

**RENATO REYES SO, PETITIONER, VS. LORNA VALERA, RESPONDENT.***G.R. No. 150677. June 05, 2009*

Ponente: BRION, J.

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For our review is the Petition for Review on Certiorari[1] filed by petitioner Renato Reyes So (petitioner) against the Decision dated July 4, 2001[2] and the Resolution dated October 18, 2001[3] of the Court of Appeals (CA) in CA-G.R. CV No. 65273. The challenged decision reversed the decision[4] of the Regional Trial Court (RTC), Branch 143, Makati City declaring the marriage of the petitioner and respondent Lorna Valera (respondent) null and void on the ground of the latter's psychological incapacity under Article 36 of the Family Code. The assailed resolution denied the petitioner's motion for reconsideration.

**ANTECEDENT FACTS**

The petitioner and the respondent first met at a party in 1973 after being introduced to each other by a common friend. The petitioner at that time was a 17-year old high school student; the respondent was a 21-year old college student. Their meeting led to courtship and to a 19-year common-law relationship,[5] culminating in the exchange of marital vows at the Caloocan City Hall on December 10, 1991.[6] They had three (3) children (Jeffrey, Renelee, and Loni)[7] in their relationship and subsequent marriage.

On May 14, 1996, the petitioner filed with the RTC a petition for the declaration of the nullity of his marriage with the respondent.[8] The case was docketed as JDRC Case No. 96-674. He alleged that their marriage was null and void for want of the essential and formal requisites. He also claimed that the respondent was psychologically incapacitated to exercise the essential obligations of marriage, as shown by the following circumstances: the respondent failed and refused to cohabit and make love with him; did not love and respect him; did not remain faithful to him; did not give him emotional, spiritual, physical, and psychological help and support; failed and refused to have a family domicile; and failed and refused to enter into a permanent union and establish conjugal and family life with him.[9]

The petitioner presented testimonial and documentary evidence to substantiate his charges.

The petitioner testified that he and the respondent eloped two (2) months after meeting at a party.[10] Thereafter, they lived at the house of his mother's friend in Bulacan, and then transferred to his parents' house in Caloocan City. They stayed there for two (2) months before transferring to Muntinlupa City.[11]

The petitioner likewise related that respondent asked him to sign a blank marriage application form and marriage contract sometime in 1986. He signed these documents on the condition that these documents would only be used if they decide to get married. He admitted not knowing what happened to these documents, and maintained that no marriage ceremony took place in 1991.[12] As noted below, the petitioner, however, submitted a certified true copy of their marriage contract as part of his documentary evidence.

The petitioner further alleged that the respondent did not want to practice her profession after passing the dental

board exam; and that she sold the dental equipment he bought for her.[13] He also claimed that when he started his own communication company, the respondent disagreed with many of his business decisions; her interference eventually led to many failed transactions with prospective clients.[14]

The petitioner narrated that he often slept in the car because the respondent locked him out of the house when he came home late. He felt embarrassed when his employees would wake him up inside the car. When he confronted the respondent the next morning, she simply ignored him. He also claimed that respondent did not care for their children, and was very strict with clients. Moreover, the respondent went out with his employees to gamble whenever there were no clients.

Lastly, he testified that sometime in 1990, he found all his things outside their house when he came home late after closing a deal with a client. He left their house and stayed at a friend's house for two (2) months. He tried to go back to their house, but the respondent prevented him from entering. The respondent also told him she did not love him anymore. He attempted to reconcile with her for the sake of their children, but she refused to accept him back.[15]

Summons was served on the respondent on July 17, 1996, but she failed to file an answer. The RTC ordered the public prosecutor to investigate if there had been collusion between the parties and to intervene for the State to see to it that evidence was not fabricated. Prosecutor Andres N. Marcos manifested that he was unable to make a ruling on the issue of collusion since the respondent failed to appear before him. [16]

Aside from his testimony, the petitioner also presented certified true copies of the birth certificate of their three children;[17] certified true copy of their marriage contract;[18] and the testimony, original curriculum vitae,[19] and psychological report[20] of clinical psychologist Dr. Cristina Rosello-Gates (Dr. Gates).

