EDWARD KENNETH NGO TE, PETITIONER, VS. ROWENA ONG GUTIERREZ YU-TE, RESPONDENT, REPUBLIC OF THE PHILIPPINES, OPPOSITOR.

G.R. No. 161793. February 13, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Far from novel is the issue involved in this petition. Psychological incapacity, since its incorporation in our laws, has become a clichéd subject of discussion in our jurisprudence. The Court treats this case, however, with much ado, it having realized that current jurisprudential doctrine has unnecessarily imposed a perspective by which psychological incapacity should be viewed, totally inconsistent with the way the concept was formulated--free in form and devoid of any definition.

For the resolution of the Court is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the August 5, 2003 Decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 71867. The petition further assails the January 19, 2004 Resolution[2] denying the motion for the reconsideration of the challenged decision.

The relevant facts and proceedings follow.

Petitioner Edward Kenneth Ngo Te first got a glimpse of respondent Rowena Ong Gutierrez Yu-Te in a gathering organized by the Filipino-Chinese association in their college. Edward was then initially attracted to Rowena's close friend; but, as the latter already had a boyfriend, the young man decided to court Rowena. That was in January 1996, when petitioner was a sophomore student and respondent, a freshman.[3]

Sharing similar angst towards their families, the two understood one another and developed a certain degree of closeness towards each other. In March 1996, or around three months after their first meeting, Rowena asked Edward that they elope. At first, he refused, bickering that he was young and jobless. Her persistence, however, made him relent. Thus, they left Manila and sailed to Cebu that month; he, providing their travel money and she, purchasing the boat ticket.[4]

However, Edward's P80,000.00 lasted for only a month. Their pension house accommodation and daily sustenance fast depleted it. And they could not find a job. In April 1996, they decided to go back to Manila. Rowena proceeded to her uncle's house and Edward to his parents' home. As his family was abroad, and Rowena kept on telephoning him, threatening him that she would commit suicide, Edward agreed to stay with Rowena at her uncle's place.[5]

On April 23, 1996, Rowena's uncle brought the two to a court to get married. He was then 25 years old, and she, 20.[6] The two then continued to stay at her uncle's place where Edward was treated like a prisoner--he was not allowed to go out unaccompanied. Her uncle also showed Edward his guns and warned the latter not to leave Rowena.[7] At one point, Edward was able to call home and talk to his brother who suggested that they should stay at their parents' home and live with them. Edward relayed this to Rowena who, however, suggested that he

should get his inheritance so that they could live on their own. Edward talked to his father about this, but the patriarch got mad, told Edward that he would be disinherited, and insisted that Edward must go home.[8]

After a month, Edward escaped from the house of Rowena's uncle, and stayed with his parents. His family then hid him from Rowena and her family whenever they telephoned to ask for him.[9]

In June 1996, Edward was able to talk to Rowena. Unmoved by his persistence that they should live with his parents, she said that it was better for them to live separate lives. They then parted ways.[10]

After almost four years, or on January 18, 2000, Edward filed a petition before the Regional Trial Court (RTC) of Quezon City, Branch 106, for the annulment of his marriage to Rowena on the basis of the latter's psychological incapacity. This was docketed as Civil Case No. Q-00-39720.[11]

As Rowena did not file an answer, the trial court, on July 11, 2000, ordered the Office of the City Prosecutor (OCP) of Quezon City to investigate whether there was collusion between the parties.[12] In the meantime, on July 27, 2000, the Office of the Solicitor General (OSG) entered its appearance and deputized the OCP to appear on its behalf and assist it in the scheduled hearings.[13]

On August 23, 2000, the OCP submitted an investigation report stating that it could not determine if there was collusion between the parties; thus, it recommended trial on the merits.[14]

The clinical psychologist who examined petitioner found both parties psychologically incapacitated, and made the following findings and conclusions:

> BACKGROUND DATA & BRIEF MARITAL HISTORY:
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> EDWARD KENNETH NGO TE is a [29-year-old] Filipino male adult born and baptized Born Again Christian at Manila. He finished two years in college at AMA Computer College last 1994 and is currently unemployed. He is married to and separated from ROWENA GUTIERREZ YU-TE. He presented himself at my office for a psychological evaluation in relation to his petition for Nullification of Marriage against the latter by the grounds of psychological incapacity. He is now residing at 181 P. Tuazon Street, Quezon City.
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> Petitioner got himself three siblings who are now in business and one deceased sister. Both his parents are also in the business world by whom he [considers] as generous, hospitable, and patient. This said virtues are said to be handed to each of the family member. He generally considers himself to be quiet and simple. He clearly remembers himself to be afraid of meeting people. After 1994, he tried his luck in being a Sales Executive of Mansfield International Incorporated. And because of job incompetence, as well as being quiet and loner, he did not stay long in the job until 1996. His interest lie[s] on becoming a full servant of God by being a priest or a pastor. He [is] said to isolate himself from his friends even during his childhood days as he only loves to read the Bible and hear its message.
>
> Respondent is said to come from a fine family despite having a lazy father and a disobedient wife. She is said to have not finish[ed] her collegiate degree and shared intimate sexual moments with her boyfriend prior to that with petitioner.
>
> In January of 1996, respondent showed her kindness to petitioner and this became the foundation of their intimate relationship. After a month of dating, petitioner mentioned to respondent that he is having problems with his family. Respondent surprisingly retorted that she also hates her family and that she actually wanted to get out of their lives. From that [time on], respondent had insisted to petitioner that they should elope and live together. Petitioner hesitated because he is not prepared as they are both young and inexperienced, but she insisted that they would somehow manage because petitioner is rich. In the last week of March 1996, respondent seriously brought the idea of eloping and she already bought tickets for the boat going to Cebu. Petitioner reluctantly agreed to the idea and so they eloped to Cebu. The parties are supposed to stay at the

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house of a friend of respondent, but they were not able to locate her, so petitioner was compelled to rent an apartment. The parties tried to look for a job but could not find any so it was suggested by respondent that they should go back and seek help from petitioner's parents. When the parties arrived at the house of petitioner, all of his whole family was all out of the country so respondent decided to go back to her home for the meantime while petitioner stayed behind at their home. After a few days of separation, respondent called petitioner by phone and said she wanted to talk to him. Petitioner responded immediately and when he arrived at their house, respondent confronted petitioner as to why he appeared to be cold, respondent acted irrationally and even threatened to commit suicide. Petitioner got scared so he went home again. Respondent would call by phone every now and then and became angry as petitioner does not know what to do. Respondent went to the extent of threatening to file a case against petitioner and scandalize his family in the newspaper. Petitioner asked her how he would be able to make amends and at this point in time[,] respondent brought the idea of marriage. Petitioner[,] out of frustration in life[,] agreed to her to pacify her. And so on April 23, 1996, respondent's uncle brought the parties to Valenzuela[,] and on that very same day[,] petitioner was made to sign the Marriage Contract before the Judge. Petitioner actually never applied for any Marriage License.

Respondent decided that they should stay first at their house until after arrival of the parents of petitioner. But when the parents of petitioner arrived, respondent refused to allow petitioner to go home. Petitioner was threatened in so many ways with her uncle showing to him many guns. Respondent even threatened that if he should persist in going home, they will commission their military friends to harm his family. Respondent even made petitioner sign a declaration that if he should perish, the authorities should look for him at his parents[Û¥] and relatives[Û¥] houses. Sometime in June of 1996, petitioner was able to escape and he went home. He told his parents about his predicament and they forgave him and supported him by giving him military escort. Petitioner, however, did not inform them that he signed a marriage contract with respondent. When they knew about it[,] petitioner was referred for counseling. Petitioner[,] after the counseling[,] tried to contact respondent. Petitioner offered her to live instead to[sic] the home of petitioner's parents while they are still studying. Respondent refused the idea and claimed that she would only live with him if they will have a separate home of their own and be away from his parents. She also intimated to petitioner that he should already get his share of whatever he would inherit from his parents so they can start a new life. Respondent demanded these not knowing [that] the petitioner already settled his differences with his own family. When respondent refused to live with petitioner where he chose for them to stay, petitioner decided to tell her to stop harassing the home of his parents. He told her already that he was disinherited and since he also does not have a job, he would not be able to support her. After knowing that petitioner does not have any money anymore, respondent stopped tormenting petitioner and informed petitioner that they should live separate lives.

The said relationship between Edward and Rowena is said to be undoubtedly in the wreck and weakly-founded. The break-up was caused by both parties['] unreadiness to commitment and their young age. He was still in the state of finding his fate and fighting boredom, while she was still egocentrically involved with herself.

