

MA. DARLENE DIMAYUGA-LAURENA, PETITIONER, COURT OF APPEALS AND JESSE LAURO LAURENA, RESPONDENTS.

G.R. No. 159220. September 22, 2008

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a petition for review[1] assailing the 6 June 2003 Decision[2] and 1 August 2003 Resolution[3] of the Court of Appeals in CA-G.R. CV No. 58458. The Court of Appeals affirmed with modification the 25 March 1997 Decision of the Regional Trial Court of Makati City, Branch 140 (trial court) in Civil Case No. 93-3754.

The Antecedent Facts

Ma. Darlene Dimayuga-Laurena (petitioner) and Jesse Lauro Laurena (respondent) met in January 1983.[4] They were married on 19 December 1983 at the Church of Saint Augustine in Intramuros, Manila. They have two children, Mark Jordan who was born on 2 July 1985 and Michael Joseph who was born on 11 November 1987.

On 19 October 1993, petitioner filed a petition for declaration of nullity of marriage against respondent. Petitioner alleged that respondent was psychologically incapable of assuming the essential obligations of marriage, and the incapacity existed at the time of the celebration of the marriage although she discovered it only after the marriage.

Petitioner alleged that after their wedding, she and respondent went to Baguio City for their honeymoon. They were accompanied by a 15-year old boy, the son of one of respondent's house helpers, who respondent invited to sleep in their hotel suite. After their honeymoon, they settled in respondent's house in Better Living Subdivision, Parañaque City. Petitioner became pregnant in March 1984 but suffered a miscarriage. According to petitioner, she almost bled to death while respondent continued watching a television show at the foot of their matrimonial bed.

Petitioner alleged that respondent gave priority to the needs of his parents; would come home past midnight; and even tried to convert her to his religion. In addition, respondent was a womanizer. Petitioner lived in Batangas for three years while she tended to their gasoline station while respondent remained in Parañaque City. She discovered that respondent had been living a bachelor's life while she was away. Petitioner also noticed that respondent had feminine tendencies. They would frequently quarrel and one time, respondent hit her face. Petitioner alleged that in September 1990, respondent abandoned their conjugal home and stopped supporting their children. Petitioner alleged that respondent's psychological incapacity was manifested by his infidelity, utter neglect of his family's needs, irresponsibility, insensitivity, and tendency to lead a bachelor's life.

Petitioner further alleged that during their marriage, she and respondent acquired the following properties which were all part of their conjugal partnership of gains:

- duplex house and lot located at 4402 Dayap Street, Palanan, Makati City;
- house and lot on Palaspas Street, Tanauan, Batangas;
- dealership of Jeddah Caltex Service Station in Pres. Laurel Highway, Tanauan, Batangas (Jeddah Caltex Station);
- Personal vehicles consisting of a Mitsubishi Lancer, Safari pick-up, L-300 van and L-200 pick-up; and
- Jeddah Trucking.

Petitioner prayed for the dissolution of the conjugal partnership of gains, for custody of their children, and for monthly support of P25,000.

Respondent denied petitioner's allegations. He asserted that petitioner was emotionally immature, stubborn, unstable, unreasonable, and extremely jealous. Respondent alleged that some of the properties claimed by petitioner were not part of their conjugal partnership of gains. Respondent prayed for the dismissal of the petition.

The Ruling of the Trial Court

In its Decision[5] dated 25 March 1997, the trial court denied the petition for declaration of nullity of marriage. The trial court found that the manifestations of respondent's psychological incapacity alleged by petitioner were not so serious as to consider respondent psychologically incapacitated. The trial court ruled that petitioner's evidence only showed that she could not get along with respondent.

The dispositive portion of the trial court's Decision reads:

WHEREFORE, judgment is hereby rendered:

- a) DENYING the petition for declaration of nullity of marriage filed by Ma. Darlene Dimayuga-Laurena on the ground of psychological incapacity;
- b) DECLARING the conjugal partnership of gains between petitioner and respondent Dissolved with all the effects provided by law; and further AFFIRMING the petitioner's claim that all the properties acquired during the marriage are conjugal properties;
- c) AWARDING the custody of the children to the parent chosen by the said minors considering that they are over seven (7) years of age;

Support of said minors shall be borne by the parents in proportion to their respective incomes.