In her Psychological Report, Dr. Gates noted as follows:

x x x

## PARTICULARS

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Parties met in a party when Petitioner was 17 years and Respondent was 21 years old; both were studying but Petitioner was also working in his father's business;

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During the first time they met, Respondent hugged Petitioner and stayed close to him; she also taught him how to smoke marijuana; after their first meeting, Respondent would fetch petitioner from school, and they would go out together;

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Within the next two months, Respondent dropped out of school without informing her parents; she applied for a job and was purportedly raped by her employer;

- When Respondent's parents found out that she quit school, she sought petitioner's help to look for a place to stay; Renato brought her to his friend's house in Bulacan but her hosts did not like her frequent outings and parties; Respondent then asked Petitioner to live with her in a rented apartment; she told him to execute an Affidavit of Loss so he can withdraw his savings with a new bankbook without the knowledge of his father;

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Parties were fetched by Petitioner's parents to live with them in Caloocan; petitioner sent Respondent to school to wean her away from her friends; when she passed the Dentistry Board Examinations, he put up a dental clinic for her; after 2 months, she quit her dental practice and joined Petitioner in his communications business;

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Respondent had problems dealing with Petitioner's clients; she interfered with his decisions, and resented his dealings with clients which would, at times, last till late at night; one incident in 1990, Respondent locked Petitioner out of house prompting the latter to sleep in the car; other similar incidents followed where employees would wake up Petitioner when they report for work; one night, Petitioner found all his things thrown out of the house by Respondent;

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Respondent was not the one who took care of their children; the second child, for instance, cries whenever said child sees Respondent as the latter is not familiar with the former;

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While parties lived together since 1973, they applied for a marriage license only in 1986; Respondent asked Petitioner to sign both license and marriage contract without any public appearance at City Hall; their marriage was registered in 1991 after the couple separated.[21]

and concluded that:

An examination of the parties' respective family background and upbringing, as well as the events prior to their marriage point to psychological impairment on the part of Respondent Lorna Valera.

From a simple existence in the province, Lorna Valera was thrust in the big city for her college education. It was in Sampaloc, Manila where she lived and groped, and eventually found herself in bad company. Thus, her so-called "culture shock" was abated by pot sessions lasting several days at a time - making her temporarily forget the harsh reality in the metropolis. Her escapist and regressive tendencies stunted her psychological growth and prevented her from fully functioning as a responsible adult.

Based on the Diagnostic and Statistical Manual (DSM IV), the international standards of psychological disorders, Respondent Lorna Valera is plagued with an Adjustment Disorder as manifested in her impulsiveness, lack of restraint, lack of civility and a sense of decency in the conduct of her life. Compulsive Behavior Patterns are also evident in her marijuana habit, gambling and habitual squandering of Petitioner's money. Lorna Valera's Adjustment Disorder and Compulsive Behavior Patterns were already existing prior to her marriage to Petitioner Renato So. Continuing up to the present, the same appears to be irreversible.[22]

### The RTC Ruling

The RTC nullified the marriage of petitioner and respondent in its decision of November 8, 1999. The decision, a relatively short one at four (4) pages, single-spaced, including the heading and the signature pages, made a short summary of the "testimonies of the witness" with the statements that -

Petitioner and respondent became common law husband and wife from 1973 to 1991. Out of this relationship were born three children, namely Jeffrey, Renelee and Lino all surnamed Varela.

Sometime in 1987 petitioner was induced by respondent to sign a blank Marriage Contract and a blank application for marriage license. The petitioner freely signed the documents with the belief that the documents will be signed only when they get married.[23]

Thereafter, the RTC decision wholly dwelt on the question of the respondent's psychological incapacity based on

the testimony of the petitioner and Dr. Gates, his expert witness. The decision's concluding paragraphs stated:

Based on the foregoing, the Court is convinced that respondent Lorna Valera is psychologically incapacitated to comply with the essential marital obligation of marriage, which incapacity existed at the time of the celebration thereof (Art. 36 F.C.).

It should be borne in mind that marriage is a special contract of permanent union and the foundation of the Family. The husband and the wife are obliged to live together, observe mutual help and support (Art. 68 F.C.). It includes the giving of love and affection, advice and counsel, companionship and understanding (Art. 230 F.C.). Respondent failed to observe all these things.[24]

The dispositive portion of the decision that immediately followed reads:

Wherefore, judgment is hereby rendered in favor of petitioner and against respondent:

- Declaring respondent psychologically incapacitated to comply with the essential marital obligations under Art. 36 of the Family Code;
- Declaring the marriage contracted by Renato Reyes So and Lorna Valero on December 10, 1991, null and void ab initio;
- Dissolving the conjugal partnership between the spouses in accordance with the pertinent provisions of the Family Code;
- Awarding the custody of the minor children to petitioner.

