ROSA YAP PARAS, PETITIONER, VS. JUSTO J. PARAS, RESPONDENT.

G.R. NO. 147824. August 02, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This case presents another occasion to reiterate this Court's ruling that the Guidelines set forth in Republic v. Court of Appeals and Ronidel Olaviano Molina[1] "do not require that a physician should examine the person to be declared psychologically incapacitated. What is important is the presence of evidence that can adequately establish the party's psychological condition."[2]

Assailed in this petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the (a) Decision[3] dated December 8, 2000 and (b) Resolution[4] dated April 5, 2001 of the Court of Appeals in CA-G.R. CV No. 49915, entitled "Rosa Yap-Paras, Plaintiff-Appellant vs. Justo J. Paras, Defendant-Appellee."

On May 21, 1964, petitioner Rosa Yap married respondent Justo J. Paras in Bindoy, Negros Oriental. They begot four (4) children, namely: Raoul (+), Cindy Rose (+), Dahlia, and Reuel.

Twenty-nine (29) years thereafter, or on May 27, 1993, Rosa filed with the Regional Trial Court (RTC), Branch 31, Dumaguete City, a complaint for annulment of her marriage with Justo, under Article 36 of the Family Code, docketed as Civil Case No. 10613. She alleged that Justo is psychologically incapacitated to exercise the essential obligations of marriage as shown by the following circumstances:

(a) he dissipated her business assets and forged her signature in one mortgage transaction;

(b) he lived with a concubine and sired a child with her;

(c) he did not give financial support to his children; and

(d) he has been remiss in his duties both as a husband and as a father.

To substantiate her charges, Rosa offered documentary and testimonial evidence.

This is her story. She met Justo in 1961 in Bindoy. She was then a student of San Carlos University, Cebu City.[5] He courted her, frequently spending time at her "Botica."[6] Eventually, in 1964, convinced that he loved her, she agreed to marry him. Their wedding was considered one of the "most celebrated" marriages in Bindoy.[7]

After the wedding, she and Justo spent one (1) week in Davao for their honeymoon.[8] Upon returning to Bindoy, they resided at her parents' house. It was their residence for three (3) years until they were able to build a house of their own.[9] For the first five (5) years of their marriage, Justo did not support her and their children because he shouldered his sister's schooling.[10] Consequently, she was the one who spent for all their family needs, using the income from her "Botica" and store.[11]

Justo lived the life of a bachelor.[12] His usual routine was to spend time with his "barkadas" until the wee hours of the morning. Oftentimes, he would scold her when she sent for him during lunchtime.[13] He also failed to

provide for their children's well-being.[14] Sometime in 1975, their daughter Cindy Rose was afflicted with leukemia. It was her family who paid for her medication. Also, in 1984, their son Raoul was electrocuted while Justo was in their rest house with his "barkadas." He did not heed her earlier advice to bring Raoul in the rest house as the latter has the habit of climbing the rooftop.[15]

To cope with the death of the children, the entire family went to the United States. Her sisters supported them throughout their two-year stay there. However, after three months, Justo abandoned them and left for the Philippines. Upon her return to the Philippines, she was shocked to find her "Botica" and other businesses heavy in debt. She then realized Justo was a profligate. At one time, he disposed without her consent a conjugal piece of land.[16] At other times, he permitted the municipal government to take gasoline from their gas station free of charge.

She endured all of Justo's shortcomings, but his act of maintaining a mistress and siring an illegitimate child was the last straw that prompted her to file the present case. She found that after leaving their conjugal house in 1988, Justo lived with Jocelyn Ching. Their cohabitation resulted in the birth of a baby girl, Cyndee Rose, obviously named after her (Rosa) and Justo's deceased daughter Cindy Rose Paras.[17]

As expected, Justo has a different version of the story.

