

JOSELITA SALITA, PETITIONER, VS. HON. DELILAH MAGTOLIS, IN HER CAPACITY AS JUDGE OF THE RTC, QUEZON CITY, BR. 107, AND ERWIN ESPINOSA, RESPONDENTS.

G.R. No. 106429. June 13, 1994

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

Erwin Espinosa, 32, and Joselita Salita, 22, were married at the Roman Catholic Church in Ermita, Manila, on 25 January 1986. A year later, their union turned sour. They separated in fact in 1988. Subsequently, Erwin sued for annulment on the ground of Joselita's psychological incapacity.

The issue before us however is not the scope nor even the interpretation of Art. 36 of the Family Code.[1] Rather, the issue is the sufficiency of the allegations in the petition for annulment of marriage and the subsequent bill of particulars filed in amplification of the petition.

The petition for annulment was filed before the Regional Trial Court of Quezon City on 7 January 1992. Therein it is alleged that "[s]ometime in 1987, petitioner came to realize that respondent was psychologically incapacitated to comply with the essential marital obligations of their marriage, which incapacity existed at the time of the marriage although the same became manifest only thereafter." [2] Dissatisfied with the allegation in the petition, Joselita moved for a bill of particulars which the trial court granted. [3] Subsequently, in his Bill of Particulars, Edwin specified that -

x x x at the time of their marriage, respondent (Joselita Salita) was psychologically incapacitated to comply with the essential marital obligations of their marriage in that she was unable to understand and accept the demands made by his profession - that of a newly qualified Doctor of Medicine - upon petitioner's time and efforts so that she frequently complained of his lack of attention to her even to her mother, whose intervention caused petitioner to lose his job.

Still Joselita was not contented with the Bill of Particulars. She argued that the "assertion (in the Bill of Particulars) is a statement of legal conclusion made by petitioner's counsel and not an averment of 'ultimate facts,' as required by the Rules of Court, from which such a conclusion may properly be inferred x x x x" [4] But finding the questioned Bill of Particulars adequate, the trial court issued an order upholding its sufficiency and directing Joselita to file her responsive pleading.

Joselita was not convinced. She filed a petition for certiorari with us. However, we referred her petition to the Court of Appeals for resolution.

On 21 July 1992, the Court of Appeals denied due course to her petition thus -

In the case under consideration, Espinosa has amplified Salita's alleged psychological incapacity in his bill of particulars x x x x

In our view, the aforesaid specification more than satisfies the Rules' requirement that a complaint must allege

the ultimate facts constituting a plaintiff's cause of action. To require more details thereof, to insist on a specification of Salita's particular conduct or behavior with the corresponding 'circumstances of time, place and person' indicating her alleged psychological incapacity would be to ask for information on evidentiary matters. To obtain evidentiary details, Salita may avail herself of the different modes of discovery provided by the Rules of Court (Rules 24 to 28).

Whether Espinosa's averments in his bill of particulars constitute psychological incapacity in the contemplation of the Family Code is a question that may be resolved in a motion to dismiss or after trial on the merits of the case, not in a motion for bill of particulars. And certainly, that matter cannot be resolved in the present petition.[5]

Hence, the instant petition for review on certiorari filed by Joselita Salita questioning the Resolution of the Court of Appeals denying due course to her petition.

Petitioner insists that the allegations in the Bill of Particulars constitute a legal conclusion, not an averment of facts, and fail to point out the specific essential marital obligations she allegedly was not able to perform, and thus render the Bill of Particulars insufficient if not irrelevant to her husband's cause of action. She rationalizes that her insistence on the specification of her particular conduct or behavior with the corresponding circumstances of time, place and person does not call for information on evidentiary matters because without these details she cannot adequately and intelligently prepare her answer to the petition.

Private respondent on the other hand believes that his allegations in the Bill of Particulars constitute the ultimate facts which the Rules of Court requires at this point. He defines ultimate facts as -

x x x important and substantial facts which either directly form the basis of the primary right and duty, or which directly make upon the wrongful acts or omissions of the defendant. The term does not refer to the details of probative matter or particulars of evidence by which these material elements are to be established. It refers to principal, determinate facts upon the existence of which the entire cause of action rests.[6]

Ultimate facts are conclusions drawn from intermediate and evidentiary facts, or allegations of mixed law and fact; they are conclusions from reflection and natural reasoning on evidentiary fact. The ultimate facts which are to be pleaded are the issuable, constitutive, or traversible facts essential to the statement of the cause of action; the facts which the evidence on the trial will prove, and not the evidence which will be required to prove the existence of those facts x x x[7]

Private respondent further argues that "[c]onclusions of law and evidentiary matters need not be stated in the complaint. The rules of pleading limit the statement of the cause of action only to such operative facts as would give rise to the right of action of the plaintiff to obtain relief against the wrongdoer. The details of probative matter or particulars of evidence, statements of law, inferences and arguments need not be stated." [8]

In a nutshell, the ultimate question is whether the Bill of Particulars submitted by herein respondent is of sufficient definiteness or particularity as to enable herein petitioner to properly prepare her responsive pleading or for trial.