x x x

SO ORDERED.[25]

#### The CA Decision

The Republic of the Philippines (Republic), through the Office of the Solicitor General, appealed the RTC decision to the CA, docketed as CA-G.R. CV No. 65273. The CA, in its Decision dated July 4, 2001, reversed and set aside the RTC decision and dismissed the petition for lack of merit.[26]

The CA ruled that the petitioner failed to prove the respondent's psychological incapacity. According to the CA, the respondent's character, faults, and defects did not constitute psychological incapacity warranting the nullity of the parties' marriage. The CA reasoned out that "while respondent appears to be a less than ideal mother to her children, and loving wife to her husband," these flaws were not physical manifestations of psychological illness. The CA further added that although the respondent's condition was clinically identified by an expert witness to be an "Adjustment Disorder," it was not established that such disorder was the root cause of her incapacity to fulfill the essential marital obligations. The prosecution also failed to establish that respondent's disorder was incurable and permanent in such a way as to disable and/or incapacitate respondent from complying with obligations essential to marriage.

The CA likewise held that the respondent's hostile attitude towards the petitioner when the latter came home late was "a normal reaction of an ordinary housewife under a similar situation"; and her subsequent refusal to cohabit with him was not due to any psychological condition, but due to the fact that she no longer loved him.

Finally, the CA concluded that the declaration of nullity of a marriage was not proper when the psychological disorder does not meet the guidelines set forth in the case of *Molina*.

The petitioner moved to reconsider the decision, but the CA denied his motion in its resolution[27] dated October 18, 2001.

#### The Petition and Issues

The petitioner argues in the present petition that the CA seriously erred[28] -

- in reversing the RTC decision without ruling on the trial court's factual and conclusive finding that the marriage between petitioner and respondent was null and void ab initio;
- in departing from the accepted and usual course of judicial proceedings that factual findings of the trial courts are entitled to great weight and respect and are not disturbed on appeal; and
- in totally disregarding the undisputed fact that respondent is psychologically incapacitated to perform the essential marital obligations.[29]

The Republic, as intervenor-appellee, alleged in its comment that: (a) the trial court never made a definitive ruling on the issue of the absence of the formal and essential requisites of the parties' marriage; and (b) petitioner was not able to discharge the burden of evidence required in Molina.[30]

The petitioner filed a reply;[31] thereafter, both parties filed their respective memoranda reiterating their arguments. Other than the issue of the absence of the essential and formal requisites of marriage, the basic issue before us is whether there exists sufficient ground to declare the marriage of petitioner and respondent null and void.

### THE COURT'S RULING

We deny the petition for lack of merit, and hold that no sufficient basis exists to annul the marriage pursuant to Article 36 of the Family Code. No case of lack of essential and formal requisites of marriage has been proven or validly ruled upon by the trial court.

#### 1. The CA did not err in not ruling on the alleged lack of the essential and formal requisites of marriage

The petitioner cites as ground for this appeal the position that the CA reversed and set aside the RTC decision without touching on the trial court's ruling that there was absence of the essential and formal requisites of marriage.

We find this argument baseless and misplaced for three basic reasons.

First. The argument stems from the mistaken premise that the RTC definitively ruled that petitioner's marriage to respondent was null and void due to the absence of the essential and formal requisites of marriage.

A careful examination of the RTC decision shows that the trial court did not discuss, much less rule on, the absence of the formal and essential requisites of marriage; it simply recited the claim that "[ S]ometime in 1987 petitioner was induced by respondent to sign a blank Marriage Contract and a blank application for marriage license. The petitioner freely signed the documents with the belief that the documents will be signed only when they get married." The trial court did not even mention the certified true copy of the Marriage Contract signed by the officiating minister and registered in the Civil Registry of Kalookan City. The petitioner introduced and marked this copy as his Exhibit "D" to prove that there is a marriage contract registered in the Civil Registry of Kalookan City between petitioner and respondent.[32]

Out of this void came the dispositive portion "[D]eclaring the marriage contracted by Renato Reyes So and Lorna

Valera on December 10, 1991 null and void." [33] Faced with an RTC decision of this tenor, the CA could not have ruled on the validity of the marriage for essential and formal deficiencies, since there was no evidence and no RTC ruling on this point to evaluate and rule upon on appeal. Even if it had been a valid issue before the CA, the RTC's declaration of nullity should be void for violation of the constitutional rule that "[No] decision shall be rendered by any court without expressing therein clearly and distinctly the facts and the law on which it is based." [34]