He met Rosa upon his return to Bindoy after taking the bar examinations in Manila.[18] He frequently spent time in her store.[19] Believing he loved her, he courted her and later on, they became sweethearts. In 1963, they decided to get married. However, it was postponed because her family demanded a dowry. Their marriage took place in 1964 upon his mother's signing a deed of conveyance involving 28 hectares of coconut land in favor of Rosa.[20]

He blamed the subsequent dissipation of their assets from the slump of the price of sugar and not to his alleged profligacy.[21] Due to his business ventures, he and Rosa were able to acquire a 10-room family house, expand their store, establish their gasoline station, and purchase several properties. He also denied forging her signature in one mortgage transaction. He maintained that he did not dispose of a conjugal property and that he and Rosa personally signed the renewal of a sugar crop loan before the bank's authorized employee.[22]

As to their marital relationship, he noticed the change in Rosa's attitude after her return from the United States. She became detached, cold, uncaring, and overly focused on the family's businesses.[23] He tried to reach her but Rosa was steadfast in her "new attitudinal outlook." Before other people, he merely pretended that their relationship was blissful.[24]

He did not abandon his family in the United States. It happened that they only had tourist visas. When they were there, their children's tourist visas were converted into study visas, permitting them to stay longer. For his part, he was granted only three (3) months leave as municipal mayor of Bindoy, thus, he immediately returned to the Philippines.[25]

He spent for his children's education. At first, he resented supporting them because he was just starting his law practice and besides, their conjugal assets were more than enough to provide for their needs. He admitted though that there were times he failed to give them financial support because of his lack of income.[26]

What caused the inevitable family break-out was Rosa's act of embarrassing him during his birthday celebration in 1987. She did not prepare food for the guests. When confronted, she retorted that she has nothing to do with his birthday. This convinced him of her lack of concern.[27] This was further aggravated when she denied his request for engine oil when his vehicle broke down in a mountainous and NPA-infested area.[28]

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As to the charge of concubinage, he alleged that Jocelyn Ching is not his mistress, but her secretary in his Law Office. She was impregnated by her boyfriend, a certain Grelle Leccioness. Cyndee Rose Ching Leccioness is not his daughter.

After trial or on February 28, 1995, the RTC rendered a Decision upholding the validity of the marriage. It found that: (a) Justo did not abandon the conjugal home as he was forced to leave after Rosa posted guards at the gates of their house;[29] (b) the conjugal assets were sufficient to support the family needs, thus, there was no need for Justo to shell out his limited salary;[30] and (c) the charge of infidelity is unsubstantiated.[31] The RTC observed that the relationship between the parties started well, negating the existence of psychological incapacity on either party at the time of the celebration of their marriage.[32] And lastly, it ruled that there appeared to be a collusion between them as both sought the declaration of nullity of their marriage.[33]

Justo interposed an appeal to the Court of Appeals.

In the interim, Rosa filed with this Court a petition for disbarment against Justo, docketed as A.C. No. 5333, premised on the same charges alleged in her complaint for declaration of nullity of marriage. On October 18, 2000, this Court rendered its Decision finding him guilty of falsifying Rosa's signature in bank documents, immorality, and abandonment of his family. He was suspended from the practice of law, thus:

> In the light of the foregoing, respondent is hereby SUSPENDED from the practice of law for SIX (6) MONTHS on the charge of falsifying his wife's signature in bank documents and other related loan instruments; and for ONE (1) YEAR from the practice of law on the charges of immorality and abandonment of his own family, the penalties to be served simultaneously. Let notice of this Decision be spread in respondent's record as an attorney, and notice of the same served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all the courts concerned.
> SO ORDERED.

On December 8, 2000 or nearly two months after this Court promulgated the Decision in A.C. No. 5333, the Court of Appeals affirmed the RTC Decision in the present case, holding that "the evidence of the plaintiff (Rosa) falls short of the standards required by law to decree a nullity of marriage." It ruled that Justo's alleged defects or idiosyncracies "were sufficiently explained by the evidence," thus:

> Certainly, we cannot ignore what is extant on the record - first, the income which supported their children came from the earnings of their conjugal properties and not singularly from Rosa's industry; second, Justo gave his share of the support to his children in the form of allowances, albeit smaller than that derived from the conjugal property; third, he was booted out from their conjugal dwelling after he lost his bid for re-election and as such did not voluntarily abandon his home; and fourth, although unjustifiable in the eyes of the law and morality, Justo's alleged infidelity came after he was driven out of his house by Rosa. x x x.

