

LORNA GUILLEN PESCA, PETITIONER, VS. ZOSIMO A. PESCA, RESPONDENT.*G.R. No. 136921. April 17, 2001*

Ponente: VITUG, J.

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Submitted for review is the decision of the Court of Appeals, promulgated on 27 May 1998, in C.A. G.R. CV. No. 52374, reversing the decision of the Regional Trial Court ("RTC") of Caloocan City, Branch 130, which has declared the marriage between petitioner and respondent to be null and void ab initio on the ground of psychological incapacity on the part of respondent.

Petitioner Lorna G. Pesca and respondent Zosimo A. Pesca first met sometime in 1975 while on board an inter-island vessel bound for Bacolod City. After a whirlwind courtship, they got married on 03 March 1975. Initially, the young couple did not live together as petitioner was still a student in college and respondent, a seaman, had to leave the country on board an ocean-going vessel barely a month after the marriage. Six months later, the young couple established their residence in Quezon City until they were able to build their own house in Caloocan City where they finally resided. It was blissful marriage for the couple during the two months of the year that they could stay together - when respondent was on vacation. The union begot four children, 19-year old Ruhem, 17-year old Rez, 11-year old Ryan, and 9-year old Richie.

It started in 1988, petitioner said, when she noticed that respondent surprisingly showed signs of "psychological incapacity" to perform his marital covenant. His "true color" of being an emotionally immature and irresponsible husband became apparent. He was cruel and violent. He was a habitual drinker, staying with friends daily from 4:00 o'clock in the afternoon until 1:00 o'clock in the morning. When cautioned to stop or, to at least, minimize his drinking, respondent would beat, slap and kick her. At one time, he chased petitioner with a loaded shotgun and threatened to kill her in the presence of the children. The children themselves were not spared from physical violence.

Finally, on 19 November 1992, petitioner and her children left the conjugal abode to live in the house of her sister in Quezon City as they could no longer bear his violent ways. Two months later, petitioner decided to forgive respondent, and she returned home to give him a chance to change. But, to her dismay, things did not so turn out as expected. Indeed, matters became worse.

On the morning of 22 March 1994, about eight o'clock, respondent assaulted petitioner for about half an hour in the presence of the children. She was battered black and blue. She submitted herself to medical examination at the Quezon City General Hospital, which diagnosed her injuries as contusions and abrasions. Petitioner filed a complaint with the barangay authorities, and a case was filed against respondent for slight physical injuries. He was convicted by the Metropolitan Trial Court of Caloocan City and sentenced to eleven days of imprisonment.

This time, petitioner and her children left the conjugal home for good and stayed with her sister. Eventually, they decided to rent an apartment. Petitioner sued respondent before the Regional Trial Court for the declaration of

nullity of their marriage invoking psychological incapacity. Petitioner likewise sought the custody of her minor children and prayed for support pendente lite.

Summons, together with a copy of the complaint, was served on respondent on 25 April 1994 by personal service by the sheriff. As respondent failed to file an answer or to enter his appearance within the reglementary period, the trial court ordered the city prosecutor to look into a possible collusion between the parties. Prosecutor Rosa C. Reyes, on 03 August 1994, submitted her report to the effect that she found no evidence to establish that there was collusion between the parties.

On 11 January 1995, respondent belatedly filed, without leave of court, an answer, and the same, although filed late, was admitted by the court. In his answer, respondent admitted the fact of his marriage with petitioner and the birth of their children. He also confirmed the veracity of Annex "A" of the complaint which listed the conjugal property. Respondent vehemently denied, however, the allegation that he was psychologically incapacitated.

On 15 November 1995, following hearings conducted by it, the trial court rendered its decision declaring the marriage between petitioner and respondent to be null and void ab initio on the basis of psychological incapacity on the part of respondent and ordered the liquidation of the conjugal partnership.

Respondent appealed the above decision to the Court of Appeals, contending that the trial court erred, particularly, in holding that there was legal basis to declare the marriage null and void and in denying his motion to reopen the case.

The Court of Appeals reversed the decision of the trial court and declared the marriage between petitioner and respondent valid and subsisting. The appellate court said:

"Definitely the appellee has not established the following: That the appellant showed signs of mental incapacity as would cause him to be truly incognitive of the basic marital covenant, as so provided for in Article 68 of the Family Code; that the incapacity is grave, has preceded the marriage and is incurable; that his incapacity to meet his marital responsibility is because of a psychological, not physical illness; that the root cause of the incapacity has been identified medically or clinically, and has been proven by an expert; and that the incapacity is permanent and incurable in nature.