Second. The same examination of the RTC decision shows that it concerned itself wholly with the declaration of the nullity of the marriage based on Article 36 of the Family Code. After its recital of the "testimonies of witnesses," part of which are the facts relied upon to support the claimed psychological incapacity, the decision dwelt on the evidence of Dr. Gates, the expert witness, and, from there, proceeded to its conclusion that psychological incapacity existed. In this light, the dispositive portion declaring "the marriage...on December 10, 1991, [is] null and void," must be based on psychological incapacity as found by the trial court, not on the absence of the essential and formal requisites of marriage.

Third. We note that the petitioner himself offered the Marriage Contract as evidence that it is registered with the Civil Registry of Kalookan City. [35] As a duly registered document, it is a public document, and is prima facie evidence of the facts it contains, namely, the marriage of the petitioner with the respondent. To contradict these facts and the presumption of regularity in the document's favor, the petitioner's contrary evidence must be clear, convincing, and more than merely preponderant. [36] To be sure, a married couple cannot simply nullify their marriage through the non-appearance of one spouse and the uncorroborated declaration by the other spouse that the marriage did not really take place. If the biased and interested testimony of a witness is deemed sufficient to overcome a public instrument, drawn up with all the formalities prescribed by the law, then there will have been established a very dangerous doctrine that would throw the door wide open to fraud. [37] At the very least, the declaration that the marriage did not take place must be supported by independent evidence showing a physical impossibility, a forgery, or the disavowal by the supposed participants, to name a few possible reasons.

## 2. Petitioner failed to establish respondent's psychological incapacity

As the CA did, we hold that the totality of evidence presented by petitioner failed to establish the respondent's psychological incapacity to perform the essential marital obligations.

The petition for declaration of nullity of marriage is anchored on Article 36 of the Family Code which provides that "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." In *Santos v. Court of Appeals*, [38] the Court first declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. It 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." It must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage." [39]

More definitive guidelines in the interpretation and application of Article 36 of the Family Code of the Philippines were handed down by this Court in *Republic v. Court of Appeals* [40] (the *Molina* case) 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.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

(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. x x x

(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...

(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.

A later case, *Marcos v. Marcos*,<sup>[41]</sup> 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

introduce expert opinion in a petition under Article 36 of the Family Code if the totality of evidence shows that psychological incapacity exists and its gravity, juridical antecedence, and incurability can be duly established.[42]

The factual background of this case covers at least 18 years. The petitioner and the respondent first met in 1973 and lived together as husband and wife, without the benefit of marriage, before they got married in 1991. In the course of their relationship, they had three (3) children; established a business, and even incurred indebtedness amounting to P4 million; had differences due to what the CA described as "character faults and defects"; and had a well-described quarrel which the CA observed to be the "common reaction of an ordinary housewife in a similar situation." Thus, unlike the usual Article 36 cases this Court encountered in the past, where marriage, cohabitation, and perception of psychological incapacity took place in that order, the present case poses a situation where there had been a lengthy period of cohabitation before the marriage took place. To be sure, this factual unique situation does not change the requirement that psychological incapacity must be present at the time of the celebration of the marriage. It does, however, raise novel and unavoidable questions because of the lapse of time the couple has been together and their intimate knowledge of each other at the time of the celebration of the marriage. Specifically, how do these factors affect the claim of psychological incapacity that should exist at the time of the marriage, considering that marriage came near or at the end of the parties' relationship?

Ideally, the best results in the determination of psychological incapacity are achieved if the respondent herself is actually examined. This opportunity, however, did not arise in the present case because the respondent simply failed to respond to the court summons and to cooperate in the proceedings. Thus, only an indirect psychological examination took place through the transcript of stenographic notes of the hearings and clinical interviews of the petitioner which lasted for about three (3) hours.[43] In light of the differences in the appreciation of the psychologist's testimony and conclusions between the trial court and the appellate court, we deem it necessary to examine the records ourselves, as the factual allegations and the expert opinion vitally affect the issues submitted for resolution.