The Court of Appeals likewise held that Rosa's inability to offer the testimony of a psychologist is fatal to her case, being in violation of the tenets laid down by this Court in Molina.[34] Thus, she failed to substantiate her allegation that Justo is psychologically incapacitated from complying with the essential obligations of marriage.[35]

Rosa filed a motion for reconsideration but it was denied. Hence, the instant petition for review on certiorari.

Rosa contends that this Court's factual findings in A.C. No. 5333 for disbarment are conclusive on the present case. Consequently, the Court of Appeals erred in rendering contrary factual findings. Also, she argues that she filed the instant complaint sometime in May, 1993, well before this Court's pronouncement in Molina relied upon by the Court of Appeals. She states that she could have presented an expert to prove the root cause of Justo's psychological incapacity had she been required to do so. For relief, she prays that her marriage with Justo be

annulled on the bases of the Court's conclusive factual findings in A.C. No. 5333; or in the alternative, remand this case to the court a quo for reception of expert testimony in the interest of due process.

In his comment on the petition, Justo asserts that the present case is a "new matter completely foreign and removed" from A.C. No. 5333; hence, the factual findings of this Court therein are not conclusive on this case. Besides, no hearing was conducted in A.C. No. 5333 as it was decided merely on the bases of pleadings and documents.

The parties' opposing contentions lead us to the following three (3) vital issues:

first, whether the factual findings of this Court in A.C. No. 5333 are conclusive on the present case;

second, whether a remand of this case to the RTC for reception of expert testimony on the root cause of Justo's alleged psychological incapacity is necessary; and

third, whether the totality of evidence in the case shows psychological incapacity on the part of Justo.

The petition is bereft of merit.

I

Whether the factual findings of this Court in
A.C. No. 5333 are conclusive on the present case.

Rosa, sad to say, had made much ado about nothing. A reading of the Court of Appeals' Decision shows that she has no reason to feel aggrieved. In fact, the appellate court even assumed that her charges "are true," but concluded that they are insufficient to declare the marriage void on the ground of psychological incapacity. The pertinent portion of the Decision reads:

> Applying these parameters to the sifted evidence, we find that even if we assume Justo's alleged infidelity, failure to support his family and alleged abandonment of their family home are true, such traits are at best indicators that he is unfit to become an ideal husband and father. However, by themselves, these grounds are insufficient to declare the marriage void due to an incurable psychological incapacity. These grounds, we must emphasize, do not manifest that he was truly incognitive of the basic marital covenants that he must assume and discharge as a married person. While they may manifest the "gravity" of his alleged psychological incapacity, they do not necessarily show "incurability", such that while his acts violated the covenants of marriage, they do not necessarily show that such acts show an irreparably hopeless state of psychological incapacity which prevents him from undertaking the basic obligations of marriage in the future.[36]

The Court of Appeals pointed this out in its Resolution denying Rosa's motion for reconsideration, thus:

> Even as we are fully cognizant of the findings of the Supreme Court in the disbarment case appellant filed against her husband, namely, appellee's falsification of documents to obtain loans and his infidelity, these facts, by themselves, do not conclusively establish appellee's psychological incapacity as contemplated under Article 36 of the Family Code. In fact, we already went as far as to presume the existence of such seeming depravities in appellee's character in our earlier judgment. However, as we emphasized in our Decision, the existence of such eventualities is not necessarily conclusive of an inherent incapacity on the part of appellee to discern and perform the rudiments of marital obligations as required under Article 36.[37]

Clearly, Rosa's insistence that the factual findings in A.C. No. 5333 be considered "conclusive" on the present case is unmeritorious. The Court of Appeals already "went as far as to presume the existence" of Justo's depravities, however, even doing so could not bring about her (Rosa's) desired result. As Rosa's prayer for relief suggests, what she wants is for this Court to annul her marriage on the bases of its findings in A.C. No. 5333.[38]

Obviously, she is of the impression that since her charges in A.C. No. 5333 were found to be true, justifying the suspension of Justo from the practice of law, the same charges are also sufficient to prove his psychological incapacity to comply with the essential marital obligations.

Her premise is of course non-sequitur.