After this decision becomes final, let copies thereof be furnished the Register of Deeds of Tanauan, Batangas and Makati City for their information.

SO ORDERED.[6]

Petitioner appealed from the trial court's Decision insofar as the trial court denied her petition for declaration of nullity of marriage. Respondent appealed from the trial court's Decision insofar as the trial court declared some of his parents' properties as part of the conjugal partnership of gains.

The Ruling of the Court of Appeals

In its 6 June 2003 Decision, the Court of Appeals affirmed with modification the trial court's Decision.

The Court of Appeals ruled that petitioner failed to prove that the root cause of respondent's psychological

incapacity was medically or clinically identified and sufficiently proven by experts. The Court of Appeals noted that Dr. Lourdes Lapuz (Dr. Lapuz), the psychiatrist presented by petitioner, was not able to talk to respondent and simply based her conclusions and impressions of respondent from her two-hour session with petitioner. The Court of Appeals ruled that Dr. Lapuz's testimony was vague and ambiguous on the matter of respondent's personality disorder which would render him psychologically incapacitated. The Court of Appeals further ruled that petitioner was not able to prove that respondent's alleged psychological incapacity was existing at the time of the celebration of their marriage. The Court of Appeals further ruled that in her complaint, petitioner's bases were respondent's irresponsibility, insensitivity, and infidelity. During the trial, she claimed that the root of her husband's incapacity was his homosexuality. The Court of Appeals ruled that petitioner's allegations in her complaint and during the trial lacked factual and evidentiary bases. The Court of Appeals ruled that the totality of respondent's acts could not lead to the conclusion that he was psychologically incapacitated; that his incapacity was existing at the time of the celebration of the marriage; and that it was incurable.

The Court of Appeals also sustained the dissolution of the conjugal partnership of gains between petitioner and respondent. The Court of Appeals rejected respondent's argument that the dissolution of the conjugal partnership of gains should also be denied because of the denial of the petition for declaration of nullity of marriage. The Court of Appeals ruled that respondent's abandonment of his family and the fact that petitioner and respondent had been separated for more than a year prior to the filing of the petition for declaration of nullity of marriage were sufficient grounds for the dissolution of the conjugal partnership of gains.

However, the Court of Appeals found that the trial court included as part of the conjugal partnership of gains properties and businesses, particularly the ancestral house and lot in Tanauan, Batangas; the duplex house and lot on Dayap Street, Makati City; the Jeddah Caltex Station; and Jeddah Trucking, which all belonged to respondent's parents. The Court of Appeals found that the rentals derived from the properties and the income from the businesses were deposited in the account of respondent's parents. The Court of Appeals excluded the properties and businesses derived from the operations of the Jeddah Caltex Station and Jeddah Trucking from the conjugal partnership of gains.

The dispositive portion of the Court of Appeals' Decision reads:

WHEREFORE, the foregoing considered, the assailed decision is AFFIRMED with regard to the denial of the petition for annulment of marriage and the dissolution of the conjugal partnership of gains. The adjudication respecting the properties which comprise the conjugal partnership is MODIFIED to exclude the properties belonging to the parents of respondent, i.e., the ancestral house and lot in Tanauan, Batangas, the duplex house and lot at Dayap Street, Makati, as well as the properties acquired through the operation of the Caltex station and Jeddah Trucking. No costs.

SO ORDERED.[7]

Petitioner filed a motion for reconsideration.

In its 1 August 2003 Resolution, the Court of Appeals denied the motion.

Hence, the petition before this Court.

The Issues

The issues in this case are the following:

- Whether respondent is psychologically incapacitated to comply with the essential marital obligations; and

- Whether the properties excluded by the Court of Appeals form part of the conjugal partnership of gains between petitioner and respondent.

The Ruling of this Court

The petition has no merit.

Petitioner Failed to Prove Respondent's
Psychological Incapacity

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 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*,^[8] the Court first declared that psychological incapacity must be characterized by (a) gravity; (b) judicial antecedence; and (c) incurability.^[9] 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."^[10] 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."^[11] Finally, the "psychologic condition must exist at the time the marriage is celebrated."^[12] The Court explained:

(a) Gravity - It must be grave and serious such that the party would be incapable of carrying out the ordinary duties required in a marriage;

(b) Judicial Antecedence - It must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and

(c) Incurability - It must be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved.^[13]

In *Republic v. Court of Appeals*^[14] (*Molina case*), the Court laid down the guidelines in the interpretation and application of Article 36 of the Family Code 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 *eiusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage. The evidence must show that the illness was existing when the parties exchanged their "I do's." The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.