TESTS ADMINISTERED:

Revised Beta Examination
Bender Visual Motor Gestalt Test
Draw A Person Test
Rorschach Psychodiagnostic Test
Sach's Sentence Completion Test
M M P I

TEST RESULTS & EVALUATION:

Both petitioner and respondent are dubbed to be emotionally immature and recklessly impulsive upon swearing to their marital vows as each of them was motivated by different notions on marriage.

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> Edward Kenneth Ngo Te, the petitioner in this case[,] is said to be still unsure and unready so as to commit himself to marriage. He is still founded to be on the search of what he wants in life. He is absconded as an introvert as he is not really sociable and displays a lack of interest in social interactions and mingling with other individuals. He is seen too akin to this kind of lifestyle that he finds it boring and uninteresting to commit himself to a relationship especially to that of respondent, as aggravated by her dangerously aggressive moves. As he is more of the reserved and timid type of person, as he prefer to be religiously attached and spend a solemn time alone.
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> ROWENA GUTIERREZ YU-TE, the respondent, is said to be of the aggressive-rebellious type of woman. She is seen to be somewhat exploitative in her [plight] for a life of wealth and glamour. She is seen to take move on marriage as she thought that her marriage with petitioner will bring her good fortune because he is part of a rich family. In order to have her dreams realized, she used force and threats knowing that [her] husband is somehow weak-willed. Upon the realization that there is really no chance for wealth, she gladly finds her way out of the relationship.
>
> REMARKS:
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> Before going to marriage, one should really get to know himself and marry himself before submitting to marital vows. Marriage should not be taken out of intuition as it is profoundly a serious institution solemnized by religious and law. In the case presented by petitioner and respondent[,] (sic) it is evidently clear that both parties have impulsively taken marriage for granted as they are still unaware of their own selves. He is extremely introvert to the point of weakening their relationship by his weak behavioral disposition. She, on the other hand[,] is extremely exploitative and aggressive so as to be unlawful, insincere and undoubtedly uncaring in her strides toward convenience. It is apparent that she is suffering the grave, severe, and incurable presence of Narcissistic and Antisocial Personality Disorder that started since childhood and only manifested during marriage. Both parties display psychological incapacities that made marriage a big mistake for them to take.[15]

The trial court, on July 30, 2001, rendered its Decision[16] declaring the marriage of the parties null and void on the ground that both parties were psychologically incapacitated to comply with the essential marital obligations.[17] The Republic, represented by the OSG, timely filed its notice of appeal.[18]

On review, the appellate court, in the assailed August 5, 2003 Decision[19] in CA-G.R. CV No. 71867, reversed and set aside the trial court's ruling.[20] It ruled that petitioner failed to prove the psychological incapacity of respondent. The clinical psychologist did not personally examine respondent, and relied only on the information provided by petitioner. Further, the psychological incapacity was not shown to be attended by gravity, juridical antecedence and incurability. In sum, the evidence adduced fell short of the requirements stated in Republic v. Court of Appeals and Molina[21] needed for the declaration of nullity of the marriage under Article 36 of the Family Code.[22] The CA faulted the lower court for rendering the decision without the required certification of the OSG briefly stating therein the OSG's reasons for its agreement with or opposition to, as the case may be, the petition.[23] The CA later denied petitioner's motion for reconsideration in the likewise assailed January 19, 2004 Resolution.[24]

Dissatisfied, petitioner filed before this Court the instant petition for review on certiorari. On June 15, 2005, the Court gave due course to the petition and required the parties to submit their respective memoranda.[25]

In his memorandum,[26] petitioner argues that the CA erred in substituting its own judgment for that of the trial court. He posits that the RTC declared the marriage void, not only because of respondent's psychological incapacity, but rather due to both parties' psychological incapacity. Petitioner also points out that there is no requirement for the psychologist to personally examine respondent. Further, he avers that the OSG is bound by the actions of the OCP because the latter represented it during the trial; and it had been furnished copies of all the

pleadings, the trial court orders and notices.[27]

For its part, the OSG contends in its memorandum,[28] that the annulment petition filed before the RTC contains no statement of the essential marital obligations that the parties failed to comply with. The root cause of the psychological incapacity was likewise not alleged in the petition; neither was it medically or clinically identified. The purported incapacity of both parties was not shown to be medically or clinically permanent or incurable. And the clinical psychologist did not personally examine the respondent. Thus, the OSG concludes that the requirements in Molina[29] were not satisfied.[30]

The Court now resolves the singular issue of whether, based on Article 36 of the Family Code, the marriage between the parties is null and void.[31]

I.

We begin by examining the provision, tracing its origin and charting the development of jurisprudence interpreting it.

Article 36 of the Family Code[32] provides:

> Article 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

As borne out by the deliberations of the Civil Code Revision Committee that drafted the Family Code, Article 36 was based on grounds available in the Canon Law. Thus, Justice Flerida Ruth P. Romero elucidated in her separate opinion in Santos v. Court of Appeals:[33]

> However, as a member of both the Family Law Revision Committee of the Integrated Bar of the Philippines and the Civil Code Revision Commission of the UP Law Center, I wish to add some observations. The letter dated April 15, 1985 of then Judge Alicia V. Sempio-Diy written in behalf of the Family Law and Civil Code Revision Committee to then Assemblywoman Mercedes Cojuangco-Teodoro traced the background of the inclusion of the present Article 36 in the Family Code.
> "During its early meetings, the Family Law Committee had thought of including a chapter on absolute divorce in the draft of a new Family Code (Book I of the Civil Code) that it had been tasked by the IBP and the UP Law Center to prepare. In fact, some members of the Committee were in favor of a no-fault divorce between the spouses after a number of years of separation, legal or de facto. Justice J.B.L. Reyes was then requested to prepare a proposal for an action for dissolution of marriage and the effects thereof based on two grounds: (a) five continuous years of separation between the spouses, with or without a judicial decree of legal separation, and (b) whenever a married person would have obtained a decree of absolute divorce in another country. Actually, such a proposal is one for absolute divorce but called by another name. Later, even the Civil Code Revision Committee took time to discuss the proposal of Justice Reyes on this matter.
>
> Subsequently, however, when the Civil Code Revision Committee and Family Law Committee started holding joint meetings on the preparation of the draft of the New Family Code, they agreed and formulated the definition of marriage as —
> `a special contract of permanent partnership between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is 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 law.'

With the above definition, and considering the Christian traditional concept of marriage of the Filipino people as a permanent, inviolable, indissoluble social institution upon which the family and society are founded, and also

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realizing the strong opposition that any provision on absolute divorce would encounter from the Catholic Church and the Catholic sector of our citizenry to whom the great majority of our people belong, the two Committees in their joint meetings did not pursue the idea of absolute divorce and, instead, opted for an action for judicial declaration of invalidity of marriage based on grounds available in the Canon Law. It was thought that such an action would not only be an acceptable alternative to divorce but would also solve the nagging problem of church annulments of marriages on grounds not recognized by the civil law of the State. Justice Reyes was, thus, requested to again prepare a draft of provisions on such action for celebration of invalidity of marriage. Still later, to avoid the overlapping of provisions on void marriages as found in the present Civil Code and those proposed by Justice Reyes on judicial declaration of invalidity of marriage on grounds similar to the Canon Law, the two Committees now working as a Joint Committee in the preparation of a New Family Code decided to consolidate the present provisions on void marriages with the proposals of Justice Reyes. The result was the inclusion of an additional kind of void marriage in the enumeration of void marriages in the present Civil Code, to wit:

> `(7) those marriages contracted by any party who, at the time of the celebration, was wanting in the sufficient use of reason or judgment to understand the essential nature of marriage or was psychologically or mentally incapacitated to discharge the essential marital obligations, even if such lack or incapacity is made manifest after the celebration.

as well as the following implementing provisions:

> `Art. 32. The absolute nullity of a marriage may be invoked or pleaded only on the basis of a final judgment declaring the marriage void, without prejudice to the provision of Article 34.'
>
> `Art. 33. The action or defense for the declaration of the absolute nullity of a marriage shall not prescribe.'
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> x x x x x x x x x