Jurisprudence abounds that administrative cases against lawyers belong to a class of their own. They are distinct from and may proceed independently of civil and criminal cases. The basic premise is that criminal and civil cases are altogether different from administrative matters, such that the disposition in the first two will not inevitably govern the third and vice versa.[39] The Court's exposition in In re Almacen[40] is instructive, thus:

> x x x Disciplinary proceedings against lawyers are sui generis. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but are rather investigations by the Court into the conduct of one of its officers. Not being intended to inflict punishment, [they are] in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. [They] may be initiated by the Court motu proprio. Public interest is [their] primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have prove[n] themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.

Accordingly, one's unfitness as a lawyer does not automatically mean one's unfitness as a husband or vice versa.[41] The yardsticks for such roles are simply different. This is why the disposition in a disbarment case cannot be conclusive on an action for declaration of nullity of marriage. While Rosa's charges sufficiently proved Justo's unfitness as a lawyer, however, they may not establish that he is psychologically incapacitated to perform his duties as a husband. In the disbarment case, "the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such." Its purpose is "to protect the court and the public from the misconduct of officers of the court." On the other hand, in an action for declaration of nullity of marriage based on the ground of psychological incapacity, the question for determination is whether the guilty party suffers a grave, incurable, and pre-existing mental incapacity that renders him truly incognitive of the basic marital covenants. Its purpose is to free the innocent party from a meaningless marriage. In this case, as will be seen in the following discussion, Justo's acts are not sufficient to conclude that he is psychologically incapacitated, albeit such acts really fall short of what is expected from a lawyer.

II

Whether a remand of this case to the
RTC is necessary.

The presentation of an expert witness to prove psychological incapacity has its origin in Molina.[42] One of the Guidelines set forth therein states:

> (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

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> 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.

In the 2000 case of Marcos v. Marcos,[43] the Court clarified that the above Guideline does not require that the respondent should be examined by a physician or psychologist as a condition sine qua non for the declaration of the nullity of marriage. What is important is "the presence of evidence that can adequately establish the party's psychological condition."

Interestingly, in the same year (2000) that Marcos was decided, the Court backtracked a bit when it held in Republic v. Dagdag[44] that, "the root cause of psychological incapacity must be medically or clinically identified and sufficiently proven by experts" and this requirement was not deemed complied with where no psychiatrist or medical doctor testified on the alleged psychological incapacity of one party.

Significantly, the New Rules on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages,[45] promulgated by this Court on March 15, 2003, geared towards the relaxation of the requirement of expert opinion. Section 2, paragraph (d) states:

> (d) What to allege.-A petition under Article 36 of the Family Code shall specifically allege the complete facts showing that either or both parties were psychologically incapacitated from complying with the essential marital obligations of marriage at the time of the celebration of marriage even if such incapacity becomes manifest only after its celebration.
>
> The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged.

In Barcelona v. Court of Appeals,[46] this Court categorically explained that under the New Rules, a petition for declaration of nullity under Article 36 of the Family Code need not allege expert opinion on the psychological incapacity or on its root cause. What must be alleged are the physical manifestations indicative of said incapacity. The Court further held that the New Rules, being procedural in nature, apply to actions pending and unresolved at the time of their adoption.

Later, in 2005, the Court reiterated the Marcos doctrine in Republic v. Iyoy.[47] Thus:

> A later case, Marcos v. Marcos, further clarified that there is no requirement that the defendant/respondent spouse should be personally examined by a physician or psychologist as a condition sine qua non for the declaration of nullity of marriage based on psychological incapacity. Accordingly, it is no longer necessary to allege expert opinion in a petition under Article 36 of the Family Code of the Philippines. Such psychological incapacity, however, must be established by the totality of the evidence presented during the trial.

Significantly, the present case is exactly akin to Pesca v. Pesca.[48] Pesca stemmed from a complaint for declaration of nullity of marriage under Article 36 filed by a battered wife sometime in April 1994. The trial court, in its Decision dated November 15, 1995, decreed the marriage void ab initio on the ground of psychological incapacity on the part of the husband. The Court of Appeals reversed the trial court's Decision, applying the Guidelines set forth in Santos v. Court of Appeals[49] and Molina.[50] When the matter was brought to this Court, the wife argued that Santos and Molina should not have retroactive application, the Guidelines being merely advisory and not mandatory in nature. She submitted that the proper application of Santos and Molina warranted only a remand of her case to the trial court for further proceedings, not a dismissal. The Court declined to remand Pesca[51] on the premise that the Santos and Molina Guidelines "constitute a part of the law as of the date the statute is enacted," thus:

> 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. 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 the 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 under the familiar rule of 'lex prospicit, non replicit.'