4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, "mild characterological peculiarities, mood changes, occasional emotional outbursts" cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:

"The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature."

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally - subject to our law on evidence - what is decreed as canonically invalid should also be decreed civilly void.[15]

Both the trial court and the Court of Appeals found that petitioner failed to satisfy the guidelines in the Molina case.

As found by the Court of Appeals, petitioner anchored her petition on respondent's irresponsibility, infidelity, and homosexual tendencies. Petitioner likewise alleged that respondent tried to compel her to change her religious belief, and in one of their arguments, respondent also hit her. However, sexual infidelity, repeated physical violence, homosexuality, physical violence or moral pressure to compel petitioner to change religious affiliation, and abandonment are grounds for legal separation[16] but not for declaring a marriage void.

In *Marcos v. Marcos*,[17] the Court ruled that if the totalities of the evidence presented are enough to sustain a finding of psychological incapacity, there is no need to resort to the actual medical examination of the person concerned. However, while an actual medical, psychiatric, or psychological examination is not a condition sine qua non to a finding of psychological incapacity, an expert witness would have strengthened petitioner's claim of respondent's psychological incapacity.[18] While the examination by a physician of a person to declare him or her

psychologically incapacitated is not required, the root cause of psychological incapacity must be medically or clinically identified.[19] In this case, the testimony of Dr. Lapuz on respondent's psychological incapacity was based only on her two-hour session with petitioner. Her testimony was characterized by the Court of Appeals as vague and ambiguous. She failed to prove psychological incapacity or identify its root cause. She failed to establish that respondent's psychological incapacity is incurable. Dr. Lapuz testified:

Q-

What, in your opinion are the causes of this incapacity?

A-

I feel, your Honor, that there is some personality agenda on his part that I do not know because he has not come to see me but there are such men who can be very ardent lovers but suddenly will completely turn over...

Q-

Is this a sort of personality disorder?

A-

Yes, your Honor.

Q-

Is that inherited or could have been acquired even before marriage?

A-

It was there on the time of the inception of his personality, it was there. And my feeling is that these things do not happen overnight, one does not change spot overnight but that thing, like marriage, can completely turn-table his behavior.

Q-

Doctora, do you think this kind of incapacity, this personality disorder, is there any possibility of curing it?

A-

Very little at this time and sometimes, when they become older, like when they reach the age of 50's or 60's, they may settle down and finally give out and reveal interest in their families.

Q-

In short, there is possibility that this incapacity of the respondent could be cured?

A-

Only respondent's physical decline of sexual urge, if the sexual urge would not decline, the incapacity will continue.

Q-

Is there no medicine or is there any kind of medicine that can cure this kind of disorder?

A-

None to my knowledge, your Honor. There is no magic feather in the psychiatric treatment. Perhaps, if the person would be willing and open enough and interested enough...[20]

Even the recommendation in the Social Case Study Report submitted by Social Welfare Officer Marissa P. Obrero-Ballon, who was assigned by the trial court to conduct a social case study on the parties, failed to show the existence of respondent's psychological incapacity. The Social Welfare Officer instead found that petitioner was immature while respondent was responsible.[21] She also found that the couple separated because of respondent's infidelity.[22]

Petitioner also failed to prove that respondent's psychological incapacity was existing at the time of the celebration of their marriage. Petitioner only cited that during their honeymoon, she found it strange that respondent allowed their 15-year old companion, the son of one of respondent's house helpers, to sleep in their room. However, respondent explained that he and petitioner already stayed in a hotel for one night before they went to Baguio City and that they had sexual relations even before their marriage. Respondent explained that the boy was with them to take pictures and videos of their stay in Baguio City and had to stay with them in the room due to monetary constraints.

In sum, the totality of the evidence presented by petitioner failed to show that respondent was psychologically incapacitated and that such incapacity was grave, incurable, and existing at the time of the solemnization of their marriage.

