon, the court must evaluate the evidentiary worth of the opinion with due care and with the application of the more rigid and stringent set of standards outlined above, i.e., that there must be a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a psychological incapacity that is grave, severe and incurable.

In saying this, we do not suggest that a personal examination of the party alleged to be psychologically incapacitated is mandatory; jurisprudence holds that this type of examination is not a mandatory requirement. While such examination is desirable, we recognize that it may not be practical in all instances given the oftentimes estranged relations between the parties. For a determination though of a party's complete personality profile, information coming from persons intimately related to him (such as the party's close relatives and friends) may be helpful. This is an approach in the application of Article 36 that allows flexibility, at the same time that it avoids, if not totally obliterate, the credibility gaps spawned by supposedly expert opinion based entirely on doubtful sources of information.

From these perspectives, we conclude that the psychologist, using meager information coming from a directly interested party, could not have secured a complete personality profile and could not have conclusively formed an objective opinion or diagnosis of Angelito's psychological condition. While the report or evaluation may be conclusive with respect to Jocelyn's psychological condition, this is not true for Angelito's. The methodology employed simply cannot satisfy the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder. In short, this is not the psychological report that the Court can rely on as basis for the conclusion that psychological incapacity exists. (Emphasis Ours.)

This Court notes that Ms. Ebio's Report suffers from the same deficiency. We have pored over the Report and nothing therein persuades that Ms. Ebio had reached an in-depth and thorough understanding of Appellant so that she can then form a persuasive assessment of her psychological condition, and determine from there that psychological incapacity on her part exists. The Report's narration of the background of the parties reflects only the events surrounding their courtship, as narrated by an interested party, and, with respect to Appellant's history, dedicates only a single paragraph which identifies only Appellant's College, the name of her father, the number of her siblings and her previous marriage – all of which, to Our mind, are irrelevant and insufficient to form a

persuasive diagnosis of her psychological condition.

Furthermore, while concluding that Appellant suffers from an “Antisocial Type of Psychological Disorder”, Ms. Ebio has not shown how the disorder rendered Appellant from being psychologically incapacitated from being aware of, and assuming, the essential marital obligations affected by incapacity under Article 36. Ms. Ebio hastily and generally concluded that “Respondent is indeed psychologically incapacitated in assuming her essential marital roles and obligations, which further considered as ingrained, deep-seated, permanent, and incurable”. How can Ms. Ebio consider such disorder as deep-seated and ingrained when she has not even conducted a historical and independent assessment of Appellant? Ms. Ebio also has not explained how she reached the conclusion that this disorder is “permanent and incurable”.

The quality of this kind of Psychology Report invites this Court to refer again to Suazo:

“Other than this credibility or reliability gap, both the psychologist's report and testimony simply provided a general description of Angelito's purported anti-social personality disorder, supported by the characterization of this disorder as chronic, grave and incurable. The psychologist was conspicuously silent, however, on the bases for her conclusion or the particulars that gave rise to the characterization she gave. These particulars are simply not in the Report, and neither can they be found in her testimony.

For instance, the psychologist testified that Angelito's personality disorder is chronic or incurable; Angelito has long been afflicted with the disorder prior to his marriage with Jocelyn or even during his early developmental stage, as basic trust was not developed. However, she did not support this declaration with any factual basis. In her Report, she based her conclusion on the presumption that Angelito apparently grew up in a dysfunctional family. Quite noticeable, though, is the psychologist's own equivocation on this point - she was not firm in her conclusion for she herself may have realized that it was simply conjectural. The veracity, too, of this finding is highly suspect, for it was based entirely on Jocelyn's assumed knowledge of Angelito's family background and upbringing.

Additionally, the psychologist merely generalized on the questions of why and to what extent was Angelito's personality disorder grave and incurable, and on the effects of the disorder on Angelito's awareness of and his capability to undertake the duties and responsibilities of marriage.” (Emphasis Ours.)

Ms. Ebio also reveals the lack of basis of her assessment of Appellant when she concluded that “The undersigned psychologist thereby recommends the dissolution of marriage bond (sic) of herein parties because from the very beginning genuine love is absolutely absent particularly on the part of Respondent.” Aside from unveiling the truth that her conclusions on Appellant's condition rested on shaky ground, Ms. Ebio, in concluding that absence of genuine love from the beginning of their union meant psychological incapacity, also shows that she has not grasped the meaning of such incapacity under Article 36 of the Family Code; and in affirming her Report, the RTC also suffered from the same misconception.