The Court then opted to examine the evidence. It affirmed that the wife failed, both in her allegations in the complaint and in her evidence, to make out a case of psychological incapacity on the part of her husband. The Court then concluded that "emotional immaturity and irresponsibility" cannot be equated with psychological incapacity.

Applying the foregoing cases, Marcos, Barcelona, Iyoy, and Pesca, to the instant case, there is no reason to remand it to the trial court. The records clearly show that there is sufficient evidence to establish the psychological condition of Justo.

III

Whether the totality of evidence in the case shows psychological incapacity on the part of Justo as to justify the declaration of nullity of marriage.

The last issue left for this Court's consideration is whether the totality of the evidence is sufficient to sustain a finding of psychological incapacity on the part of Justo so as to justify the dissolution of the marriage in question.

At this juncture, it is imperative that the parties be reminded of the State's policy on marriage. Article XV of the Constitution mandates that:

> SEC. 1. The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.
>
> SEC. 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

This State policy on the inviolability of marriage has been enshrined in Article 1 of the Family Code which states that:

> ART. 1. Marriage is a special contract of permanent union, between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law, and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code.

Given the foregoing provisions of constitutional and statutory law, this Court has held fast to the position that any doubt as to the validity of a marriage is to be resolved in favor of its validity.[52] Semper praesumitur pro matrimonio.

Of course, the law recognizes that not all marriages are made in heaven. Imperfect humans more often than not create imperfect unions. Thus, when the imperfection is psychological in nature and renders a person incapacitated to comply with the essential marital obligations, the State provides refuge to the aggrieved spouse under Article 36 of the Family Code which reads:

> ART. 36. A marriage contracted by a party who, at the time of 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.

In Molina,[53] the Court laid down the Guidelines for the interpretation and application of Article 36, thus:

> (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. x x x.
>
> (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, were 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 may 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 characteriological 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.
>
> (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

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The foregoing Guidelines incorporate the basic requirements mandated by the Court in Santos,[54] to reiterate: psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability.

A review of the complaint, as well as the testimonial and documentary evidence, shows that Rosa's main grounds in seeking the declaration of nullity of her marriage with Justo are his infidelity, profligacy which includes the falsification of her signature in one of the loan documents, failure to support the children, and abandonment of the family. Both the courts below found the charges unsubstantiated and untrue. However, this Court, in A.C. No. 5333 for disbarment, found the evidence sufficient to support Rosa's charges of sexual infidelity, falsification of her signature, and abandonment of family, thus:

> ON THE CHARGE OF FALSIFICATION OF COMPLAINANT'S SIGNATURE
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> The handwriting examination conducted by the National Bureau of Investigation on the signatures of complainant Rosa Yap Paras and respondent Justo de Jesus Paras vis-a-vis the questioned signature "Rosa Y. Paras" appearing in the questioned bank loan documents, contracts of mortgage and other related instrument, yielded the following results:
>
> CONCLUSION:
>
> - The questioned and the standard sample signatures JUSTO J. PARAS were written by one and the same person.
>
> - The questioned and the standard sample signatures ROSA YAP PARAS were not written by one and the same person. (Annex "B", Rollo, p. 26, emphasis ours;)

The NBI did not make a categorical statement that respondent forged the signatures of complainant. However, an analysis of the above findings lead to no other conclusion than that the questioned or falsified signatures of complainant Rosa Y. Paras were authored by respondent as said falsified signatures were the same as the sample signatures of respondent.

To explain this anomaly, respondent presented a Special Power of Attorney (SPA) executed in his favor by complainant to negotiate for an agricultural or crop loan from the Bais Rural Bank of Bais City. Instead of exculpating respondent, the presence of the SPA places him in hot water. For if he was so authorized to obtain loans from the banks, then why did he have to falsify his wife's signatures in the bank loan documents? The purpose of an SPA is to especially authorize the attorney-in-fact to sign for and on behalf of the principal using his own name.