Properties of Respondent's Parents

Do Not Form Part of Conjugal Partnership of Gains

Petitioner assails the Court of Appeals' exclusion of the properties of respondent's parents from their conjugal partnership of gains. In particular, the Court of Appeals excluded the ancestral house and lot in Tanauan, Batangas; the duplex house and lot on Dayap Street, Makati City; and the properties acquired through the operations of the Jeddah Caltex Station and Jeddah Trucking.

We sustain in part the Court of Appeals' Decision.

As early as 15 July 1978, respondent's parents already executed a General Power of Attorney[23] in favor of respondent covering all their properties and businesses. Several Special Powers of Attorney were also executed by respondent's parents in favor of respondent. On 14 April 1987, respondent's parents executed a Deed of Absolute Sale[24] covering two parcels of land located in Tanauan, Batangas, with a total area of 966 square meters, for P40,000. We agree with the Court of Appeals that the transfer was merely an accommodation so that petitioner, who was then working at the Bangko Sentral ng Pilipinas (BSP), could acquire a loan from BSP at a lower rate[25] using the properties as collateral. The loan proceeds were used as additional capital for the Jeddah Caltex Station. As found by the Court of Appeals, the loan was still being paid from the income from the Jeddah Caltex Station. The Lease Contract[26] on the Jeddah Caltex Station was signed by respondent as attorney-in-fact of his mother Juanita Laurena, leaving no doubt that it was the business of respondent's parents. Jeddah Trucking was established from the proceeds and income of the Jeddah Caltex Station.

As regards the duplex house and lot in Makati City, the Deed of Absolute Sale[27] was executed by Manuela C. Felix in favor of respondent. Respondent claimed that the duplex house was purchased from the income of the Jeddah Caltex Station. However, we find no sufficient proof to sustain this allegation. In fact, respondent testified that he received a series of promotions during their marriage "until we can afford to buy that duplex [on] Dayap." [28] Hence, the duplex house on Dayap Street, Makati City should be included in the conjugal partnership of gains.

WHEREFORE, we PARTLY GRANT the petition. We AFFIRM the 6 June 2003 Decision and 1 August 2003 Resolution of the Court of Appeals in CA-G.R. CV No. 58458 with MODIFICATION by including the duplex

house and lot on Dayap Street, Makati City in the conjugal partnership of gains. No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Under Rule 45 of the 1997 Rules of Civil Procedure.

[2] Rollo, pp. 59-70. Penned by Associate Justice Josefina Guevara-Salonga with Associate Justices Roberto A. Barrios and Lucas P. Bersamin, concurring.

[3] Id. at 72.

[4] Not 1980 as stated in the trial court's Decision.

[5] CA rollo, pp. 48-57. Penned by Judge Leticia P. Morales.

[6] Id. at 57.

[7] Rollo, p. 70.

[8] 310 Phil. 21 (1995).

[9] Id. at 39.

[10] Id. at 40.

[11] Id.

[12] Id.

[13] Republic v. Cabantug-Baguio, G.R. No. 171042, 30 June 2008.

[14] G.R. No. 108763, 13 February 1997, 268 SCRA 198.

[15] Id. at 209-213. The 8th requirement in the Molina case, the issuance by the Office of the Solicitor General of a certification stating its reasons for its agreement or opposition to the petition, was dispensed with upon the implementation of A.M. No. 02-11-10-SC, the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages which took effect on 15 March 2003. See Zamora v. Court of Appeals, G.R. No. 141917, 7 February 2007, 515 SCRA 19 citing Antonio v. Reyes, G.R. No. 155800, 10 March 2006, 484 SCRA 353.

[16] Article 55 of the Family Code.

[17] 397 Phil. 840 (2000).

[18] Republic v. Cuison-Melgar, G.R. No. 139676, 31 March 2006, 486 SCRA 177.

[19] Republic v. Cabantug-Baguio, *supra* note 13.

[20] TSN, 9 February 1995, pp. 30-32.

[21] Records, p. 151.

[22] Id.

[23] Id. at 205-206.

[24] Id. at 391-392. Another Deed of Absolute Sale covering the same properties for the amount of P200,000 was not notarized (id. at 489-490).

[25] Id. at 393-395. Petitioner was able to obtain a loan at 3% interest per annum for the first P100,000, and 10% per annum for the amount in excess of P100,000.

[26] Id. at 630-635.

[27] Id. at 496-498.

[28] TSN, 5 February 1995, p. 58.

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