

BRENDA B. MARCOS, PETITIONER, VS. WILSON G. MARCOS, RESPONDENT.

G.R. No. 136490. October 19, 2000

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Psychological incapacity, as a ground for declaring the nullity of a marriage, may be established by the totality of evidence presented. There is no requirement, however, that the respondent should be examined by a physician or a psychologist as a *conditio sine qua non* for such declaration.

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the July 24, 1998 Decision[1] of the Court of Appeals (CA) in CA-GR CV No. 55588, which disposed as follows:

"WHEREFORE, the contested decision is set aside and the marriage between the parties is hereby declared valid."[2]

Also challenged by petitioner is the December 3, 1998 CA Resolution denying her Motion for Reconsideration.

Earlier, the Regional Trial Court (RTC) had ruled thus:

"WHEREFORE, the marriage between petitioner Brenda B. Marcos and respondent Wilson G. Marcos, solemnized on September 6, 1982 in Pasig City is declared null and void ab initio pursuant to Art. 36 of the Family Code. The conjugal properties, if any, is dissolved [sic] in accordance with Articles 126 and 129 of the same Code in relation to Articles 50, 51 and 52 relative to the delivery of the legitime of [the] parties' children. In the best interest and welfare of the minor children, their custody is granted to petitioner subject to the visitation rights of respondent.

"Upon finality of this Decision, furnish copy each to the Office of the Civil Registrar of Pasig City where the marriage was solemnized, the National Census and Statistics Office, Manila and the Register of Deeds of Mandaluyong City for their appropriate action consistent with this Decision.

"SO ORDERED."

The Facts

The facts as found by the Court of Appeals are as follows:

"It was established during the trial that the parties were married twice: (1) on September 6, 1982 which was solemnized by Judge Eriberto H. Espiritu at the Municipal Court of Pasig (Exh. A); and (2) on May 8, 1983 which was solemnized by Rev. Eduardo L. Eleazar, Command Chaplain, at the Presidential Security Command Chapel in Malacañang Park, Manila (Exh. A-1). Out of their marriage, five (5) children were born (Exhs. B, C, D, E and F).

"Appellant Wilson G. Marcos joined the Armed Forces of the Philippines in 1973. Later on, he was transferred

to the Presidential Security Command in Malacañang during the Marcos Regime. Appellee Brenda B. Marcos, on the other hand, joined the Women's Auxilliary Corps under the Philippine Air Force in 1978. After the EDSA Revolution, both of them sought a discharge from the military service.

"They first met sometime in 1980 when both of them were assigned at the Malacañang Palace, she as an escort of Imee Marcos and he as a Presidential Guard of President Ferdinand Marcos. Through telephone conversations, they became acquainted and eventually became sweethearts.

"After their marriage on September 6, 1982, they resided at No. 1702 Daisy Street, Hulo Bliss, Mandaluyong, a housing unit which she acquired from the Bliss Development Corporation when she was still single.

"After the downfall of President Marcos, he left the military service in 1987 and then engaged in different business ventures that did not however prosper. As a wife, she always urged him to look for work so that their children would see him, instead of her, as the head of the family and a good provider. Due to his failure to engage in any gainful employment, they would often quarrel and as a consequence, he would hit and beat her. He would even force her to have sex with him despite her weariness. He would also inflict physical harm on their children for a slight mistake and was so severe in the way he chastised them. Thus, for several times during their cohabitation, he would leave their house. In 1992, they were already living separately.

"All the while, she was engrossed in the business of selling "magic uling" and chickens. While she was still in the military, she would first make deliveries early in the morning before going to Malacañang. When she was discharged from the military service, she concentrated on her business. Then, she became a supplier in the Armed Forces of the Philippines until she was able to put up a trading and construction company, NS Ness Trading and Construction Development Corporation.

"The 'straw that broke the camel's back' took place on October 16, 1994, when they had a bitter quarrel. As they were already living separately, she did not want him to stay in their house anymore. On that day, when she saw him in their house, she was so angry that she lambasted him. He then turned violent, inflicting physical harm on her and even on her mother who came to her aid. The following day, October 17, 1994, she and their children left the house and sought refuge in her sister's house.