ON THE CHARGE OF IMMORALITY AND CONCUBINAGE

The evidence against respondent is overwhelming. The affidavit-statements of his children and three other persons who used to work with him and have witnessed the acts indicative of his infidelity more than satisfy this Court that respondent has strayed from the marital path. The baptismal certificate of Cyndee Rose Paras where respondent was named as the father of the child (Annex "J", Rollo, p. 108); his naming the child after his deceased first-born daughter Cyndee Rose; and his allowing Jocelyn Ching and the child to live in their house in Dumaguete City bolster the allegation that respondent is carrying on an illicit affair with Ms. Ching, the mother of his illegitimate child.

While this Court is convinced that the charges hurled against Justo by Rosa, such as sexual infidelity, falsification of her signature, abandonment and inadequate support of children, are true, nonetheless, there is nothing in the records showing that they were caused by a psychological disorder on his part. In other words, the totality of the

evidence is not sufficient to show that Justo is psychologically incapacitated to comply with the essential marital obligations.

The records indicate that the marriage between the parties had a good start, resulting in the birth of their four (4) children. The early days of their cohabitation were blissful and harmonious. Justo was deeply in love with Rosa, even persuading his mother to give her a dowry. They were able to build a 10-room family home and acquire several properties, thus, proving themselves to be responsible couple. Even Rosa admitted that Justo took care of their children when they were young. Unfortunately, the passage of time appeared to have taken its toll on their relationship. The acts committed by Justo appeared to have been the result of irreconcilable differences between them caused by the death of their two (2) children and financial difficulties due to his failure to win the mayoralty election and to sustain his law practice. Furthermore, the superior business acumen of Rosa, as well as the insolent attitude of her family towards Justo, busted his ego and lowered his self-esteem.

There is no evidence that Justo's "defects" were present at the inception of the marriage. His "defects" surfaced only in the latter years when these events took place; their two children died; he lost in the election; he failed in his business ventures and law practice; and felt the disdain of his wife and her family. Surely, these circumstances explain why Rosa filed the present case only after almost 30 years of their marriage.

Equally important is that records fail to indicate that Justo's "defects" are incurable or grave.

The following catena of cases provides an adequate basis why the marriage between Justo and Rosa should not be annulled.

In Dedel v. Court of Appeals[55] which involved a promiscuous wife who left her family to live with one of her many paramours, this Court ruled that the acts of sexual infidelity and abandonment do not constitute psychological incapacity absent a showing of the presence of such promiscuity at the inception of the marriage, thus:

> x x x. In this case, respondent's sexual infidelity can hardly qualify as being mentally or physically ill to such an extent that she could not have known the obligations she was assuming, or knowing them, could not have given a valid assumption thereof. It appears that respondent's promiscuity did not exist prior to or at the inception of the marriage. What is, in fact, disclosed by the records is a blissful marital union at its celebration, later affirmed in church rites, and which produced four children.
>
> Respondent's sexual infidelity or perversion and abandonment do not by themselves constitute psychological incapacity within the contemplation of the Family Code. Neither could her emotional immaturity and irresponsibility be equated with psychological incapacity. It must be shown that these acts are manifestations of a disordered personality which make respondent completely unable to discharge the essential obligations of the marital state, not merely due to her youth, immaturity, or sexual promiscuity.

In Carating-Siayngco v. Siayngco,[56] the wife's inability to conceive led her husband to other women so he could fulfill his ardent wish to have a child of his own flesh and blood. This Court ruled that this is not a manifestation of psychological incapacity in the contemplation of the Family Code. In Choa v. Choa,[57] this Court declared that a mere showing of irreconcilable differences and conflicting personalities does not constitute psychological incapacity. And, again, in Iyoy,[58] a Filipina left her husband, married an American and had a family by him, which she flaunted to her former husband. This Court ruled that these acts, while embarrassing and hurting to the latter, did not satisfactorily establish a serious or grave psychological or mental defect of an incurable nature present at the time of marriage; and that irreconcilable differences, conflicting personalities, emotional immaturity, and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and abandonment per se do not warrant a finding of psychological incapacity under Article 36.

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What is clear in this case is a husband who has gone astray from the path of marriage because of a conflicting relationship with his wife and her family and repeated life's setbacks. While these do not justify his sins, they are not sufficient to establish that he is psychologically incapacitated.