It is believed that many hopelessly broken marriages in our country today may already be dissolved or annulled on the grounds proposed by the Joint Committee on declaration of nullity as well as annulment of marriages, thus rendering an absolute divorce law unnecessary. In fact, during a conference with Father Gerald Healy of the Ateneo University, as well as another meeting with Archbishop Oscar Cruz of the Archdiocese of Pampanga, the Joint Committee was informed that since Vatican II, the Catholic Church has been declaring marriages null and void on the ground of "lack of due discretion" for causes that, in other jurisdictions, would be clear grounds for divorce, like teen-age or premature marriages; marriage to a man who, because of some personality disorder or disturbance, cannot support a family; the foolish or ridiculous choice of a spouse by an otherwise perfectly normal person; marriage to a woman who refuses to cohabit with her husband or who refuses to have children. Bishop Cruz also informed the Committee that they have found out in tribunal work that a lot of machismo among husbands are manifestations of their sociopathic personality anomaly, like inflicting physical violence upon their wives, constitutional indolence or laziness, drug dependence or addiction, and psychosexual anomaly.[34]

In her separate opinion in Molina,[35] she expounded:

> At the Committee meeting of July 26, 1986, the draft provision read:
>
> "(7) Those marriages contracted by any party who, at the time of the celebration, was wanting in the sufficient use of reason or judgment to understand the essential nature of marriage or was psychologically or mentally incapacitated to discharge the essential marital obligations, even if such lack of incapacity is made manifest after the celebration."
>
> The twists and turns which the ensuing discussion took finally produced the following revised provision even before the session was over:

"(7) That contracted by any party who, at the time of the celebration, was psychologically incapacitated to discharge the essential marital obligations, even if such lack or incapacity becomes manifest after the celebration."

Noticeably, the immediately preceding formulation above has dropped any reference to "wanting in the sufficient use of reason or judgment to understand the essential nature of marriage" and to "mentally incapacitated." It was explained that these phrases refer to "defects in the mental faculties vitiating consent, which is not the idea . . . but lack of appreciation of one's marital obligation." There being a defect in consent, "it is clear that it should be a ground for voidable marriage because there is the appearance of consent and it is capable of convalidation for the simple reason that there are lucid intervals and there are cases when the insanity is curable . . . Psychological incapacity does not refer to mental faculties and has nothing to do with consent; it refers to obligations attendant to marriage."

My own position as a member of the Committee then was that psychological incapacity is, in a sense, insanity of a lesser degree.

As to the proposal of Justice Caguioa to use the term "psychological or mental impotence," Archbishop Oscar Cruz opined in the earlier February 9, 1984 session that this term "is an invention of some churchmen who are moralists but not canonists, that is why it is considered a weak phrase." He said that the Code of Canon Law would rather express it as "psychological or mental incapacity to discharge . . ." Justice Ricardo C. Puno opined that sometimes a person may be psychologically impotent with one but not with another.

One of the guidelines enumerated in the majority opinion for the interpretation and application of Art. 36 is: "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."

The Committee, through Prof. Araceli T. Barrera, considered the inclusion of the phrase "and is incurable" but Prof. Esteban B. Bautista commented that this would give rise to the question of how they will determine curability and Justice Caguioa agreed that it would be more problematic. Yet, the possibility that one may be cured after the psychological incapacity becomes manifest after the marriage was not ruled out by Justice Puno and Justice Alice Sempio-Diy. Justice Caguioa suggested that the remedy was to allow the afflicted spouse to remarry.

For clarity, the Committee classified the bases for determining void marriages, viz.:

- lack of one or more of the essential requisites of marriage as contract;

- reasons of public policy;

- special cases and special situations.

The ground of psychological incapacity was subsumed under "special cases and special situations," hence, its special treatment in Art. 36 in the Family Code as finally enacted.

Nowhere in the Civil Code provisions on Marriage is there a ground for avoiding or annulling marriages that even comes close to being psychological in nature.

Where consent is vitiated due to circumstances existing at the time of the marriage, such marriage which stands valid until annulled is capable of ratification or convalidation.

On the other hand, for reasons of public policy or lack of essential requisites, some marriages are void from the beginning.

With the revision of Book I of the Civil Code, particularly the provisions on Marriage, the drafters, now open

to fresh winds of change in keeping with the more permissive mores and practices of the time, took a leaf from the relatively liberal provisions of Canon Law.

Canon 1095 which states, inter alia, that the following persons are incapable of contracting marriage: "3. (those) who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage" provided the model for what is now Art. 36 of the Family Code: "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."

It bears stressing that unlike in Civil Law, Canon Law recognizes only two types of marriages with respect to their validity: valid and void. Civil Law, however, recognizes an intermediate state, the voidable or annullable marriages. When the Ecclesiastical Tribunal "annuls" a marriage, it actually declares the marriage null and void, i.e., it never really existed in the first place, for a valid sacramental marriage can never be dissolved. Hence, a properly performed and consummated marriage between two living Roman Catholics can only be nullified by the formal annulment process which entails a full tribunal procedure with a Court selection and a formal hearing.

Such so-called church "annulments" are not recognized by Civil Law as severing the marriage ties as to capacitate the parties to enter lawfully into another marriage. The grounds for nullifying civil marriage, not being congruent with those laid down by Canon Law, the former being more strict, quite a number of married couples have found themselves in limbo--freed from the marriage bonds in the eyes of the Catholic Church but yet unable to contract a valid civil marriage under state laws. Heedless of civil law sanctions, some persons contract new marriages or enter into live-in relationships.

It was precisely to provide a satisfactory solution to such anomalous situations that the Civil Law Revision Committee decided to engraft the Canon Law concept of psychological incapacity into the Family Code--and classified the same as a ground for declaring marriages void ab initio or totally inexistent from the beginning.

A brief historical note on the Old Canon Law (1917). This Old Code, while it did not provide directly for psychological incapacity, in effect, recognized the same indirectly from a combination of three old canons: "Canon #1081 required persons to be `capable according to law' in order to give valid consent; Canon #1082 required that persons `be at least not ignorant' of the major elements required in marriage; and Canon #1087 (the force and fear category) required that internal and external freedom be present in order for consent to be valid. This line of interpretation produced two distinct but related grounds for annulment called `lack of due discretion' and `lack of due competence.' Lack of due discretion means that the person did not have the ability to give valid consent at the time of the wedding and, therefore, the union is invalid. Lack of due competence means that the person was incapable of carrying out the obligations of the promise he or she made during the wedding ceremony."

Favorable annulment decisions by the Roman Rota in the 1950s and 1960s involving sexual disorders such as homosexuality and nymphomania laid the foundation for a broader approach to the kind of proof necessary for psychological grounds for annulment. The Rota had reasoned for the first time in several cases that the capacity to give valid consent at the time of marriage was probably not present in persons who had displayed such problems shortly after the marriage. The nature of this change was nothing short of revolutionary. Once the Rota itself had demonstrated a cautious willingness to use this kind of hindsight, the way was paved for what came after 1970. Diocesan Tribunals began to accept proof of serious psychological problems that manifested themselves shortly after the ceremony as proof of an inability to give valid consent at the time of the ceremony.[36]

Interestingly, the Committee did not give any examples of psychological incapacity for fear that by so doing, it might limit the applicability of the provision under the principle of ejusdem generis. The Committee desired that

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the courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision itself was taken from the Canon Law.[37] The law is then so designed as to allow some resiliency in its application.[38]

Yet, as held in Santos,[39] the phrase "psychological incapacity" is not meant to comprehend all possible cases of psychoses. It refers to no less than a mental (not physical) incapacity that causes a party to be truly noncognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as expressed by Article 68[40] of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity; and render help and support. The intendment of the law has been to confine it to the most serious of cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.[41] This interpretation is, in fact, consistent with that in Canon Law, thus:

