LUCITA ESTRELLA HERNANDEZ, PETITIONER VS. COURT OF APPEALS AND MARIO C. HERNANDEZ, RESPONDENTS.

G.R. No. 126010. December 08, 1999

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision[1] of the Court of Appeals, dated January 30, 1996, affirming the decision of the Regional Trial Court, Branch 18, Tagaytay City, dated April 10, 1993, which dismissed the petition for annulment of marriage filed by petitioner.

Petitioner Lucita Estrella Hernandez and private respondent Mario C. Hernandez were married at the Silang Catholic Parish Church in Silang, Cavite on January 1, 1981 (Exh. A).[2] Three children were born to them, namely, Maie, who was born on May 3, 1982 (Exh. B),[3] Lyra, born on May 22, 1985 (Exh. C),[4] and Marian, born on June 15, 1989 (Exh. D).[5]

On July 10, 1992, petitioner filed before the Regional Trial Court, Branch 18, Tagaytay City, a petition seeking the annulment of her marriage to private respondent on the ground of psychological incapacity of the latter. She alleged that from the time of their marriage up to the time of the filing of the suit, private respondent failed to perform his obligation to support the family and contribute to the management of the household, devoting most of his time engaging in drinking sprees with his friends. She further claimed that private respondent, after they were married, cohabited with another woman with whom he had an illegitimate child, while having affairs with different women, and that, because of his promiscuity, private respondent endangered her health by infecting her with a sexually transmissible disease (STD). She averred that private respondent was irresponsible, immature and unprepared for the duties of a married life. Petitioner prayed that for having abandoned the family, private respondent be ordered to give support to their three children in the total amount of P9,000.00 every month; that she be awarded the custody of their children; and that she be adjudged as the sole owner of a parcel of land located at Don Gregorio Subdivision I in Bo. Bucal, Dasmariñas, Cavite, purchased during the marriage, as well as the jeep which private respondent took with him when he left the conjugal home on June 12, 1992.[6]

On October 8, 1992, because of private respondent's failure to file his answer, the trial court issued an order directing the assistant provincial prosecutor to conduct an investigation to determine if there was collusion between the parties.[7] Only petitioner appeared at the investigation on November 5, 1992. Nevertheless, the prosecutor found no evidence of collusion and recommended that the case be set for trial.[8]

Based on the evidence presented by the petitioner, the facts are as follows:[9]

Petitioner and private respondent met in 1977 at the Philippine Christian University in Dasmariñas, Cavite. Petitioner, who is five years older than private respondent, was then in her first year of teaching zoology and botany. Private respondent, a college freshman, was her student for two consecutive semesters. They became sweethearts in February 1979 when she was no longer private respondent's teacher. On January 1, 1981, they were married.

Private respondent continued his studies for two more years. His parents paid for his tuition fees, while petitioner provided his allowances and other financial needs. The family income came from petitioner's salary as a faculty member of the Philippine Christian University. Petitioner augmented her earnings by selling "Tupperware" products, as well as engaging in the buy-and-sell of coffee, rice and polvoron.

From 1983 up to 1986, as private respondent could not find a stable job, it was agreed that he would help petitioner in her businesses by delivering orders to customers. However, because her husband was a spendthrift and had other women, petitioner's business suffered. Private respondent often had smoking and drinking sprees with his friends and betted on fighting cocks. In 1982, after the birth of their first child, petitioner discovered two love letters written by a certain Realita Villena to private respondent. She knew Villena as a married student whose husband was working in Saudi Arabia. When petitioner confronted private respondent, he admitted having an extra-marital affair with Villena. Petitioner then pleaded with Villena to end her relationship with private respondent. For his part, private respondent said he would end the affairs, but he did not keep his promise. Instead, he left the conjugal home and abandoned petitioner and their child. When private respondent came back, however, petitioner accepted him, despite private respondent's infidelity in the hope of saving their marriage.

Upon the recommendation of a family friend, private respondent was able to get a job at Reynolds Philippines, Inc. in San Agustin, Dasmariñas, Cavite in 1986. However, private respondent was employed only until March 31, 1991, because he availed himself of the early retirement plan offered by the company. He received P53,000.00 in retirement pay, but instead of spending the amount for the needs of the family, private respondent spent the money on himself and consumed the entire amount within four months of his retirement.