"The burden of proof to show the nullity of marriage lies in the plaintiff and any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity." [1]

Petitioner, in her plea to this Court, would have the decision of the Court of Appeals reversed on the thesis that the doctrine enunciated in Santos vs. Court of Appeals,[2] promulgated on 14 January 1995, as well as the guidelines set out in Republic vs. Court of Appeals and Molina,[3] promulgated on 13 February 1997, should have no retroactive application and, on the assumption that the Molina ruling could be applied retroactively, the guidelines therein outlined should be taken to be merely advisory and not mandatory in nature. In any case, petitioner argues, the application of the Santos and Molina dicta should warrant only a remand of the case to the trial court for further proceedings and not its dismissal.

Be that as it may, respondent submits, the appellate court did not err in its assailed decision for there is absolutely no evidence that has been shown to prove psychological incapacity on his part as the term has been so defined in Santos.

Indeed, there is no merit in the petition.

The term "psychological incapacity," as a ground for the declaration of nullity of a marriage under Article 36 of the Family Code, has been explained by the Court in Santos and reiterated in Molina. The Court, in Santos, concluded:

"It should be obvious, looking at all the foregoing disquisitions, including, and most importantly, the deliberations of the Family Code Revision Committee itself, that the use of the phrase 'psychological incapacity' under Article 36 of the Code has not been meant to comprehend all such possible cases of psychoses as, likewise mentioned by some ecclesiastical authorities, extremely low intelligence, immaturity, and like circumstances (cited in Fr. Artemio Balumad's 'Void and Voidable Marriages in the Family Code and their Parallels in Canon Law,' quoting from the Diagnostic Statistical Manual of Mental Disorder by the American Psychiatric Association; Edward Hudson's 'Handbook II for Marriage Nullity Cases'). Article 36 of the Family Code cannot be taken and construed independently of, but must stand in conjunction with, existing precepts in our law on marriage. Thus correlated, '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 intentment of the law has been to confine the meaning of 'psychological incapacity' to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage is celebrated."

The "doctrine of stare decisis," ordained in Article 8 of the Civil Code, expresses that judicial decisions applying or interpreting the law shall form part of the legal system of the Philippines. The rule follows the settled legal maxim - "legis interpretado legis vim obtinet" - that the interpretation placed upon the written law by a competent court has the force of law.[4] The interpretation or construction placed by the courts establishes the contemporaneous legislative intent of the law. The latter as so interpreted and construed would thus constitute a part of that law as of the date the statute is enacted. It is only when a prior ruling of this Court finds itself later overruled, and a different view is adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith in accordance therewith[5] under the familiar rule of "lex prospicit, non respicit."

The phrase "psychological incapacity," borrowed from Canon law, is an entirely novel provision in our statute books, and, until the relatively recent enactment of the Family Code, the concept has escaped jurisprudential attention. It is in Santos when, for the first time, the Court has given life to the term. Molina, that followed, has additionally provided procedural guidelines to assist the courts and the parties in trying cases for annulment of marriages grounded on psychological incapacity. Molina has strengthened, not overturned, Santos.

At all events, petitioner has utterly failed, both in her allegations in the complaint and in her evidence, to make out a case of psychological incapacity on the part of respondent, let alone at the time of solemnization of the contract, so as to warrant a declaration of nullity of the marriage. Emotional immaturity and irresponsibility, invoked by her, cannot be equated with psychological incapacity.

The Court reiterates its reminder that marriage is an inviolable social institution and the foundation of the family[6] that the State cherishes and protects. While the Court commiserates with petitioner in her unhappy marital relationship with respondent, totally terminating that relationship, however, may not necessarily be the fitting denouement to it. In these cases, the law has not quite given up, neither should we.

WHEREFORE, the herein petition is DENIED. No costs.

SO ORDERED.

Melo, (Chairman), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

[1] Rollo, pp. 42-43.

[2] 240 SCRA 20

[3] 268 SCRA 198.

[4] *People vs. Jabinal*, 55 SCRA 607.

[5] *Unciano Paramedical College, Inc. vs. Court of Appeals*, 221 SCRA 285; *Tanada vs. Guingona*, 235 SCRA 507; *Columbia Pictures, Inc., vs. Court of Appeals*, 261 SCRA 144.

[6] See Section 2, Article XV, 1987 Constitution.

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