> 3.5.3.1. The Meaning of Incapacity to Assume. A sharp conceptual distinction must be made between the second and third paragraphs of C.1095, namely between the grave lack of discretionary judgment and the incapacity to assume the essential obligation. Mario Pompedda, a rotal judge, explains the difference by an ordinary, if somewhat banal, example. Jose wishes to sell a house to Carmela, and on the assumption that they are capable according to positive law to enter such contract, there remains the object of the contract, viz, the house. The house is located in a different locality, and prior to the conclusion of the contract, the house was gutted down by fire unbeknown to both of them. This is the hypothesis contemplated by the third paragraph of the canon. The third paragraph does not deal with the psychological process of giving consent because it has been established a priori that both have such a capacity to give consent, and they both know well the object of their consent [the house and its particulars]. Rather, C.1095.3 deals with the object of the consent/contract which does not exist. The contract is invalid because it lacks its formal object. The consent as a psychological act is both valid and sufficient. The psychological act, however, is directed towards an object which is not available. Urbano Navarrete summarizes this distinction: the third paragraph deals not with the positing of consent but with positing the object of consent. The person may be capable of positing a free act of consent, but he is not capable of fulfilling the responsibilities he assumes as a result of the consent he elicits.
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> Since the address of Pius XII to the auditors of the Roman Rota in 1941 regarding psychic incapacity with respect to marriage arising from pathological conditions, there has been an increasing trend to understand as ground of nullity different from others, the incapacity to assume the essential obligations of marriage, especially the incapacity which arises from sexual anomalies. Nymphomania is a sample which ecclesiastical jurisprudence has studied under this rubric.
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> The problem as treated can be summarized, thus: do sexual anomalies always and in every case imply a grave psychopathological condition which affects the higher faculties of intellect, discernment, and freedom; or are there sexual anomalies that are purely so - that is to say, they arise from certain physiological dysfunction of the hormonal system, and they affect the sexual condition, leaving intact the higher faculties however, so that these persons are still capable of free human acts. The evidence from the empirical sciences is abundant that there are certain anomalies of a sexual nature which may impel a person towards sexual activities which are not normal, either with respect to its frequency [nymphomania, satyriasis] or to the nature of the activity itself [sadism, masochism, homosexuality]. However, these anomalies notwithstanding, it is altogether possible that the higher faculties remain intact such that a person so afflicted continues to have an adequate understanding of what marriage is and of the gravity of its responsibilities. In fact, he can choose marriage freely. The question though is whether such a person can assume those responsibilities which he cannot fulfill, although he may be able to understand them. In this latter hypothesis, the incapacity to assume the essential obligations of marriage issues from the incapacity to posit the object of consent, rather than the incapacity to posit consent itself.
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> Ecclesiastical jurisprudence has been hesitant, if not actually confused, in this regard. The initial steps taken by

church courts were not too clear whether this incapacity is incapacity to posit consent or incapacity to posit the object of consent. A case c. Pinna, for example, arrives at the conclusion that the intellect, under such an irresistible impulse, is prevented from properly deliberating and its judgment lacks freedom. This line of reasoning supposes that the intellect, at the moment of consent, is under the influence of this irresistible compulsion, with the inevitable conclusion that such a decision, made as it was under these circumstances, lacks the necessary freedom. It would be incontrovertible that a decision made under duress, such as this irresistible impulse, would not be a free act. But this is precisely the question: is it, as a matter of fact, true that the intellect is always and continuously under such an irresistible compulsion? It would seem entirely possible, and certainly more reasonable, to think that there are certain cases in which one who is sexually hyperaesthetic can understand perfectly and evaluate quite maturely what marriage is and what it implies; his consent would be juridically ineffective for this one reason that he cannot posit the object of consent, the exclusive jus in corpus to be exercised in a normal way and with usually regularity. It would seem more correct to say that the consent may indeed be free, but is juridically ineffective because the party is consenting to an object that he cannot deliver. The house he is selling was gutted down by fire.

3.5.3.2. Incapacity as an Autonomous Ground. Sabattani seems to have seen his way more clearly through this tangled mess, proposing as he did a clear conceptual distinction between the inability to give consent on the one hand, and the inability to fulfill the object of consent, on the other. It is his opinion that nymphomaniacs usually understand the meaning of marriage, and they are usually able to evaluate its implications. They would have no difficulty with positing a free and intelligent consent. However, such persons, capable as they are of eliciting an intelligent and free consent, experience difficulty in another sphere: delivering the object of the consent. Anne, another rotal judge, had likewise treated the difference between the act of consenting and the act of positing the object of consent from the point of view of a person afflicted with nymphomania. According to him, such an affliction usually leaves the process of knowing and understanding and evaluating intact. What it affects is the object of consent: the delivering of the goods.

3.5.3.3 Incapacity as Incapacity to Posit the Object of Consent. From the selected rotal jurisprudence cited, supra, it is possible to see a certain progress towards a consensus doctrine that the incapacity to assume the essential obligations of marriage (that is to say, the formal object of consent) can coexist in the same person with the ability to make a free decision, an intelligent judgment, and a mature evaluation and weighing of things. The decision coram Sabattani concerning a nymphomaniac affirmed that such a spouse can have difficulty not only with regard to the moment of consent but also, and especially, with regard to the matrimonium in facto esse. The decision concludes that a person in such a condition is incapable of assuming the conjugal obligation of fidelity, although she may have no difficulty in understanding what the obligations of marriage are, nor in the weighing and evaluating of those same obligations.

Prior to the promulgation of the Code of Canon Law in 1983, it was not unusual to refer to this ground as moral impotence or psychic impotence, or similar expressions to express a specific incapacity rooted in some anomalies and disorders in the personality. These anomalies leave intact the faculties of the will and the intellect. It is qualified as moral or psychic, obviously to distinguish it from the impotence that constitutes the impediment dealt with by C.1084. Nonetheless, the anomalies render the subject incapable of binding himself in a valid matrimonial pact, to the extent that the anomaly renders that person incapable of fulfilling the essential obligations. According to the principle affirmed by the long tradition of moral theology: nemo ad impossibile tenetur.

x x x x

3.5.3.5 Indications of Incapacity. There is incapacity when either or both of the contractants are not capable of initiating or maintaining this consortium. One immediately thinks of those cases where one of the parties is so self-centered [e.g., a narcissistic personality] that he does not even know how to begin a union with the other, let alone how to maintain and sustain such a relationship. A second incapacity could be due to the fact that the spouses are incapable of beginning or maintaining a heterosexual consortium, which goes to the very substance

of matrimony. Another incapacity could arise when a spouse is unable to concretize the good of himself or of the other party. The canon speaks, not of the bonum partium, but of the bonum conjugum. A spouse who is capable only of realizing or contributing to the good of the other party qua persona rather than qua conjunx would be deemed incapable of contracting marriage. Such would be the case of a person who may be quite capable of procuring the economic good and the financial security of the other, but not capable of realizing the bonum conjugale of the other. These are general strokes and this is not the place for detained and individual description.

A rotal decision c. Pinto resolved a petition where the concrete circumstances of the case concerns a person diagnosed to be suffering from serious sociopathy. He concluded that while the respondent may have understood, on the level of the intellect, the essential obligations of marriage, he was not capable of assuming them because of his "constitutional immorality."

Stankiewicz clarifies that the maturity and capacity of the person as regards the fulfillment of responsibilities is determined not only at the moment of decision but also and especially during the moment of execution of decision. And when this is applied to constitution of the marital consent, it means that the actual fulfillment of the essential obligations of marriage is a pertinent consideration that must be factored into the question of whether a person was in a position to assume the obligations of marriage in the first place. When one speaks of the inability of the party to assume and fulfill the obligations, one is not looking at matrimonium in fieri, but also and especially at matrimonium in facto esse. In [the] decision of 19 Dec. 1985, Stankiewicz collocated the incapacity of the respondent to assume the essential obligations of marriage in the psychic constitution of the person, precisely on the basis of his irresponsibility as regards money and his apathy as regards the rights of others that he had violated. Interpersonal relationships are invariably disturbed in the presence of this personality disorder. A lack of empathy (inability to recognize and experience how others feel) is common. A sense of entitlement, unreasonable expectation, especially favorable treatment, is usually present. Likewise common is interpersonal exploitativeness, in which others are taken advantage of in order to achieve one's ends.

Authors have made listings of obligations considered as essential matrimonial obligations. One of them is the right to the communio vitae. This and their corresponding obligations are basically centered around the good of the spouses and of the children. Serious psychic anomalies, which do not have to be necessarily incurable, may give rise to the incapacity to assume any, or several, or even all of these rights. There are some cases in which interpersonal relationship is impossible. Some characteristic features of inability for interpersonal relationships in marriage include affective immaturity, narcissism, and antisocial traits.

Marriage and Homosexuality. Until 1967, it was not very clear under what rubric homosexuality was understood to be invalidating of marriage - that is to say, is homosexuality invalidating because of the inability to evaluate the responsibilities of marriage, or because of the inability to fulfill its obligations. Progressively, however, rotal jurisprudence began to understand it as incapacity to assume the obligations of marriage so that by 1978, Parisella was able to consider, with charity, homosexuality as an autonomous ground of nullity. This is to say that a person so afflicted is said to be unable to assume the essential obligations of marriage. In this same rotal decision, the object of matrimonial consent is understood to refer not only to the jus in corpus but also the consortium totius vitae. The third paragraph of C.1095 [incapacity to assume the essential obligations of marriage] certainly seems to be the more adequate juridical structure to account for the complex phenomenon that homosexuality is. The homosexual is not necessarily impotent because, except in very few exceptional cases, such a person is usually capable of full sexual relations with the spouse. Neither is it a mental infirmity, and a person so afflicted does not necessarily suffer from a grave lack of due discretion because this sexual anomaly does not by itself affect the critical, volitive, and intellectual faculties. Rather, the homosexual person is unable to assume the responsibilities of marriage because he is unable to fulfill this object of the matrimonial contract. In other words, the invalidity lies, not so much in the defect of consent, as in the defect of the object of consent.