"On October 19, 1994, she submitted herself [to] medical examination at the Mandaluyong Medical Center where her injuries were diagnosed as contusions (Exh. G, Records, 153).

"Sometime in August 1995, she together with her two sisters and driver, went to him at the Bliss unit in Mandaluyong to look for their missing child, Niko. Upon seeing them, he got mad. After knowing the reason for their unexpected presence, he ran after them with a samurai and even [beat] her driver.

"At the time of the filing of this case, she and their children were renting a house in Camella, Parañaque, while the appellant was residing at the Bliss unit in Mandaluyong.

"In the case study conducted by Social Worker Sonia C. Millan, the children described their father as cruel and physically abusive to them (Exh. UU, Records, pp. 85-100).

"The appellee submitted herself to psychologist Natividad A. Dayan, Ph.D., for psychological evaluation (Exh. YY, Records, pp. 207-216), while the appellant on the other hand, did not.

"The court a quo found the appellant to be psychologically incapacitated to perform his marital obligations mainly because of his failure to find work to support his family and his violent attitude towards appellee and their children, x x x." [3]

Ruling of the Court of Appeals

Reversing the RTC, the CA held that psychological incapacity had not been established by the totality of the

evidence presented. It ratiocinated in this wise:

"Essential in a petition for annulment is the allegation of the root cause of the spouse's psychological incapacity which should also be medically or clinically identified, sufficiently proven by experts and clearly explained in the decision. The incapacity must be proven to be existing at the time of the celebration of the marriage and shown to be medically or clinically permanent or incurable. It must also be grave enough to bring about the disability of the parties to assume the essential obligations of marriage as set forth in Articles 68 to 71 and Articles 220 to 225 of the Family Code and such non-complied marital obligations must similarly be alleged in the petition, established by evidence and explained in the decision.

"In the case before us, the appellant was not subjected to any psychological or psychiatric evaluation. The psychological findings about the appellant by psychiatrist Natividad Dayan were based only on the interviews conducted with the appellee. Expert evidence by qualified psychiatrists and clinical psychologists is essential if only to prove that the parties were or any one of them was mentally or psychically ill to be truly incognitive of the marital obligations he or she was assuming, or as would make him or her x x x unable to assume them. In fact, he offered testimonial evidence to show that he [was] not psychologically incapacitated. The root cause of his supposed incapacity was not alleged in the petition, nor medically or clinically identified as a psychological illness or sufficiently proven by an expert. Similarly, there is no evidence at all that would show that the appellant was suffering from an incapacity which [was] psychological or mental - not physical to the extent that he could not have known the obligations he was assuming; that the incapacity [was] grave, ha[d] preceded the marriage and [was] incurable." [4]

Hence, this Petition.[5]

Issues

In her Memorandum,[6] petitioner presents for this Court's consideration the following issues:

"I. Whether or not the Honorable Court of Appeals could set aside the findings by the Regional Trial Court of psychological incapacity of a respondent in a Petition for declaration of nullity of marriage simply because the respondent did not subject himself to psychological evaluation. 3

II. Whether or not the totality of evidence presented and the demeanor of all the witnesses should be the basis of the determination of the merits of the Petition." [7]

The Court's Ruling

We agree with petitioner that the personal medical or psychological examination of respondent is not a requirement for a declaration of psychological incapacity. Nevertheless, the totality of the evidence she presented does not show such incapacity.

Preliminary Issue:

Need for Personal Medical Examination

Petitioner contends that the testimonies and the results of various tests that were submitted to determine respondent's psychological incapacity to perform the obligations of marriage should not have been brushed aside by the Court of Appeals, simply because respondent had not taken those tests himself. Petitioner adds that the CA should have realized that under the circumstances, she had no choice but to rely on other sources of information in order to determine the psychological capacity of respondent, who had refused to submit himself to such tests.

In *Republic v. CA and Molina*, [8] the guidelines governing the application and the interpretation of psychological incapacity referred to in Article 36 of the Family Code [9] were laid down by this Court as follows:

"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.

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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. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but 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 great respect by our courts.

