MA. ARMIDA PEREZ-FERRARIS, PETITIONER, VS. BRIX FERRARIS, RESPONDENT.

G.R. NO. 162368. July 17, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

This resolves the motion for reconsideration filed by petitioner Ma. Armida Perez-Ferraris of the Resolution dated June 9, 2004 denying the petition for review on certiorari of the Decision and Resolution of the Court of Appeals dated April 30, 2003 and February 24, 2004, respectively, for failure of the petitioner to sufficiently show that the Court of Appeals committed any reversible error.

On February 20, 2001, the Regional Trial Court of Pasig City, Branch 151 rendered a Decision[1] denying the petition for declaration of nullity of petitioner's marriage with Brix Ferraris. The trial court noted that suffering from epilepsy does not amount to psychological incapacity under Article 36 of the Civil Code and the evidence on record were insufficient to prove infidelity. Petitioner's motion for reconsideration was denied in an Order[2] dated April 20, 2001 where the trial court reiterated that there was no evidence that respondent is mentally or physically ill to such an extent that he could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof.

Petitioner appealed to the Court of Appeals which affirmed[3] in toto the judgment of the trial court. It held that the evidence on record did not convincingly establish that respondent was suffering from psychological incapacity or that his "defects" were incurable and already presen t at the inception of the marriage.[4] The Court of Appeals also found that Dr. Dayan's testimony failed to establish the substance of respondent's psychological incapacity; that she failed to explain how she arrived at the conclusion that the respondent has a mixed personality disorder; that she failed to clearly demonstrate that there was a natal or supervening disabling factor or an adverse integral element in respondent's character that effectively incapacitated him from accepting and complying with the essential marital obligations.[5]

Petitioner's motion for reconsideration was denied[6] for lack of merit; thus, she filed a petition for review on certiorari with this Court. As already stated, the petition for review was denied for failure of petitioner to show that the appellate tribunal committed any reversible error.

Petitioner filed the instant motion for reconsideration.[7] The Court required respondent Brix Ferraris to file comment[8] but failed to comply; thus, he is deemed to have waived the opportunity to file comment. Further, the Court directed the Office of the Solicitor General (OSG) to comment on petitioner's motion for reconsideration which it complied on March 2, 2006.

After considering the arguments of both the petitioner and the OSG, the Court resolves to deny petitioner's motion for reconsideration.

The issue of whether or not psychological incapacity exists in a given case calling for annulment of marriage

depends crucially, more than in any field of the law, on the facts of the case.[9] Such factual issue, however, is beyond the province of this Court to review. It is not the function of the Court to analyze or weigh all over again the evidence or premises supportive of such factual determination.[10] It is a well-established principle that factual findings of the trial court, when affirmed by the Court of Appeals, are binding on this Court,[11] save for the most compelling and cogent reasons, like when the findings of the appellate court go beyond the issues of the case, run contrary to the admissions of the parties to the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; or when there is a misappreciation of facts,[12] which are unavailing in the instant case.

The term "psychological incapacity" to be a ground for the nullity of marriage under Article 36 of the Family Code, refers to a serious psychological illness afflicting a party even before the celebration of the marriage. It is a malady so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume.[13] As all people may have certain quirks and idiosyncrasies, or isolated characteristics associated with certain personality disorders, there is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.[14] It is for this reason that the Court relies heavily on psychological experts for its understanding of the human personality. However, the root cause must be identified as a psychological illness and its incapacitating nature must be fully explained,[15] which petitioner failed to convincingly demonstrate.

As aptly held by the Court of Appeals:

> Simply put, the chief and basic consideration in the resolution of marital annulment cases is the presence of evidence that can adequately establish respondent's psychological condition. Here, appellant contends that there is such evidence. We do not agree. Indeed, the evidence on record did not convincingly establish that respondent was suffering from psychological incapacity. There is absolutely no showing that his "defects" were already present at the inception of the marriage, or that those are incurable.
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> Quite apart from being plainly self-serving, petitioner's evidence showed that respondent's alleged failure to perform his so-called marital obligations was not at all a manifestation of some deep-seated, grave, permanent and incurable psychological malady. To be sure, the couple's relationship before the marriage and even during their brief union (for well about a year or so) was not all bad. During that relatively short period of time, petitioner was happy and contented with her life in the company of respondent. In fact, by petitioner's own reckoning, respondent was a responsible and loving husband. x x x. Their problems began when petitioner started doubting respondent's fidelity. It was only when they started fighting about the calls from women that respondent began to withdraw into his shell and corner, and failed to perform his so-called marital obligations. Respondent could not understand petitioner's lack of trust in him and her constant naggings. He thought her suspicions irrational. Respondent could not relate to her anger, temper and jealousy. x x x.
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> x x x x
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> At any rate, Dr. Dayan did not explain how she arrived at her diagnosis that respondent has a mixed personality disorder called "schizoid," and why he is the "dependent and avoidant type." In fact, Dr. Dayan's statement that one suffering from such mixed personality disorder is dependent on others for decision x x x lacks specificity; it seems to belong to the realm of theoretical speculation. Also, Dr. Dayan's information that respondent had extramarital affairs was supplied by the petitioner herself. Notably, when asked as to the root cause of respondent's alleged psychological incapacity, Dr. Dayan's answer was vague, evasive and inconclusive. She replied that such disorder "can be part of his family upbringing" x x x. She stated that there was a history of respondent's parents having difficulties in their relationship. But this input on the supposed problematic history of respondent's parents also came from petitioner. Nor did Dr. Dayan clearly demonstrate that there was really "a natal or supervening disabling factor" on the part of respondent, or an "adverse integral

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> element" in respondent's character that effectively incapacitated him from accepting, and, thereby complying with, the essential marital obligations. Of course, petitioner likewise failed to prove that respondent's supposed psychological or mental malady existed even before the marriage. All these omissions must be held up against petitioner, for the reason that upon her devolved the onus of establishing nullity of the marriage. Indeed, any doubt should be resolved in favor of the validity of the marriage and the indissolubility of the marital vinculum.[16]

We find respondent's alleged mixed personality disorder, the "leaving-the-house" attitude whenever they quarreled, the violent tendencies during epileptic attacks, the sexual infidelity, the abandonment and lack of support, and his preference to spend more time with his band mates than his family, are not rooted on some debilitating psychological condition but a mere refusal or unwillingness to assume the essential obligations of marriage.

In Republic v. Court of Appeals,[17] where therein respondent preferred to spend more time with his friends than his family on whom he squandered his money, depended on his parents for aid and assistance, and was dishonest to his wife regarding his finances, the Court held that the psychological defects spoken of were more of a "difficulty," if not outright "refusal" or "neglect" in the performance of some marital obligations and that a mere showing of irreconcilable differences and conflicting personalities in no wise constitute psychological incapacity; it is not enough to prove that the parties failed to meet their responsibilities and duties as married persons; it is essential that they must be shown to be incapable of doing so, due to some psychological, not physical, illness.

Also, we held in Hernandez v. Court of Appeals[18] that habitual alcoholism, sexual infidelity or perversion, and abandonment do not by themselves constitute grounds for declaring a marriage void based on psychological incapacity.

While petitioner's marriage with the respondent failed and appears to be without hope of reconciliation, the remedy however is not always to have it declared void ab initio on the ground of psychological incapacity. An unsatisfactory marriage, however, is not a null and void marriage.[19] No less than the Constitution recognizes the sanctity of marriage and the unity of the family; it decrees marriage as legally "inviolable" and protects it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.[20]

Thus, in determining the import of "psychological incapacity" under Article 36, it must be read in conjunction with, although to be taken as distinct from Articles 35,[21] 37,[22] 38,[23] and 41[24] that would likewise, but for different reasons, render the marriage void ab initio, or Article 45[25] that would make the marriage merely voidable, or Article 55 that could justify a petition for legal separation. Care must be observed so that these various circumstances are not applied so indiscriminately as if the law were indifferent on the matter.[26] Article 36 should not to be confused with a divorce law that cuts the marital bond at the time the causes therefor manifest themselves.[27] Neither it is to be equated with legal separation, in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, moral corruption, civil interdiction, drug addiction, habitual alcoholism, sexual infidelity, abandonment and the like.[28]

WHEREFORE, in view of the foregoing, the motion for reconsideration of the Resolution dated June 9, 2004 denying the petition for review on certiorari for failure of the petitioner to sufficiently show that the Court of Appeals committed any reversible error, is DENIED WITH FINALITY.