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> 3.5.3.6 Causes of Incapacity. A last point that needs to be addressed is the source of incapacity specified by the canon: causes of a psychological nature. Pompedda proffers the opinion that the clause is a reference to the personality of the contractant. In other words, there must be a reference to the psychic part of the person. It is only when there is something in the psyche or in the psychic constitution of the person which impedes his capacity that one can then affirm that the person is incapable according to the hypothesis contemplated by C.1095.3. A person is judged incapable in this juridical sense only to the extent that he is found to have something rooted in his psychic constitution which impedes the assumption of these obligations. A bad habit deeply engrained in one's consciousness would not seem to qualify to be a source of this invalidating incapacity. The difference being that there seems to be some freedom, however remote, in the development of the habit, while one accepts as given one's psychic constitution. It would seem then that the law insists that the source of the incapacity must be one which is not the fruit of some degree of freedom.[42]

Conscious of the law's intention that it is the courts, on a case-to-case basis, that should determine whether a party to a marriage is psychologically incapacitated, the Court, in sustaining the lower court's judgment of annulment in Tuason v. Court of Appeals,[43] ruled that the findings of the trial court are final and binding on the appellate courts.[44]

Again, upholding the trial court's findings and declaring that its decision was not a judgment on the pleadings, the Court, in Tsoi v. Court of Appeals,[45] explained that when private respondent testified under oath before the lower court and was cross-examined by the adverse party, she thereby presented evidence in the form of testimony. Importantly, the Court, aware of parallel decisions of Catholic marriage tribunals, ruled that the senseless and protracted refusal of one of the parties to fulfill the marital obligation of procreating children is equivalent to psychological incapacity.

The resiliency with which the concept should be applied and the case-to-case basis by which the provision should be interpreted, as so intended by its framers, had, somehow, been rendered ineffectual by the imposition of a set of strict standards in Molina,[46] thus:

> From their submissions and the Court's own deliberations, the following guidelines in the interpretation and application of Art. 36 of the Family Code are hereby handed down for the guidance of the bench and the bar:
>
> (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. 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 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.

This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church--while remaining independent, separate and apart from each other--shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.

(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.[47]

Noteworthy is that in Molina, while the majority of the Court's membership concurred in the ponencia of then Associate Justice (later Chief Justice) Artemio V. Panganiban, three justices concurred "in the result" and another

three--including, as aforesaid, Justice Romero--took pains to compose their individual separate opinions. Then Justice Teodoro R. Padilla even emphasized that "each case must be judged, not on the basis of a priori assumptions, predelictions or generalizations, but according to its own facts. In the field of psychological incapacity as a ground for annulment of marriage, it is trite to say that no case is on `all fours' with another case. The trial judge must take pains in examining the factual milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court."[48]

Predictably, however, in resolving subsequent cases,[49] the Court has applied the aforesaid standards, without too much regard for the law's clear intention that each case is to be treated differently, as "courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals."

In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in Molina, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the "most liberal divorce procedure in the world."[50] The unintended consequences of Molina, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. Far from what was intended by the Court, Molina has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying Molina, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals.[51]

The Court need not worry about the possible abuse of the remedy provided by Article 36, for there are ample safeguards against this contingency, among which is the intervention by the State, through the public prosecutor, to guard against collusion between the parties and/or fabrication of evidence.[52] The Court should rather be alarmed by the rising number of cases involving marital abuse, child abuse, domestic violence and incestuous rape.

In dissolving marital bonds on account of either party's psychological incapacity, the Court is not demolishing the foundation of families, but it is actually protecting the sanctity of marriage, because it refuses to allow a person afflicted with a psychological disorder, who cannot comply with or assume the essential marital obligations, from remaining in that sacred bond. It may be stressed that the infliction of physical violence, constitutional indolence or laziness, drug dependence or addiction, and psychosexual anomaly are manifestations of a sociopathic personality anomaly.[53] Let it be noted that in Article 36, there is no marriage to speak of in the first place, as the same is void from the very beginning.[54] To indulge in imagery, the declaration of nullity under Article 36 will simply provide a decent burial to a stillborn marriage.

The prospect of a possible remarriage by the freed spouses should not pose too much of a concern for the Court. First and foremost, because it is none of its business. And second, because the judicial declaration of psychological incapacity operates as a warning or a lesson learned. On one hand, the normal spouse would have become vigilant, and never again marry a person with a personality disorder. On the other hand, a would-be spouse of the psychologically incapacitated runs the risk of the latter's disorder recurring in their marriage.

Lest it be misunderstood, we are not suggesting the abandonment of Molina in this case. We simply declare that, as aptly stated by Justice Dante O. Tinga in Antonio v. Reyes,[55] there is need to emphasize other perspectives as well which should govern the disposition of petitions for declaration of nullity under Article 36. At the risk of

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being redundant, we reiterate once more the principle that each case must be judged, not on the basis of a priori assumptions, predilections or generalizations but according to its own facts. And, to repeat for emphasis, courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals.

II.

We now examine the instant case.

The parties' whirlwind relationship lasted more or less six (6) months. They met in January 1996, eloped in March, exchanged marital vows in May, and parted ways in June. The psychologist who provided expert testimony found both parties psychologically incapacitated. Petitioner's behavioral pattern falls under the classification of dependent personality disorder, and respondent's, that of the narcissistic and antisocial personality disorder.[56]

By the very nature of Article 36, courts, despite having the primary task and burden of decision-making, must not discount but, instead, must consider as decisive evidence the expert opinion on the psychological and mental temperaments of the parties.[57]

Justice Romero explained this in Molina, as follows:

> Furthermore, and equally significant, the professional opinion of a psychological expert became increasingly important in such cases. Data about the person's entire life, both before and after the ceremony, were presented to these experts and they were asked to give professional opinions about a party's mental capacity at the time of the wedding. These opinions were rarely challenged and tended to be accepted as decisive evidence of lack of valid consent.
>
> The Church took pains to point out that its new openness in this area did not amount to the addition of new grounds for annulment, but rather was an accommodation by the Church to the advances made in psychology during the past decades. There was now the expertise to provide the all-important connecting link between a marriage breakdown and premarital causes.
>
> During the 1970s, the Church broadened its whole idea of marriage from that of a legal contract to that of a covenant. The result of this was that it could no longer be assumed in annulment cases that a person who could intellectually understand the concept of marriage could necessarily give valid consent to marry. The ability to both grasp and assume the real obligations of a mature, lifelong commitment are now considered a necessary prerequisite to valid matrimonial consent.
>
> Rotal decisions continued applying the concept of incipient psychological incapacity, "not only to sexual anomalies but to all kinds of personality disorders that incapacitate a spouse or both spouses from assuming or carrying out the essential obligations of marriage. For marriage . . . is not merely cohabitation or the right of the spouses to each other's body for heterosexual acts, but is, in its totality the right to the community of the whole of life; i.e., the right to a developing lifelong relationship. Rotal decisions since 1973 have refined the meaning of psychological or psychic capacity for marriage as presupposing the development of an adult personality; as meaning the capacity of the spouses to give themselves to each other and to accept the other as a distinct person; that the spouses must be `other oriented' since the obligations of marriage are rooted in a self-giving love; and that the spouses must have the capacity for interpersonal relationship because marriage is more than just a physical reality but involves a true intertwining of personalities. The fulfillment of the obligations of marriage depends, according to Church decisions, on the strength of this interpersonal relationship. A serious incapacity for interpersonal sharing and support is held to impair the relationship and consequently, the ability to fulfill the essential marital obligations. The marital capacity of one spouse is not considered in isolation but in reference to the fundamental relationship to the other spouse.

> Fr. Green, in an article in Catholic Mind, lists six elements necessary to the mature marital relationship:
> "The courts consider the following elements crucial to the marital commitment: (1) a permanent and faithful commitment to the marriage partner; (2) openness to children and partner; (3) stability; (4) emotional maturity; (5) financial responsibility; (6) an ability to cope with the ordinary stresses and strains of marriage, etc."