While private respondent worked at Reynolds Philippines, Inc., his smoking, drinking, gambling and womanizing became worse. Petitioner discovered that private respondent carried on relationships with different women. He had relations with a certain Edna who worked at Yazaki; Angie, who was an operator of a billiard hall; Tess, a "Japayuki"; Myrna Macatangay, a secretary at the Road Master Driver's School in Bayan, Dasmariñas, Cavite, with whom he cohabited for quite a while; and, Ruth Oliva, by whom he had a daughter named Margie P. Oliva, born on September 15, 1989 (Exh. E).[10] When petitioner confronted private respondent about his relationship with Tess, he beat her up, as a result of which she was confined at the De la Salle University Medical Center in Dasmariñas, Cavite on July 4-5, 1990 because of cerebral concussion (Exh. F).[11]

According to petitioner, private respondent engaged in extreme promiscuous conduct during the latter part of 1986. As a result, private respondent contracted gonorrhea and infected petitioner. They both received treatment at the Zapote Medical Specialists Center in Zapote, Bacoor, Cavite from October 22, 1986 until March 13, 1987 (Exhs. G & H).[12]

Petitioner averred that on one occasion of a heated argument, private respondent hit their eldest child who was then barely a year old. Private respondent is not close to any of their children as he was never affectionate and hardly spent time with them.

On July 17, 1979, petitioner entered into a contract to sell (Exh. J)[13] with F & C Realty Corporation whereby she agreed to buy from the latter a parcel of land at the Don Gregorio Heights Subdivision I in Bo. Bucal, Dasmariñas, Cavite and placed a partial payment of P31,330.00. On May 26, 1987, after full payment of the amount of P51,067.10, inclusive of interests from monthly installments, a deed of absolute sale (Exh. K)[14] was executed in her favor and TCT No. T-221529 (Exh. M)[15] was duly issued.

According to petitioner, on August 1, 1992, she sent a handwritten letter[16] to private respondent expressing her frustration over the fact that her efforts to save their marriage proved futile. In her letter, petitioner also stated that she was allowing him to sell their owner-type jeepney[17] and to divide the proceeds of the sale between the two

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of them. Petitioner also told private respondent of her intention to file a petition for the annulment of their marriage.

It does not appear that private respondent ever replied to petitioner's letter. By this time, he had already abandoned petitioner and their children. In October 1992, petitioner learned that private respondent left for the Middle East. Since then, private respondent's whereabouts had been unknown.

Ester Alfaro, petitioner's childhood friend and co-teacher at the Philippine Christian University, testified during the hearing on the petition for annulment. She said that sometime in June 1979, petitioner introduced private respondent to her (Alfaro) as the former's sweetheart. Alfaro said she was not impressed with private respondent who was her student in accounting. She observed private respondent to be fun-loving, spending most of his time with campus friends. In November 1980, when petitioner asked Alfaro to be one of the secondary sponsors at her forthcoming wedding, Alfaro wanted to dissuade petitioner from going through with the wedding because she thought private respondent was not ready for married life as he was then unemployed. True enough, although the couple appeared happy during the early part of their marriage, it was not long thereafter that private respondent started drinking with his friends and going home late at night. Alfaro corroborated petitioner's claim that private respondent was a habitual drunkard who carried on relationships with different women and continued hanging out with his friends. She also confirmed that petitioner was once hospitalized because she was beaten up by private respondent. After the first year of petitioner's marriage, Alfaro tried to talk to private respondent, but the latter accused her of meddling with their marital life. Alfaro said that private respondent was not close to his children and that he had abandoned petitioner.[18]

On April 10, 1993, the trial court rendered a decision[19] dismissing the petition for annulment of marriage filed by petitioner. The pertinent portion of the decision reads:[20]

> The Court can underscore the fact that the circumstances mentioned by the petitioner in support of her claim that respondent was "psychologically incapacitated" to marry her are among the grounds cited by the law as valid reasons for the grant of legal separation (Article 55 of the Family Code) - not as grounds for a declaration of nullity of marriages or annulment thereof. Thus, Article 55 of the same code reads as follows:
>
> Art. 55. A petition for legal separation may be filed on any of the following grounds:
>
> (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
>
> . . . .
>
> (5) Drug addiction or habitual alcoholism of the respondent;
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> . . . .
>
> (8) Sexual infidelity or perversion;
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> . . . .
>
> (10) Abandonment of petitioner by respondent without justifiable cause for more than one year.
>
> . . . .
>
> If indeed Article 36 of the Family Code of the Philippines, which mentions psychological incapacity as a ground for the declaration of the nullity of a marriage, has intended to include the above-stated circumstances as constitutive of such incapacity, then the same would not have been enumerated as grounds for legal separation.