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(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."^[10]

The guidelines incorporate the three basic requirements earlier mandated by the Court in *Santos v. Court of Appeals*:^[11] "psychological incapacity must be characterized by (a) gravity (b) juridical antecedence, and (c) incurability." The foregoing guidelines do not require that a physician examine the person to be declared psychologically incapacitated. In fact, the root cause may be "medically or clinically identified." What is important is the presence of evidence that can adequately establish the party's psychological condition. For indeed, 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.

Main Issue:

Totality of Evidence Presented

The main question, then, is whether the totality of the evidence presented in the present case -- including the testimonies of petitioner, the common children, petitioner's sister and the social worker -- was enough to sustain a finding that respondent was psychologically incapacitated.

We rule in the negative. Although this Court is sufficiently convinced that respondent failed to provide material support to the family and may have resorted to physical abuse and abandonment, the totality of his acts does not lead to a conclusion of psychological incapacity on his part. There is absolutely no showing that his "defects" were already present at the inception of the marriage or that they are incurable.

Verily, the behavior of respondent can be attributed to the fact that he had lost his job and was not gainfully employed for a period of more than six years. It was during this period that he became intermittently drunk, failed to give material and moral support, and even left the family home.

Thus, his alleged psychological illness was traced only to said period and not to the inception of the marriage. Equally important, there is no evidence showing that his condition is incurable, especially now that he is gainfully employed as a taxi driver.

Article 36 of the Family Code, we stress, is not to be confused with a divorce law that cuts the marital bond at the time the causes therefor manifest themselves. It refers to a serious psychological illness afflicting a party even before the celebration of the marriage. It is a malady so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume. These marital obligations are those provided under Articles 68 to 71, 220, 221 and 225 of the Family Code.

Neither is Article 36 to be equated with legal separation, in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, moral corruption, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like.^[12] At best, the evidence presented by petitioner refers only to grounds for legal separation, not for declaring a marriage void.

Because Article 36 has been abused as a convenient divorce law, this Court laid down the procedural requirements for its invocation in *Molina*. Petitioner, however, has not faithfully observed them. In sum, this

Court cannot declare the dissolution of the marriage for failure of petitioner to show that the alleged psychological incapacity is characterized by gravity, juridical antecedence and incurability; and for her failure to observe the guidelines outlined in Molina.

WHEREFORE, the Petition is DENIED and assailed Decision AFFIRMED, except that portion requiring personal medical examination as a *conditio sine qua non* to a finding of psychological incapacity. No costs.

SO ORDERED.

Melo, (Chairman), Vitug, Purisima, and Gonzaga-Reyes, JJ., concur.

[1] Penned by Justice Bernardo LL Salas with the concurrence of Justices Fermin A. Martin Jr. (Division chairman) and Candido V. Rivera (member).

[2] CA Decision, pp. 12-13; rollo, pp. 38-39.

[3] CA Decision, pp. 5-7; rollo, pp. 31-33.

[4] CA Decision, pp. 10-11; rollo, pp. 36-37.

[5] This case was deemed submitted for resolution on February 24, 2000, upon receipt by this Court of respondent's Memorandum, which was signed by Atty. Virgilio V. Macaraig. Petitioner's Memorandum, signed by Atty. Rita Linda V. Jimeno, had been filed earlier on November 5, 1999.

[6] Rollo, p. 70; original in upper case.

[7] Memorandum for petitioner, p. 6; rollo, p. 70.

[8] 268 SCRA 198, February 13, 1997, per Panganiban, J.

[9] "Article 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. "The action for declaration of nullity of the marriage under this Article shall prescribe in ten years after its celebration."

[10] *Supra*, pp. 209-213.

[11] 240 SCRA 20, 34, January 4, 1995, per Vitug, J.

[12] "Article 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;
- (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;
- (4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;
- (5) Drug addiction or habitual alcoholism of the respondent;
- (6) Lesbianism or homosexuality of the respondent;
- (7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

(8) Sexual infidelity or perversion;

(9) Attempt by the respondent against the life of the petitioner; or

(10) Abandonment of petitioner by respondent without justifiable cause for more than one year. For purposes of this Article, the term 'child' shall include a child by nature or by adoption."

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