It is worthy to emphasize that Article 36 contemplates downright incapacity or inability to take cognizance of and assume the basic marital obligations, not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse.[59] As this Court repeatedly declares, Article 36 of the Family Code is not to be confused with a divorce law that cuts the marital bond at the time the causes thereof 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.[60]

Neither should Article 36 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, sexual infidelity, and abandonment, and the like. At best the evidence presented by petitioner refers only to grounds for legal separation, not for declaring a marriage void.[61]

In sum, this Court finds no cogent reason to reverse the ruling of the Court of Appeals. While this Court commiserates with Rosa's plight, however, it has no choice but to apply the law. Dura lex sed lex.

WHEREFORE, the petition is DENIED. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 49915 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.
Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] 335 Phil. 664 (1997).

[2] Marcos v. Marcos, G.R. No. 136490, October 19, 2000, 343 SCRA 755.

[3] Penned by Associate Justice Oswaldo D. Agcaoili (retired) and concurred in by Associate Justice Fermin A. Martin, Jr. (retired) and Associate Justice Rebecca Guia-Salvador. Rollo, pp. 34-45.

[4] Id., pp. 70-75.

[5] TSN, January 18, 1994, p. 3.

[6] Id., p. 5.

[7] Id., p. 5.

[8] Id., p. 8.

[9] Id., p. 9.

[10] Id., p. 9. See also TSN, January 25, 1994, p. 8.

[11] Id., p. 10.

[12] Id., p. 20.

[13] Id., p. 11.

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[14] Id., pp. 12 -19.

[15] Id., p. 12.

[16] Id., p. 20.

[17] Id., pp. 21-24.

[18] Id., June 28, 1994, p. 7.

[19] Id.

[20] Id., June 28, 1994, p. 8.

[21] Records, p. 11.

[22] Id., p. 11.

[23] Id., p. 12. See also TSN, June 28, 1994, p. 13.

[24] Id., p.12.

[25] TSN, June 28, 1994, p. 11.

[26] Id., p. 17.

[27] Records, p. 12.

[28] Id., pp. 12-13.

[29] RTC Decision, Id., p. 495.

[30] Id., pp. 495-496.

[31] Id., pp. 492- 494.

[32] Id., p. 497.

[33] Id., pp. 497- 498.

[34] Supra, footnote 1.

[35] Court of Appeals' Decision, rollo, pp. 42-43.

[36] Id., pp. 12-13.

[37] Court of Appeals Resolution, id., p. 71.

[38] Id., pp. 142-143; Memorandum of the Petitioner, pp. 46-47.

[39] Office of the Court Administrator v. Sardido, A.M. No. MTJ-01-1370. April 25, 2003, 401 SCRA 583.

[40] No. L - 27654, February 18, 1970, 31 SCRA 562.

[41] See also Cojuangco v. Palma, Adm. Case No. 2474, September 15, 2004, 438 SCRA 306.

[42] Supra, footnote 1.

[43] Supra, footnote 2.

[44] G.R. No. 109975, February 9, 2001, 351 SCRA 425.

[45] A.M. No. 01-11-10-SC.

[46] G.R. No. 130087, September 24, 2003, 412 SCRA 41.

[47] G.R. No. 152577, September 21, 2005, 470 SCRA 508.

[48] G.R. No. 136921, April 17, 2001, 356 SCRA 588.

[49] G.R. No. 112019, January 4, 1995, 240 SCRA 20. In this case, the Court held that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability.

[50] Supra, footnote 1.

[51] Supra, footnote 48.

[52] Republic v. Court of Appeals, 335 Phil. 664 (1997).

[53] Supra, Footnote 1.

[54] Supra, footnote 49.

[55] G.R. No. 151867, January 29, 2004, 421 SCRA 461.

[56] G.R. No. 158896, October 27, 2004, 441 SCRA 422.

[57] G.R. No. 143376, November 26, 2002, 392 SCRA 641.

[58] Supra, footnote 47.

[59] Supra, footnote 1.

[60] Supra, footnote 2, citing:

> Article 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support. (109a)
> Article 69. The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide. The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family. (110a)
> Article 70. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from their separate properties. (111a)
> Article 71. The management of the household shall be the right and duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70. (115a)

[61] 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;
> (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.

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