Our own examination of the psychologist's testimony and conclusions leads us to conclude that they are not sufficiently in-depth and comprehensive to warrant the conclusion that a psychological incapacity existed that prevented the respondent from complying with the essential marital obligations of marriage. In the first place, the facts on which the psychologist based her conclusions were all derived from statements by the petitioner whose bias in favor of his cause cannot be doubted. It does not appear to us that the psychologist read and interpreted the facts related to her with the awareness that these facts could be slanted. In this sense, we say her reading may not at all be completely fair in its assessment. We say this while fully aware that the psychologist appeared at the petitioner's bidding and the arrangement between them was not pro bono.[44] While this circumstance does not disqualify the psychologist for reasons of bias, her reading of the facts, her testimony, and her conclusions must be read carefully with this circumstance and the source of the facts in mind.

In examining the psychologist's Report, we find the "Particulars" and the "Psychological Conclusions" disproportionate with one another; the conclusions appear to be exaggerated extrapolations, derived as they are from isolated incidents, rather than from continuing patterns. The "particulars" are, as it were, snapshots, rather than a running account of the respondent's life from which her whole life is totally judged. Thus, we do not see her psychological assessment to be comprehensive enough to be reliable.

For example, the psychologist's statements about the parties' sexual relationship appear to us to be rash, given that no parallel examination of the petitioner's own pattern of sexual behavior has been made. Sex with a partner is a two-way affair and while one partner can be more aggressive than the other, aggressiveness is not per se an aberrant behavior and may depend on the dynamics of the partners' relationship. To infer prior sexual experience because the respondent allegedly initiated intimate behavior, and to cite an unverified incident of a previous rape

to characterize the respondent's sexual behavior, are totally uncalled for. That the respondent did pass her Dental Board Exam was glossed over and unverified unsavory incidents related to her exam were highlighted. Her alleged failure to practice was stressed, without emphasizing, however, that "she quit her dental practice and joined petitioner in his communications business."

The respondent's business behavior is a matter that needed full inquiry, as there could be reasons for her interference. With respect to employees, while the petitioner charged the respondent with being strict, he, at the same time, alleged that she gambled with the employees when there were no clients. The psychologist did not pursue these lines and, significantly, the petitioner's testimonies on this point are uncorroborated. The respondent's reaction to her husband's nights out was singled out and slanted to indicate negative traits. It took the CA to observe that her hostile attitude when the petitioner stayed out late at night "is merely a usual common reaction of an ordinary housewife in a similar situation." To further quote the CA citing the transcripts, "[I]n fact, petitioner-appellee admitted that the reason respondent got angry and threw his things outside is because he came home late and drunk, which petitioner-appellee had done several times already on the pretext of closing business deals, which sometimes included going out night-clubbing with clients."<sup>[45]</sup> Why and how the couple incurred indebtedness of about P4 million may be usual in the communications business, but is certainly a matter that the psychologist should have further inquired into in relation with her alleged strictness in business affairs.

As against the negatives in viewing the respondent, we note that she lived with the petitioner for 18 years and begot children with him born in 1975, 1978 and 1984 - developments that show a fair level of stability in the relationship and a healthy degree of intimacy between the parties for some eleven (11) years. She finished her Dentistry and joined her husband in the communications business - traits that do not at all indicate an irresponsible attitude, especially when read with the comment that she had been strict with employees and in business affairs. The petitioner's Memorandum<sup>[46]</sup> itself is very revealing when, in arguing that the Marriage Contract was a sham, the petitioner interestingly alleged that (referring to 1987) "[S]ince at that time, the relationship between the petitioner and respondent was going well, and future marriage between the two was not an impossibility, the petitioner signed these documents."

More than all these, the psychologist's testimony itself glaringly failed to show that the respondent's behavioral disorder was medically or clinically permanent or incurable as established jurisprudence requires. Neither did the psychologist testify that the disorder was grave enough to bring about the disability of the party to assume the essential obligations of marriage. To directly quote from the records:

ATTY. RODOLFO BRITANICO

Q:

All right, what was basically your conclusion in your qualitative research with regards to the psychological incapacity of the respondent to comply with the marital obligation?

DR. CRISTINA R. GATES

A:

There is a strong indication that the respondent was not able to carry out her marital obligation - her marital duties and responsibilities. And going through the TSN, it is evident that in their conjugal relation, it was petitioner who was responsible, but he in fact gave her opportunity to develop and to become responsible herself. [sic]

For instance, he sent her back to school to take Dentistry, he supported her during that time and during the exam and after that he built her a clinic. In all these, the respondent proved to be irresponsible. [sic]

When she was taking pre-dental, most of the time she was out of the house, and in one instance petitioner discovered that respondent was having an extra-marital affair with her classmate. And in her board exam she failed the first time. And even if it is questionable, petitioner approached one of the commissioners and through his efforts the respondent was able to pass the second time around. [sic]

And in the matter of dental clinic, after merely two months respondent refused to practice, she not only refused and without the knowledge of the petitioner sold all the dental equipments at a loss. [sic]

Q:

How about their relationship?