> In the same manner, this Court is not disposed to grant relief in favor of the petitioner under Article 46, paragraph (3) of the Family Code of the Philippines, as there is no dispute that the "gonorrhea" transmitted to the petitioner by respondent occurred sometime in 1986, or five (5) years after petitioner's marriage with respondent was celebrated in 1981. The provisions of Article 46, paragraph (3) of the same law should be taken in conjunction with Article 45, paragraph (3) of the same code, and a careful reading of the two (2) provisions of the law would require the existence of this ground (fraud) at the time of the celebration of the marriage. Hence, the annulment of petitioner's marriage with the respondent on this ground, as alleged and proved in the instant case, cannot be legally accepted by the Court.

Petitioner appealed to the Court of Appeals which, on January 30, 1996, rendered its decision affirming the decision of the trial court. Citing the ruling in Santos v. Court of Appeals,[21] the Court of Appeals held:[22]

> It is clear in the above law and jurisprudence that the psychological incapacity of a spouse, as a ground for declaration of nullity of marriage, must exist at the time of the celebration of marriage. More so, chronic sexual infidelity, abandonment, gambling and use of prohibited drugs are not grounds per se, of psychological incapacity of a spouse.
>
> We agree with the Solicitor General that petitioner-appellant failed to prove that her respondent-husband was psychologically incapacitated at the time of the celebration of the marriage. Certainly, petitioner-appellant's declaration that at the time of their marriage her respondent-husband's character was on the "borderline between a responsible person and the happy-go-lucky," could not constitute the psychological incapacity in contemplation of Article 36 of the Family Code. In fact, petitioner-appellant herself ascribed said attitude to her respondent-husband's youth and very good looks, who was admittedly several years younger than petitioner-appellant who, herself, happened to be the college professor of her respondent-husband. Petitioner-appellant even described her respondent-husband not as a problem student but a normal one (p. 24, tsn, Dec. 8, 1992).
>
> The acts and attitudes complained of by petitioner-appellant happened after the marriage and there is no proof that the same have already existed at the time of the celebration of the marriage to constitute the psychological incapacity under Article 36 of the Family Code.

Hence, this petition. Petitioner contends that the respondent Court of Appeals erred ¾

> I. IN FINDING THAT THE PSYCHOLOGICAL INCAPACITY OF THE PRIVATE RESPONDENT TO COMPLY WITH HIS ESSENTIAL MARITAL OBLIGATIONS DID NOT EXIST FROM THE TIME OF THE CELEBRATION OF THE MARRIAGE.
>
> II. IN RULING THAT PRIVATE RESPONDENT WAS NOT PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH HIS ESSENTIAL MARITAL OBLIGATIONS.
>
> III. IN AFFIRMING THE DECISION OF THE TRIAL COURT DENYING THE AWARD OF PERMANENT CUSTODY OF THE CHILDREN TO PETITIONER.
>
> IV. IN AFFIRMING THE DECISION OF THE TRIAL COURT DENYING THE PRAYER FOR ISSUANCE OF AN ORDER REQUIRING PRIVATE RESPONDENT TO GIVE SUPPORT TO THE THREE CHILDREN IN THE AMOUNT OF P3,000.00 PER CHILD.
>
> V. IN NOT DECLARING THE REAL PROPERTY ACQUIRED BY PETITIONER AS HER EXCLUSIVE PROPERTY.

The issue in this case is whether or not the marriage of petitioner and private respondent should be annulled on the ground of private respondent's psychological incapacity.

Petitioner alleges that the Court of Appeals erred in holding that petitioner failed to show that private

respondent's psychological incapacity existed at the time of the celebration of the marriage. She argues that the fact that the acts of incapacity of private respondent became manifest only after the celebration of their marriage should not be a bar to the annulment of their marriage.

Art. 36 of the Family Code states:

> 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.[23]

In Santos v. Court of Appeals,[24] we held:

> "Psychological incapacity" 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 so 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. There is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This psychological condition must exist at the time the marriage is celebrated. The law does not evidently envision, upon the other hand, an inability of the spouse to have sexual relations with the other. This conclusion is implicit under Article 54 of the Family Code which considers children conceived prior to the judicial declaration of nullity of the void marriage to be "legitimate."
>
> The other forms of psychoses, if existing at the inception of marriage, like the state of a party being of unsound mind or concealment of drug addiction, habitual alcoholism, homosexuality or lesbianism, merely renders the marriage contract voidable pursuant to Article 46, Family Code. If drug addiction, habitual alcoholism, lesbianism or homosexuality should occur only during the marriage, they become mere grounds for legal separation under Article 55 of the Family Code. These provisions of the Code, however, do not necessarily preclude the possibility of these various circumstances being themselves, depending on the degree and severity of the disorder, indicia of psychological incapacity.
>
> Until further statutory and jurisprudential parameters are established, every circumstance that may have some bearing on the degree, extent, and other conditions of that incapacity must, in every case, be carefully examined and evaluated so that no precipitate and indiscriminate nullity is peremptorily decreed. The well-considered opinions of psychiatrists, psychologists, and persons with expertise in psychological disciplines might be helpful or even desirable.