Fr. Green goes on to speak about some of the psychological conditions that might lead to the failure of a marriage:

> "At stake is a type of constitutional impairment precluding conjugal communion even with the best intentions of the parties. Among the psychic factors possibly giving rise to his or her inability to fulfill marital obligations are the following: (1) antisocial personality with its fundamental lack of loyalty to persons or sense of moral values; (2) hyperesthesia, where the individual has no real freedom of sexual choice; (3) the inadequate personality where personal responses consistently fall short of reasonable expectations.
>
> x x x x
>
> The psychological grounds are the best approach for anyone who doubts whether he or she has a case for an annulment on any other terms. A situation that does not fit into any of the more traditional categories often fits very easily into the psychological category.
>
> As new as the psychological grounds are, experts are already detecting a shift in their use. Whereas originally the emphasis was on the parties' inability to exercise proper judgment at the time of the marriage (lack of due discretion), recent cases seem to be concentrating on the parties' incapacity to assume or carry out their responsibilities and obligations as promised (lack of due competence). An advantage to using the ground of lack of due competence is that at the time the marriage was entered into civil divorce and breakup of the family almost always is proof of someone's failure to carry out marital responsibilities as promised at the time the marriage was entered into."[58]

Hernandez v. Court of Appeals[59] emphasizes the importance of presenting expert testimony to establish the precise cause of a party's psychological incapacity, and to show that it existed at the inception of the marriage. And as Marcos v. Marcos[60] asserts, there is no requirement that the person to be declared psychologically incapacitated be personally examined by a physician, if the totality of evidence presented is enough to sustain a finding of psychological incapacity.[61] Verily, the evidence must show a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself.

This is not to mention, but we mention nevertheless for emphasis, that the presentation of expert proof presupposes a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a grave, severe and incurable presence of psychological incapacity.[62] Parenthetically, the Court, at this point, finds it fitting to suggest the inclusion in the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages,[63] an option for the trial judge to refer the case to a court-appointed psychologist/expert for an independent assessment and evaluation of the psychological state of the parties. This will assist the courts, who are no experts in the field of psychology, to arrive at an intelligent and judicious determination of the case. The rule, however, does not dispense with the parties' prerogative to present their own expert witnesses.

Going back, in the case at bench, the psychological assessment, which we consider as adequate, produced the findings that both parties are afflicted with personality disorders--to repeat, dependent personality disorder for petitioner, and narcissistic and antisocial personality disorder for respondent. We note that The Encyclopedia of Mental Health discusses personality disorders as follows--

> A group of disorders involving behaviors or traits that are characteristic of a person's recent and long-term functioning. Patterns of perceiving and thinking are not usually limited to isolated episodes but are deeply ingrained, inflexible, maladaptive and severe enough to cause the individual mental stress or anxieties or to

interfere with interpersonal relationships and normal functioning. Personality disorders are often recognizable by adolescence or earlier, continue through adulthood and become less obvious in middle or old age. An individual may have more than one personality disorder at a time.

The common factor among individuals who have personality disorders, despite a variety of character traits, is the way in which the disorder leads to pervasive problems in social and occupational adjustment. Some individuals with personality disorders are perceived by others as overdramatic, paranoid, obnoxious or even criminal, without an awareness of their behaviors. Such qualities may lead to trouble getting along with other people, as well as difficulties in other areas of life and often a tendency to blame others for their problems. Other individuals with personality disorders are not unpleasant or difficult to work with but tend to be lonely, isolated or dependent. Such traits can lead to interpersonal difficulties, reduced self-esteem and dissatisfaction with life.

Causes of Personality Disorders Different mental health viewpoints propose a variety of causes of personality disorders. These include Freudian, genetic factors, neurobiologic theories and brain wave activity.

Freudian Sigmund Freud believed that fixation at certain stages of development led to certain personality types. Thus, some disorders as described in the Diagnostic and Statistical Manual of Mental Disorders (3d ed., rev.) are derived from his oral, anal and phallic character types. Demanding and dependent behavior (dependent and passive-aggressive) was thought to derive from fixation at the oral stage. Characteristics of obsessionality, rigidity and emotional aloofness were thought to derive from fixation at the anal stage; fixation at the phallic stage was thought to lead to shallowness and an inability to engage in intimate relationships. However, later researchers have found little evidence that early childhood events or fixation at certain stages of development lead to specific personality patterns.

Genetic Factors Researchers have found that there may be a genetic factor involved in the etiology of antisocial and borderline personality disorders; there is less evidence of inheritance of other personality disorders. Some family, adoption and twin studies suggest that schizotypal personality may be related to genetic factors.

Neurobiologic Theories In individuals who have borderline personality, researchers have found that low cerebrospinal fluid 5-hydroxyindoleacetic acid (5-HIAA) negatively correlated with measures of aggression and a past history of suicide attempts. Schizotypal personality has been associated with low platelet monoamine oxidase (MAO) activity and impaired smooth pursuit eye movement.

Brain Wave Activity Abnormalities in electroencephalograph (EEG) have been reported in antisocial personality for many years; slow wave is the most widely reported abnormality. A study of borderline patients reported that 38 percent had at least marginal EEG abnormalities, compared with 19 percent in a control group.

Types of Disorders According to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (3d ed., rev., 1987), or DSM-III-R, personality disorders are categorized into three major clusters:

Cluster A: Paranoid, schizoid and schizotypal personality disorders. Individuals who have these disorders often appear to have odd or eccentric habits and traits.

Cluster B: Antisocial, borderline, histrionic and narcissistic personality disorders. Individuals who have these disorders often appear overly emotional, erratic and dramatic.

Cluster C: Avoidant, dependent, obsessive-compulsive and passive-aggressive personality disorders. Individuals who have these disorders often appear anxious or fearful.

The DSM-III-R also lists another category, "personality disorder not otherwise specified," that can be used for other specific personality disorders or for mixed conditions that do not qualify as any of the specific

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> personality disorders.
>
> Individuals with diagnosable personality disorders usually have long-term concerns, and thus therapy may be long-term.[64]

Dependent personality disorder is characterized in the following manner--

> A personality disorder characterized by a pattern of dependent and submissive behavior. Such individuals usually lack self-esteem and frequently belittle their capabilities; they fear criticism and are easily hurt by others' comments. At times they actually bring about dominance by others through a quest for overprotection.
>
> Dependent personality disorder usually begins in early adulthood. Individuals who have this disorder may be unable to make everyday decisions without advice or reassurance from others, may allow others to make most of their important decisions (such as where to live), tend to agree with people even when they believe they are wrong, have difficulty starting projects or doing things on their own, volunteer to do things that are demeaning in order to get approval from other people, feel uncomfortable or helpless when alone and are often preoccupied with fears of being abandoned.[65]

and antisocial personality disorder described, as follows--

> Characteristics include a consistent pattern of behavior that is intolerant of the conventional behavioral limitations imposed by a society, an inability to sustain a job over a period of years, disregard for the rights of others (either through exploitiveness or criminal behavior), frequent physical fights and, quite commonly, child or spouse abuse without remorse and a tendency to blame others. There is often a façade of charm and even sophistication that masks disregard, lack of remorse for mistreatment of others and the need to control others.
>
> Although characteristics of this disorder describe criminals, they also may befit some individuals who are prominent in business or politics whose habits of self-centeredness and disregard for the rights of others may be hidden prior to a public scandal.
>
> During the 19[th] century, this type of personality disorder was referred to as moral insanity. The term described immoral, guiltless behavior that was not accompanied by impairments in reasoning.
>
> According to the classification system used in the Diagnostic and Statistical Manual of Mental Disorders (3d ed., rev. 1987), anti-social personality disorder is one of the four "dramatic" personality disorders, the others being borderline, histrionic and narcissistic.[66]

The seriousness of the diagnosis and the gravity of the disorders considered, the Court, in this case, finds as decisive the psychological evaluation made by the expert witness; and, thus, rules that the marriage of the parties is null and void on ground of both parties' psychological incapacity. We further consider that the trial court, which had a first-hand view of the witnesses' deportment, arrived at the same conclusion.

Indeed, petitioner, who is afflicted with dependent personality disorder, cannot assume the essential marital obligations of living together, observing love, respect and fidelity and rendering help and support, for he is unable to make everyday decisions without advice from others, allows others to make most of his important decisions (such as where to live), tends to agree with people even when he believes they are wrong, has difficulty doing things on his own, volunteers to do things that are demeaning in order to get approval from other people, feels uncomfortable or helpless when alone and is often preoccupied with fears of being abandoned.[67] As clearly shown in this case, petitioner followed everything dictated to him by the persons around him. He is insecure, weak and gullible, has no sense of his identity as a person, has no cohesive self to speak of, and has no goals and clear direction in life.