A:

From the start respondent is older, she had, like, prior sexual experience, and she was the one who introduced to him the use of marijuana. x x x x

Q:

How about respondent. How would the respondent compliment the responsibility?

A:

There is no mutuality, because if she run away and asked for petitioner to rent an apartment for them to live together, petitioner continued to work and study and went home to her in the evening, but respondent on the other hand she quit schooling and she did push through with working, and worst she allowed her friend to live with them, allegedly in that apartment, and respondent and friend would engage in pot sessions. [sic]

Q:

What did you find out with regards to the duty of respondent to live together with the petitioner? [sic]

A:

She was frequently out, in [sic] her friends. .

Q:

How about love and respect?

A:

Love is rather complicated. Because she made love to him in her own will. [sic]

Q:

But did they show respect?

A:

No, because she had extra-marital affair, and demanding lot of money.

Q:

How about to render emotional, spiritual and physical help? How would respondent comply?

A:

She was not able to comply, except maybe for the sexual obligation, but in terms of physical and emotional support she was not there for him. When she quit, she hang out with him on their business, but instead of

helping him, she would quarrel him, interfere in his decisions, she would embarrass petitioner in front of his clients and employees, and if petitioner would have a deal with his clients and sometimes would come home late, she would refuse to listen to his explanation and would lock him out and shout at him. [sic]

Q:

And in your Psychological findings, when did this [incapacity] of the respondent start, her incapacity to comply with the marriage obligation?

A:

In the testimony of the petitioner, I think he did mention that she came to Manila for her studies, and during the interview I found out that upon arrival in Manila she was alone, by herself, she had difficulty adjusting to city life, because all her life were spent in the province with her parents and siblings, and she lived in Sampaloc where she got herself in the company of bad friends like going into marijuana and frequent parties and pot sessions, [which] would last for 3 to 4 days, and in effect disallowed her from going to school regularly.

Q:

In clinical psychologist [sic], what is the effect?

A:

It is traumatic for her, because there is a separation of her parents, and not only that she was thrown to a situation of her being alone, at that time she had no guidance, it would assume that she would just study...[sic]

Q:

In your conclusion of your Psychological Report, you stated here and I quote: "Based on the Diagnostic and Statistical Manual (DSM IV), the international standards of psychological disorders, Respondent Lorna is plagued with an Adjustment Disorder as manifested in her impulsiveness, lack of restraint, lack of civility and a sense of decency in the conduct of her life." Can you please explain to us.

A:

Lorna Valera is like a person who is not in control of herself, impulsive. x x x

Q:

How about lack of restraint?

A:

Impulses. Like for example, when the husband comes home late, instead of looking means and ways to rationalize, she would just shout and lock him out.

Q:

And what about lack of civility, what is your basis?

A:

She did not consider the welfare of her children, her frequent outings, like she would conduct her extra marital affairs through phone calls. When they separated, I understand that she was always out of the house, gambling at night. In fact, petitioner in one of his visits to respondent and children intercepted the letter of a younger child asking for an appointment to see the mother because the child's report is that he hardly sees the mother.

x x x x

Q:

You mentioned also in your psychological conclusion that Adjustment Disorder and Compulsive Behavior of Lorna Valera existed prior and continuous up to the present, can you please explain?

A:

If Lorna Valera somewhere in her life changes all of a sudden, then the psychological incapacity is not obtaining but in mal-adopting behavior, like you remove the stimulus of the petitioner in her life. Then the same behavior pattern as I learned from the children, then the incapacity is irreversible because it is there.[47]  
[sic]

These statements, lopsided as they are as we observed above, merely testify to the respondent's impulsiveness, lack of restraint, and lack of civility and decency in the conduct of her life. The psychologist, however, failed to sufficiently prove that all these emanated from a behavioral disorder so grave and serious that the respondent would be incapable of carrying out the ordinary duties required in a marriage; that it was rooted in the respondent's medical or psychological history before her marriage; and that a cure was beyond the respondent's capacity to achieve.