In the instant case, other than her self-serving declarations, petitioner failed to establish the fact that at the time they were married, private respondent was suffering from a psychological defect which in fact deprived him of the ability to assume the essential duties of marriage and its concomitant responsibilities. As the Court of Appeals pointed out, no evidence was presented to show that private respondent was not cognizant of the basic marital obligations. It was not sufficiently proved that private respondent was really incapable of fulfilling his duties due to some incapacity of a psychological nature, and not merely physical. Petitioner says that at the outset of their marriage, private respondent showed lack of drive to work for his family. Private respondent's parents and petitioner supported him through college. After his schooling, although he eventually found a job, he availed himself of the early retirement plan offered by his employer and spent the entire amount he received on himself. For a greater part of their marital life, private respondent was out of job and did not have the initiative to look for another. He indulged in vices and engaged in philandering, and later abandoned his family. Petitioner concludes that private respondent's condition is incurable, causing the disintegration of their union and defeating the very objectives of marriage.

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However, private respondent's alleged habitual alcoholism, sexual infidelity or perversion, and abandonment do not by themselves constitute grounds for finding that he is suffering from a psychological incapacity within the contemplation of the Family Code. It must be shown that these acts are manifestations of a disordered personality which make private respondent completely unable to discharge the essential obligations of the marital state, and not merely due to private respondent's youth and self-conscious feeling of being handsome, as the appellate court held. As pointed out in Republic of the Philippines v. Court of Appeals:[25]

> 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 ¾ 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 (citing Salita v. Magtolis, supra) 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.

Moreover, expert testimony should have been presented to establish the precise cause of private respondent's psychological incapacity, if any, in order to show that it existed at the inception of the marriage. The burden of proof to show the nullity of the marriage rests upon petitioner. The Court is mindful of the policy of the 1987 Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family.[26] Thus, any doubt should be resolved in favor of the validity of the marriage.[27]

We, therefore, find no reason to reverse the ruling of respondent Court of Appeals whose conclusions, affirming the trial court's finding with regard to the non-existence of private respondent's psychological incapacity at the time of the marriage, are entitled to great weight and even finality.[28] Only where it is shown that such findings are whimsical, capricious, and arbitrary can these be overturned.

The conclusion we have reached makes it unnecessary for us to pass upon petitioner's contentions on the issue of permanent custody of children, the amount for their respective support, and the declaration of exclusive ownership of petitioner over the real property. These matters may more appropriately be litigated in a separate proceeding for legal separation, dissolution of property regime, and/or custody of children which petitioner may bring.

WHEREFORE, the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Per Justice Lourdes K. Tayao-Jaguros and concurred in by Justices Jorge S. Imperial (Chairman) and B.A. Adefuin-De la Cruz.

[2] RTC Records, p. 7.

[3]Id., p. 8.

[4] Id., p. 9.

[5] Id., p. 10.

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[6] Petition, RTC Records, pp. 1-4.

[7] RTC Records, p. 24.

[8] Id., p. 25.

[9] TSN, pp. 6-56, Nov. 13, 1992; pp. 3-31, Dec. 8, 1992.

[10] RTC Records, p. 37.

[11] Id., p. 38.

[12] Id., pp. 39-40a.

[13]] Id., pp. 41-43.

[14] Id., pp. 44-45.

[15] Id., p. 47.

[16] Id., pp. 49-51.

[17]17 Id., p. 48.

[18] TSN, pp. 32-68, Dec. 8, 1992.

[19] Per Acting Presiding Judge Eleuterio F. Guerrero.

[20] RTC Records, pp. 58-59.

[21] 310 Phil. 22 (1995).

[22] Rollo, pp. 44-46.

[23] As amended by E.O. No. 227 dated July 17, 1987.

[24] Supra, at 40-41.

[25] 335 Phil. 664, 676-680 (1997).

[26] See Art. II, §12; Art. XV, §§1-2.

[27] Republic of the Philippines v. Court of Appeals, supra.

[28] Tuason v. Court of Appeals, 326 Phil. 169 (1996).

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