A complaint only needs to state the "ultimate facts constituting the plaintiff's cause or causes of action." [9] Ultimate facts has been defined as "those facts which the expected evidence will support." [10] As stated by private respondent, "[t]he term does not refer to the details of probative matter or particulars of evidence by which these material elements are to be established." It refers to "the facts which the evidence on the trial will prove, and not the evidence which will be required to prove the existence of those facts." And a motion for bill of particulars will not be granted if the complaint, while not very definite, nonetheless already states a sufficient cause of action. [11] A motion for bill of particulars may not call for matters which should form part of the proof of the

complaint upon trial. Such information may be obtained by other means.[12]

We sustain the view of respondent Court of Appeals that the Bill of Particulars filed by private respondent is sufficient to state a cause of action, and to require more details from private respondent would be to ask for information on evidentiary matters. Indeed, petitioner has already been adequately apprised of private respondent's cause of action against her thus -

x x x x (she) was psychologically incapacitated to comply with the essential marital obligations of their marriage in that she was unable to understand and accept the demands made by his profession - that of a newly qualified Doctor of Medicine - upon petitioner's time and efforts so that she frequently complained of his lack of attention to her even to her mother, whose intervention caused petitioner to lose his job.

On the basis of the aforequoted allegations, it is evident that petitioner can already prepare her responsive pleading or for trial. Private respondent has already alleged that "she (petitioner) was unable to understand and accept the demands made by his profession x x x upon his time and efforts x x x x" Certainly, she can respond to this. To demand for more details would indeed be asking for information on evidentiary facts - facts necessary to prove essential or ultimate facts.[13] For sure, the additional facts called for by petitioner regarding her particular acts or omissions would be evidentiary, and to obtain evidentiary matters is not the function of a motion for bill of particulars.[14]

We distinguish the instant case from *Tantuico, Jr. v. Republic*[15] where we said -

Furthermore, the particulars prayed for, such as names of persons, names of corporations, dates, amounts involved, a specification of property for identification purposes, the particular transactions involving withdrawals and disbursements, and a statement of other material facts as would support the conclusions and inferences in the complaint, are not evidentiary in nature. On the contrary, those particulars are material facts that should be clearly and definitely averred in the complaint in order that the defendant may, in fairness, be informed of the claims made against him to the end that he may be prepared to meet the issues at the trial.

The aforementioned pronouncement cannot apply to the instant case. That ruling involves alleged "misappropriation and theft of public funds, plunder of the nation's wealth, extortion, blackmail, bribery, embezzlement, and other acts of corruption, betrayal of public trust and brazen abuse of power." The respondents therein pray for reconveyance, reversion, accounting, restitution and damages. There, the alleged illicit acts should be fully documented. The instant case, on the other hand, concerns marital relationship. It would be unreasonable, if not unfeeling, to document each and every circumstance of marital disagreement. True, the complaining spouse will have to prove his case, but that will not come until trial begins.

Consequently, we have no other recourse but to order the immediate resumption of the annulment proceedings which have already been delayed for more than two years now, even before it could reach its trial stage. Whether petitioner is psychologically incapacitated should be immediately determined. There is no point in unreasonably delaying the resolution of the petition and prolonging the agony of the wedded couple who after coming out from a storm still have the right to a renewed blissful life either alone or in the company of each other.

A word on Art. 36 of the Family Code.[16] We do not see the need to define or limit the scope of the provision. Not in this case, at least. For, we are not called upon to do so, the actual controversy being the sufficiency of the bill of particulars. To interpret the provision at this juncture would be to give an obiter dictum which is ill-timed. Besides, it appears that petitioner in her memorandum has demonstrated a good grasp of what Art. 36 actually covers. Suffice it to say that Mme. Justice Sempio--Diy, formerly of the Court of Appeals and a member of the Civil Code Revision Committee that drafted the Family Code, explains -

The Committee did not give any examples of psychological incapacity for fear that the giving of examples

would limit the applicability of the provision under the principle of ejusdem generis. Rather, the Committee would like the judge to interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.[17]

WHEREFORE, there being no reversible error, the instant petition is DENIED and the questioned Resolution of respondent Court of Appeals dated 21 July 1992 is AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Quiason, and Kapunan, JJ., concur.

[1] Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization (As amended by E.O. 227).

[2] Petition for Annulment of Marriage filed by Erwin Espinosa, par. 3; Rollo, p. 20.

[3] Order issued by Judge Delilah Magtolis, Regional Trial Court, Br, 107, Quezon City; Rollo, p. 26.

[4] Opposition to the Supposed Bill of Particulars Submitted by Petitioner, p. 2, par. 6; Rollo, p. 30.

[5] Resolution penned by Associate Justice Alfredo L. Benipayo, concurred in by Associate Justices Fidel P. Purisima and Quirino D. Abad Santos, Jr., of the Ninth Division.

[6] Francisco, The Revised Rules of Court in the Philippines, Vol. I, p. 435.

[7] Id., citing 71 C.J.S. 34.

[8] Memorandum for Private Respondent, p. 10; Rollo, p. 197.

[9] Sec. 3, Rule 6, Rules of Court.

[10] Black's Law Dictionary, Fourth Ed., citing McDuffie v. California Tehama Land Corporation, 138 Cal. App. 245, 32 P. 2d 385, 386.

[11] Paras, Rules of Court Annotated, Vol. I, Second Ed., 1989, p. 320.

[12] Moran, Comments on the Rules of Court, 1979 Ed., Vol. 1, p. 397, citing W.J. Dillmer Transfer Co. v. International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, 8 Fed. Rules Service, p. 163, US Dist. Ct., W.D. Pa., 6 October 1944.

[13] Black's Law Dictionary, Fourth Ed., citing People ex rel. Hudson & M.R. Co. v. Sexton, Supp., 44 N.Y. S.2d 884, 885.

[14] Paras, See Note 11, citing Graffius v. Weather-Seal Inc., 9 Fed. Rules Service 12e, 231, Case No. 13.

[15] G.R. No. 89114, 2 December 1991, 204 SCRA 428.

[16] See Note 1.

[17] Sempio-Diy, Handbook on the Family Code of the Philippines, 1988, p. 37.

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