Speaking of the root of the alleged disorder, the psychologist could only trace this to the time the respondent came to Manila; the psychologist concluded that the disorder was due to her separation from her parents and lack of guidance. Will common human experience, available through the thousands of students who over the years trooped from the provinces to Manila, accept the conclusion that this experience alone can lead to a disorder that can affect their capacity to marry?

In terms of incurability, the psychologist could only cryptically say -

A. If Lorna Valera somewhere in her life changes all of a sudden, then the psychological incapacity is not obtaining but in mal-adopting behavior, like you remove the stimulus of the petitioner in her life. Then the same behavior pattern as I learned from the children, then the incapacity is irreversible because it is there.[48]

Does this convoluted statement mean that Lorna Valera can still change, and that change can happen if the "stimulus of the petitioner" is removed from her life? In other words, is the incapacity relative and reversible?

In *Molina*, we ruled that "mild characterological peculiarities, mood changes and occasional emotional outbursts cannot be accepted as indicative of psychological incapacity. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, the root cause should be 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." In the present case, the psychologist simply narrated adverse "snapshots" of the respondent's life showing her alleged failure to meet her marital duties, but did not convincingly prove her permanent incapacity to meet her marital duties and responsibilities; the root or psychological illness that gave rise to this incapacity; and that this psychological illness and consequent incapacity existed at the time the marriage was celebrated.

In light of the wide gaps in the facts the psychologist considered and of the patent deficiencies of her testimony tested under the standards of established jurisprudence, we cannot accord full credence and accept the psychologist's Report as basis for the declaration of annulment of the parties' marriage under Article 36. In the absence of any contradictory statements from the respondent, the fairer approach is to read between the lines of this Report and discern what indeed happened between the parties based on common human experience between married couples who have lived together in the way the parties did. From this perspective, we have no problem in accepting the CA decision as a fairer assessment of the respondent's alleged psychological incapacity, and for

being a more realistic appreciation of the evidence adduced in light of the requirements of Article 36:

Such character faults and defects, We believe, do not constitute psychological incapacity as a ground for the declaration of marriage between petitioner-appellee and respondent. While she appears to be less than ideal mother to her children and loving wife to her husband, herein petitioner-appellee, the same are not physical manifestations of a psychological illness as described in *Molina*. Although the expert witness had clinically identified respondent's condition as "Adjustment Disorder," allegedly resulting from respondent's separation from her parents when she studied in Manila before she met petitioner-appellee, it was not established that such disorder or illness allegedly manifested in her carefree and outgoing behavior as a means of coping with her emotional and psychological stresses, was the root cause of her incapacity to fulfill the essential marital obligations. Moreover, such alleged disorder was not shown to be of a serious nature, "a supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates" the respondent from "really accepting and thereby complying with the obligations essential to marriage." The clinical findings on respondent's alleged Adjustment Disorder have not established such illness to be grave enough to bring about the disability of the party to assume the essential obligations of marriage. And, as pointed out by the Solicitor General, although the Psychological Report stated that respondent's condition "appears to be irreversible," the expert witness did not substantiate her conclusion that respondent's condition was indeed incurable or permanent. Nowhere in the testimony of petitioner-appellee was it shown that respondent's allegedly carefree ways (and smoking of marijuana) while she was younger and had no children yet, continued throughout their marriage until their separation in 1990. On the contrary, her strict attitude towards the clients and employees is a clear indication that she takes their business concerns seriously, such attitude being a reflection of a mature and responsible personality.[49]

Shorn of any reference to psychology, we conclude that we have a case here of parties who have very human faults and frailties; who have been together for some time; and who are now tired of each other. If in fact the respondent does not want to provide the support expected of a wife, the cause is not necessarily a grave and incurable psychological malady whose effects go as far as to affect her capacity to provide marital support promised and expected when the marital knot was tied. To be tired and to give up on one's situation and on one's husband are not necessarily signs of psychological illness; neither can falling out of love be so labeled. When these happen, the remedy for some is to cut the marital knot to allow the parties to go their separate ways. This simple remedy, however, is not available to us under our laws. Ours is still a limited remedy that addresses only a very specific situation - a relationship where no marriage could have validly been concluded because the parties, or one of them, by reason of a grave and incurable psychological illness existing when the marriage was celebrated, did not appreciate the obligations of marital life and, thus, could not have validly entered into a marriage. Outside of this situation, this Court is powerless to provide any permanent remedy. To use the words of *Navales v. Navales*: [50]

Article 36 contemplates downright incapacity or inability to take cognizance of and to assume basic marital obligations. Mere "difficulty," "refusal" or "neglect" in the performance of marital obligations or "ill will" on the part of the spouse is different from "incapacity" rooted on some debilitating psychological condition or illness. Indeed, irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility, and the like, do not by themselves warrant a finding of psychological incapacity under Article 36, as the same may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage and not due to some psychological illness that is contemplated by said rule.[51] [Emphasis ours]

WHEREFORE, in view of these considerations, we DENY the petition and AFFIRM the Decision and Resolution of the Court of Appeals dated July 4, 2001 and October 18, 2001, respectively, in CA-G.R. CV No. 65273. Costs against the petitioner.