The lack of credibility of Ms. Ebio's Report substantially affects the RTC's conclusion. There being no sufficient proof that a disorder psychological, inherent, grave, and incurable in nature caused Appellant's alleged behavior, We find that the RTC erred in concluding that Appellant suffered from psychological incapacity. Even if it is admitted that Appellant was manipulative, harmful, and scheming – which she never controverted in her Brief or Affidavit or Merit – such behaviors do not automatically mean that the party manifesting these is already psychologically incapacitated under Article 36, following the pronouncements in Santos, Molina, and a host of other cases, even considering the flexible approach in the case of Te.

Second, the RTC's declaration that Appellee also suffers from psychological incapacity lacks factual and legal basis.

At this juncture, We express alarm at the RTC's declaration that Appellee, as well, suffered from psychological incapacity. This was never alleged by Appellee in his Petition. Neither did the psychologist reach this finding. It is also glaring that the RTC never discussed its basis for so ruling the same, and how Appellee's disorder was so grave and incurable. In so doing, the RTC ignored not only well-entrenched principles regarding psychological incapacity, but also the Constitutional mandate on the State, of which the Judiciary forms part, to protect marriage. Such an approach, which treats nullification proceedings under Article 36 so lightly, cannot be condoned.

Even if both parties suffer from psychological disorders, it must be recalled that:

“The intendment of the law has been to confine the application of Article 36 to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. The psychological illness that must have afflicted a party at the inception of the marriage should be a malady so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond he or she is about to assume.”[39]

Hence, considering Our discussions, We rule that the RTC erroneously ruled that both parties suffered from psychological incapacity. Appellee having failed to show that Appellee suffered from the same, and Appellant having failed to show that extrinsic fraud prevented her from presenting her case before the RTC, We find that a dismissal of the Petition is but appropriate.

WHEREFORE, premises considered, the RTC's assailed DECISION is REVERSED, and a new one is hereby rendered DISMISSING petitioner-appellee Jeremy J. Sutliff's Petition for LACK OF MERIT. Appellant's marriage with the petitioner-Appellee remains valid and subsisting.

SO ORDERED.

Ybañez, E.A.,[**] and Sorongon, E.D., JJ., concur.

[*] Vice J. Carandang per Office Order No. 485-14-RSF dated 24 November 2014.

[**] Vice J. Gonzales-Sison per Office Order No. 485-14-RSF dated 24 November 2014.

[1] Rollo, pp. 44-55.

[2] Records, pp. 3-9.

[3] Records, p. 87.

[4] Records, p. 10.

[5] Records, pp. 37-43.

[6] Rollo, pp.13.

[7] Rollo, pp. 12.

[8] Rollo, pp. 12-13.

[9] Rollo, p. 18.

[10] Rollo, p. 28.

[11] Records, p.

- [12] Records, pp. 37-43.
- [13] Records, p.36.
- [14] Records, p. 71-72.
- [15] Records, pp. 73-74.
- [16] Records, pp. 75-77.
- [17] Records, p. 81.
- [18] Rollo, pp. 58-59.
- [19] Mendoza v. UCPB, G.R. No. 165575, 2 February 2011.
- [20] Supra, fn. 17; citing De Liano v. Court of Appeals, cited as 421 Phil. 1033 (2001).
- [21] Sec. 8, Rule 51 of the Rules.
- [22] See Remulla v. Manlongat, G.R. No. 148189, 11 November 2004.
- [23] See Spouses Martires v. Chua, G.R. No. 174240, 20 March 2013.
- [24] Sec. 2, Art. XV of the Constitution.
- [25] Sec. 1 of Rule 50 provides only that the appeal “may” be dismissed by the Court of Appeals on its own motion or on that of the appellee for any of the grounds stated therein.
- [26] See Alaban, et. al. v. Court of Appeals and Alido, G.R. No. 156021, 23 September 2005; see also Co v. People, et. al., G.R. No. 160265, 13 July 2009.
- [27] See Gomez v. Montalban, G.R.No. 174414, 14 March 2008.
- [28] See Sec. 2, Rule 47.
- [29] See PCIB v. Spouses Dy and Chuyaco, G.R. No. 17137, 5 June 2009.
- [30] Ancheta v. Ancheta, G.R. No. 145370, 4 March 2004.
- [31] See Gochan, et. al. v. Mancao, G.R. No. 182314, 12 November 2013.
- [32] Rollo, p. 58.
- [33] See Antonio v. Reyes, G.R. No. 155800, 10 March 2006.
- [34] G.R. No. 112019, 4 January 1995.
- [35] 335 Phil. 664 (1997)
- [36] G.R. No. 161793, 13 February 2009.
- [37] Suazo v. Suazo, G.R. No. 164493, 10 March 2010.
- [38] Supra, at fn. 34.
- [39] Ting v. Velez-Ting, G.R. No. 166562, 31 March 2009.

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