Although on a different plane, the same may also be said of the respondent. Her being afflicted with antisocial

personality disorder makes her unable to assume the essential marital obligations. This finding takes into account her disregard for the rights of others, her abuse, mistreatment and control of others without remorse, her tendency to blame others, and her intolerance of the conventional behavioral limitations imposed by society.[68] Moreover, as shown in this case, respondent is impulsive and domineering; she had no qualms in manipulating petitioner with her threats of blackmail and of committing suicide.

Both parties being afflicted with grave, severe and incurable psychological incapacity, the precipitous marriage which they contracted on April 23, 1996 is thus, declared null and void.

WHEREFORE, premises considered, the petition for review on certiorari is GRANTED. The August 5, 2003 Decision and the January 19, 2004 Resolution of the Court of Appeals in CA-G.R. CV No. 71867 are REVERSED and SET ASIDE, and the Decision, dated July 30, 2001, REINSTATED.

SO ORDERED.

ANTONIO EDUARDO B. NACHURA
Associate Justice

WE CONCUR:

CONSUELO YNARES-SANTIAGO
Associate Justice
Chairperson

MA. ALICIA AUSTRIA-MARTINEZ
Associate Justice

MINITA V. CHICO-NAZARIO
Associate Justice

DIOSDADO M. PERALTA
Associate Justice

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[1] Penned by Associate Justice Remedios Salazar-Fernando, with Associate Justices Delilah Vidallon-Magtolis and Edgardo F. Sundiam, concurring; rollo, pp. 23-36.

[2] Id. at 38-39.

[3] TSN, September 12, 2000, p. 2.

[4] Id.

[5] Id. at 2-3.

[6] Records, p. 8.

[7] TSN, September 12, 2000, pp. 3-4.

[8] Id.

[9] Id.

[10] Id. at 4.

[11] Records, p. 1.

[12] Id. at 24.

[13] Id. at 36-37.

[14] Id. at 39.

[15] Id. at 48-55.

[16] Id. at 61-66.

[17] The dispositive portion of the RTC's July 30, 2001 Decision reads:

WHEREFORE, judgment is hereby rendered declaring the marriage between plaintiff EDWARD KENNETH NGO TE and defendant ROWENA ONG GUTIERREZ UY-TE, officiated by Honorable Judge Evelyn Corpus-Cabochan, of the Metropolitan Trial Court, Branch 82, Valenzuela, Metro Manila, on April 23, 1996, NULL AND VOID, ab initio, on the ground of the couple's psychological incapacity under Article 36 of the Family Code; and dissolving their property regime in accordance with law, if there is any.

Let copy of this Decision be furnished the City Civil Registry of Valenzuela City where the marriage took place and City Civil Registry of Quezon City where this decision originated for proper recording.

SO ORDERED. (Id. at 66.)

[18] Records, pp. 67-68.

[19] Supra note 1.

[20] The dispositive portion of the CA's August 5, 2003 Decision reads:

WHEREFORE, foregoing premises considered, the assailed decision dated July 30, 2001 of the Regional Trial Court, National Capital Judicial Region, Branch 106, Quezon City in Civil Case No. Q-00-39720, is hereby REVERSED and SET ASIDE and a new one is entered declaring the marriage between petitioner-appellee Edward Kenneth Ngo Te and respondent Rowena Ong Gutierrez Yu-Te VALID and SUBSISTING. The petition is ordered DISMISSED.

SO ORDERED. (Rollo, p. 35.)

[21] 335 Phil. 664 (1997).

[22] Executive Order No. 209, entitled "The Family Code of the Philippines," enacted on July 6, 1987.

[23] Rollo, pp. 28-35.

[24] Supra note 2.

[25] Rollo, p. 79.

[26] Id. at 95-104.

[27] Id. at 100-102.

[28] Id. at 82-93.

[29] Supra note 21.

[30] Rollo, pp. 86-92.

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[31] Supra note 22.

[32] Id.

[33] G.R. No. 112019, January 4, 1995, 240 SCRA 20.

[34] Id. at 38-41. (Italics supplied.)

[35] Supra note 21.

[36] Republic v. Court of Appeals and Molina, supra note 21, at 681-685.

[37] Salita v. Magtolis, G.R. No. 106429, June 13, 1994, 233 SCRA 100, 107-108, quoting Sempio-Dy, Handbook on the Family Code of the Philippines, 1998, p. 37.

[38] Santos v. Court of Appeals, supra note 33, at 31.

[39] Id.

[40] Article 68 of the Family Code provides in full:

Art. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

[41] Santos v. Court of Appeals, supra note 33, at 34.

[42] Dacanay, Canon Law on Marriage: Introductory Notes and Comments, 2000 ed., pp. 110-119.

[43] 326 Phil. 169 (1996).

[44] Id. at 182.

[45] 334 Phil. 294, 300-304 (1997).

[46] Supra note 21.

[47] Republic v. Court of Appeals and Molina, supra note 21, at 676-680.

[48] Id. at 680.

[49] See Republic of the Philippines v. Lynnette Cabantug-Baguio, G.R. No. 171042, June 30, 2008; Nilda V. Navales v. Reynaldo Navales, G.R. No. 167523, June 27, 2008; Lester Benjamin S. Halili v. Chona M. Santos-Halili, et al., G.R. No. 165424, April 16, 2008; Bier v. Bier, G.R. No. 173294, February 27, 2008, 547 SCRA 123; Paras v. Paras, G.R. No. 147824, August 2, 2007, 529 SCRA 81; Navarro, Jr. v. Cecilio-Navarro, G.R. No. 162049, April 13, 2007, 521 SCRA 121; Republic v. Tanyag-San Jose, G.R. No. 168328, February 28, 2007, 517 SCRA 123; Zamora v. Court of Appeals, G.R. No. 141917, February 7, 2007, 515 SCRA 19; Perez-Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006, 495 SCRA 396; Republic v. Cuison-Melgar, G.R. No. 139676, March 31, 2006, 486 SCRA 177; Antonio v. Reyes, G.R. No. 155800, March 10, 2006, 484 SCRA 353; Villalon v. Villalon, G.R. No. 167206, November 18, 2005, 475 SCRA 572; Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508; Carating-Siayngco, G.R. No. 158896, October 27, 2004, 441 SCRA 422; Republic v. Quintero-Hamano, G.R. No. 149498, May 20, 2004, 428 SCRA 735; Ancheta v. Ancheta, 468 Phil. 900 (2004); Barcelona v. Court of Appeals, 458 Phil. 626 (2003); Choa v. Choa, 441 Phil. 175 (2002); Pesca v. Pesca, 408 Phil. 713 (2001); Republic v. Dagdag, G.R. No. 109975, February 9, 2001, 351 SCRA 425; Marcos v. Marcos, 397 Phil. 840 (2000); Hernandez v. Court of Appeals, G.R. No. 126010, December 8, 1999, 320 SCRA 76.

[50] See Republic v. Court of Appeals and Molina, supra note 21, at 668.

[51] Ng, Apruebo & Lepiten, Legal and Clinical Bases of Psychological Incapacity, 2006 ed., pp. 14-16, cites the following:

"Canon 1095, 3 concerning psychological incapacity pointed out cases of various psychological disorders from the Roman Rota as enumerated below (Fr. Bacareza, 1999).

"6.1. From the 1917 Code of the Second Vatican Council

- Coram Teodori in Italy on January 19, 1940 on Nymphomania.

- Coram Heard on June 5, 1941 on Nymphomania.

- Coram Heard in Quebec on January 30, 1954 on Lethargic Encephalitis.

- Coram Mattioli in Quebec, Canada on November 6, 1956 on General Paralysis.

- Coram Sabbatani in Naples, Italy on June 21, 1957 on Nymphomania.

- Coram Mattioli in Rome on November 28, 1957 on Schizophrenia.

- Coram Lefebvre on December 19, 1959 on Nymphomania.

- Coram De Jorio on December 19, 1961 on Schizophrenia.

"6.2 From the Second Vatican Council to the Promulgation of the 1983 Code

- Coram Monsigneur Charles Lefebre on the following:

- Homosexuality,

- Hypersexuality-Nymphomania,

- Hypersexuality-Satyriasis, and

- Affective Immaturity and Passive Dependent Personality.

- Coram Monsigneur Lucien Anne on February 25, 1969 on Lesbianism.

- Coram De Jorio on April 30, 1969 on Maturity of Judgment.