**SO ORDERED.**

Quisumbing, (Chairperson), Ynares-Santiago\*, Velasco, Jr., and Leonardo-De Castro\*\*, JJ., concur.

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[\*] Designated additional Member of the Second Division per Special Order No. 645 dated May 15, 2009.

[\*\*] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] Under Rule 45 of the Revised Rules of Court.

[2] Penned by Associate Justice Martin S. Villarama, Jr., and concurred in by Associate Justice Conrado M. Vasquez, Jr. and Associate Justice Sergio L. Pestaño; rollo, pp. 30-37.

[3] Id., p. 39.

[4] Penned by Judge Salvador Abad Santos.

[5] TSN, August 14, 1997, pp. 4-6.

[6] Annex "B," rollo, p. 62.

[7] Annexes "A," "A-1," and "A-2," id., pp. 56-61.

[8] Id., pp. 40-44.

[9] Id., p. 42.

[10] TSN, August 14, 1997, p. 8.

[11] TSN, April 2, 1998, pp. 2-4.

[12] Id., pp. 5-7.

[13] Id., pp. 7-8.

[14] Id., pp. 9-10.

[15] Id., pp. 10-13.

[16] Records, p. 33.

[17] Id., pp. 6-8.

[18] Rollo, p. 62.

[19] Exhibit "F," id., pp. 63-64.

[20] Exhibit "E," id., pp. 65-69.

[21] Id., pp. 65-66.

[22] Id., pp. 68-69 (Emphasis in the original).

[23] RTC Decision, id., p. 74.

[24] Id., p. 75.

[25] Id., pp. 75-76.

- [26] CA Decision, *id.*, p. 36.
- [27] *Id.*, p. 39.
- [28] *Id.*, pp. 3-28.
- [29] *Id.*, pp. 8-9.
- [30] *Id.*, pp. 130-150.
- [31] *Id.*, pp. 177-184.
- [32] See Annexes "B" and "G," *id.*, pp. 53 and 62.
- [33] RTC decision, *id.*, p. 75.
- [34] CONSTITUTION, Article VIII, Section 14; See *People v. Ferrer*, G.R. No. 148821, July 18, 2003, 406 SCRA 658, and *Yao v. Court of Appeals*, G.R. No. 132428, October 24, 2000, 344 SCRA 202.
- [35] *Supra* note 30.
- [36] See *Yturalde v. Azurin*, G.R. No. L-22158, May 30, 1969, 28 SCRA 407; *Calahat v. Intermediate Appellate Court*, G.R. Nos. 75257-58, February 15, 1995, 241 SCRA 356.
- [37] *Yturalde v. Azurin*, *supra*.
- [38] G.R. No. 112019, January 4, 1995, 240 SCRA 20.
- [39] See *Dimayuga-Laurena v. Court of Appeals*, G.R. No. 159220, September 22, 2008.
- [40] G.R. No. 108763, February 13, 1997, 268 SCRA 198.
- [41] G.R. No. 136490, October 19, 2000, 343 SCRA 755.
- [42] See *Bier v. Bier*, G.R. No. 173294, February 27, 2008, 547 SCRA 123 (Emphasis ours).
- [43] TSN, September 15, 1998, pp. 6-14.
- [44] See *Republic v. Tanyag-San Jose*, G.R. No. 168328, February 28, 2007, 517 SCRA 123; *Choa v. Choa*, G.R. No. 143376, November 26, 2002, 392 SCRA 641.
- [45] CA Decision, *rollo*, p. 36.
- [46] *Id.*, pp. 200-227.
- [47] TSN, September 15, 1998, pp. 6-14.
- [48] *Id.*, p. 14.
- [49] CA Decision, *rollo*, pp. 35-36.
- [50] G.R. No. 167523, June 27, 2008.
- [51] *Id.* (citations omitted).

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