- Coram Jose Maria Pinto Gomez on the following:

- Serious Paranoid Schizophrenia (November 26, 1969),

- Anti-Social Personality Disorder (March 18, 1971),

- Vaginismus or Psychic impotence; Frigidity (July 15, 1977)

- Neurasthenic Psychopath (April 20, 1979)

- Sexual Disorder (December 3, 1982)

- Coram Bruno on the following:

- Hypersexuality-Nymphomania (December 15, 1972)

- Sexual Neurosis (March 27, 1981)

- Psychoneurosis (December 17, 1982)

- Coram Jose Maria Serrano Ruiz on the following:

- Hypersexuality-Satyriasis (April 5, 1973)

- Lack of Interpersonal Integration (April 15, 1973)

- Immature Personality (July 9, 1976)

- Psychic Immaturity (November 18, 1977)

- Depressive Neurosis (July 12, 1978)

- Obsessive-Compulsive Personality (May 23, 1980)

- Frigidity (July 28, 1981)

- Affective Immaturity (January 15, 1977)

- Coram Ewers on the following:

- Affective Immaturity (January 15, 1977)

- Sexual Neurosis (April 4, 1981)

- Coram Pariscella on the following:

- Obsessive-Compulsive Neurosis (February 23, 1978)

- Homosexuality (June 11, 1978)

- Coram Fiore (May 27, 1981)

- Coram Agustoni (March 23, 1982)

"6.3. After the Promulgation of the 1983 Code of Canon Law

- Rotal Case No. 41:c. Colagiovanni on March 3, 1983 on Homosexuality

- Rotal Case No. 42 c. Huot on July 18, 1983 on Alcoholism and Immature Personality.

- Rotal Case No. 43: c. Giannechini on July 19, 1983 on Homosexuality.

- Rotal Case No. 45: c. Colagiovanni on November 22, 1983 about an ex-priest who was a "liar, cheat and swindler" (Anti-Social Personality)

- Rotal Case No. 46: c. Stankiewiez on November 24, 1983 on Homosexuality.

- Rotal Case No. 47: c. Egan on March 29, 1984 on Hysterical Personality.

- Rotal Case No. 48: c. Di Felice on June 9, 1984 on Psychic Immaturity.

- Rotal Case No. 49: c. Pinto on May 30, 1986 on Alcoholism and Gambling.

- Rotal Case No. 50: c. Giannecchini on December 20, 1988 on Hypersexuality-Nymphomania.

[52] Justice Padilla's Dissenting Opinion, Santos v. Court of Appeals, supra note 33, at 36-37; Ancheta v. Ancheta, supra note 49, at 917.

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[53] Supra note 34.

[54] See Article 36 of the Family Code; see also Justice Carpio's Dissenting Opinion, Tenebro v. Court of Appeals, G.R. No. 150758, February 18, 2004, 423 SCRA 272, 299.

[55] Supra note 49, at 370.

[56] Records, pp. 54-55; TSN, November 7, 2000, pp. 5-6.

[57] Archbishop Oscar V. Cruz, D.D., of the Archdiocese of Lingayen-Dagupan, explains in Marriage Tribunal Ministry, 1992 ed., that "[s]tandard practice shows the marked advisability of Expert intervention in Marriage Cases accused of nullity on the ground of defective matrimonial consent on account of natural incapacity by reason of any factor causative of lack of sufficient use of reason, grave lack of due discretion and inability to assume essential obligations--although the law categorically mandates said intervention only in the case of impotence and downright mental disorder x x x." (p. 106).

[58] Republic v. Court of Appeals and Molina, supra note 21, at 685-688.

[59] Supra note 49, at 88; see also Republic v. Quintero-Hemano, supra note 49, at 743.

[60] Supra note 49, at 850; see also Republic v. Quintero-Hemano, supra note 49, at 742; Republic v. Iyoy, supra note 49, at 526; Zamora v. Court of Appeals, supra note 49, at 27; Paras v. Paras, supra note 49, at 96-97.

[61] The Court, however, by saying--

[T]he assessment of petitioner by Dr. Gauzon was based merely on descriptions communicated to him by respondent. The doctor never conducted any psychological examination of her. Neither did he ever claim to have done so. In fact, his Professional Opinion began with the statement "[I]f what Alfonso Choa said about his wife Leni is true, x x x"

x x x x

Obviously, Dr. Guanzon had no personal knowledge of the facts he testified to, as these had merely been relayed to him by respondent. The former was working on pure suppositions and secondhand information fed to him by one side. Consequently, his testimony can be dismissed as unscientific and unreliable.

Dr. Guanzon tried to save his credibility by asserting that he was able to assess petitioner's character, not only through the descriptions given by respondent, but also through the former's at least fifteen hours of study of the voluminous transcript of records of this case. Even if it took the good doctor a whole day or a whole week to examine the records of this case, we still find his assessment of petitioner's psychological state sorely insufficient and methodologically flawed.

in Choa v. Choa (Supra note 49, at 190-191), in effect, required the personal examination of the person to be declared psychologically incapacitated.

[62] Psychologists of the Psychological Extension Evaluation Research Services (PEERS) enumerate the segments of the psychological evaluation report for psychological incapacity as follows:

- Identifying Data: Personal Information

- Referral Question: Data coming from informants and significant others (psychologists, psychiatrists, physicians, parents, brothers, sisters, relatives, friends, etc.).

- Test Administered (Dates): List by name

- Background Information:

Current Life Situation: Presenting complaint (personal and marital conflict), history of problem, and consequences in client's life.
Life History Information: Childhood development, educational history, vocational history, medical history, sexual and marital history, personal goals.

- Behavior Observations: Description of client, relationship with examiner, and test related behaviors.

- Interpretation of Test Results:

Intellectual Functioning: Wechsler tests, Stanford-Binet, etc. Obtained IQ scores and specific strengths and deficits.
Cognitive Functioning: Rorschach, TAT, MMPI, etc. Perception of reality or perceptual efficiency, conceptual organization, psychological needs, conflicts, preoccupations, suspiciousness, hallucinations, or delusions.
Emotional Functioning (MMPI, Rorschach, etc.): Liability of emotions, impulse control, predominant concerns like aggression, anxiety, depression, guilt, dependency, and hostility.
Relationship Patterns (MMPI, Rorschach, TAT, etc.): Problem areas in work or school, friendships, intimate relationships, difficulties such as immaturity, irresponsibility, cooperativeness, sociability, introversion, impulsivity, aggression, dangerousness to self or others.
Defenses and compensations: Evidence of any strength, any coping mechanisms, or any useful compensation that might be helping the client maintain himself/herself.

- Integration of Test Results with Life History: Presenting a clinical picture of the client as a total person against the background of his marital discords and life circumstances. Hypotheses posed through the referral question and generated and integrated via test results and other reliable information.

- Summary, Conclusion, Diagnosis, Prognosis:

Summary: Emphasis should be on conciseness and accuracy so that the reader can quickly find the essential information and overall impression.
Conclusion: Integrating the material (data) into a more smoothly stated conceptualization of the client's personality and problem areas as regards root causes and characteristics as ground for nullity of marriage.
Diagnosis: Diagnostic impression is evolved form the data obtained, formed impression of personality disorders, and classified mental disorders based on the criteria and multi axial system of the DSM IV.
Prognosis: Predicting the behavior based on the data obtained that are relevant to the current functioning of the client, albeit under ideal conditions.

- Recommendation: Providing a careful specific recommendation is based on the referral sources and obtained data in dealing with a particular client that may be ameliorative, remedial, or unique treatment/intervention approaches. As to psychological incapacity, specific recommendation on the nullity of marriage based on Article 36 of the Family Code and expertise and clinical judgment of the Clinical Psychologist should be given emphasis. (Ng, Apruebo & Lepiten, Legal and Clinical Bases of Psychological Incapacity, supra note 51, at 179-181.)

[63] A.M. No. 02-11-10-SC, effective March 15, 2003.

[64] Kahn and Fawcett, The Encyclopedia of Mental Health, 1993 ed., pp. 291-292. See Bernstein, Penner, Clarke-Stewart, Roy, Psychology, 7[th] ed., 2006, pp. 613-614, defining personality disorders as "long-standing, inflexible ways of behaving that are not so much severe mental disorders as dysfunctional styles of living. These disorders affect all areas of functioning and, beginning in childhood or adolescence, create problems for those

who display them and for others. Some psychologists view personality disorders as interpersonal strategies or as extreme, rigid, and maladaptive expressions of personality traits." (Citations omitted.)

[65] Id. at 131.

[66] Id. at 50-51.

[67] Supra note 65.

[68] Supra note 66.

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