SO ORDERED.

Panganiban, C.J., (Chairman), Austria-Martinez,, Callejo, Sr., and Chico-Nazario, JJ., concur

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[1] Rollo, pp. 96-99. Penned by Judge Franchito N. Diamante.

[2] Id. at 101.

[3] Id. at 9-19. Penned by Associate Justice Renato C. Dacudao and concurred in by Associate Justices Godardo A. Jacinto and Danilo B. Pine.

[4] Id. at 17.

[5] Id. at 18.

[6] Id. at 7.

[7] Id. at 208-227.

[8] Id. at 228.

[9] Concurring Opinion of Justice Teodoro R. Padilla in Republic v. Court of Appeals, 335 Phil. 664, 680 (1997).

[10] Abacus Real Estate Development Center, Inc. v. Manila Banking Corporation, G.R. No. 162270, April 6, 2005, 455 SCRA 97, 106.

[11] Domingo v. Robles, G.R. No. 153743, March 18, 2005, 453 SCRA 812, 817.

[12] Philippine Rabbit Bus Lines, Inc. v. Macalinao, G.R. No. 141856, February 11, 2005, 451 SCRA 63, 69.

[13] Marcos v. Marcos, 397 Phil. 840, 851 (2000).

[14] Santos v. Court of Appeals, 310 Phil. 21, 40 (1995).

[15] Republic v. Court of Appeals, supra note 9 at 677.

[16] Rollo, pp. 111-113.

[17] Supra note 9 at 669 & 674.

[18] 377 Phil. 919, 931 (1999).

[19] Carating-Siayngco v. Siayngco, G.R. No. 158896, October 27, 2004, 441 SCRA 422, 439.

[20] Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508, 522.

[21] Art. 35. The following marriages shall be void from the beginning:

(1) Those contracted by any party below eighteen years of age even with the consent of parents or guardians;
(2) Those solemnized by any person not legally authorized to perform marriages unless such marriages were contracted with either or both parties believing in good faith that the solemnizing officer had the legal authority to do so;
(3) Those solemnized without a license, except those covered by the preceding Chapter;
(4) Those bigamous or polygamous marriages not falling under Article 41;
(5) Those contracted through mistake of one contracting party as to the identity of the other; and
(6) Those subsequent marriages that are void under Article 53.

[22] Art. 37. Marriages between the following are incestuous and void from the beginning, whether the relationship between the parties be legitimate or illegitimate:

(1) Between ascendants and descendants of any degree; and

(2) Between brothers and sisters, whether of the full or half blood.

[23] Art. 38. The following marriages shall be void from the beginning for reasons of public policy:

(1) Between collateral blood relatives, whether legitimate or illegitimate, up to the fourth civil degree;
(2) Between step-parents and step-children;
(3) Between parents-in-law and children-in-law;
(4) Between the adopting parent and the adopted child;
(5) Between the surviving spouse of the adopting parent and the adopted child;
(6) Between the surviving spouse of the adopted child and the adopter;
(7) Between an adopted child and a legitimate child of the adopter;
(8) Between the adopted children of the same adopter; and
(9) Between parties where one, with the intention to marry the other, killed that other person's spouse or his or her own spouse.

[24] Art. 41. A marriage contracted by any person during the subsistence of a previous marriage shall be null and void, unless before the celebration of the subsequent marriage, the prior spouse had been absent for four consecutive years and the spouse present had a well-founded belief that the absent spouse was already dead. In case of disappearance where there is danger of death under the circumstances set forth in the provisions of Article 391 of the Civil Code, an absence of only two years shall be sufficient.

For the purpose of contracting the subsequent marriage under the preceding paragraph, the spouse present must institute a summary proceeding as provided in this Code for the declaration of presumptive death of the absentee, without prejudice to the effect of reappearance of the absent spouse.

[25] Art. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:
(1) That the party in whose behalf it is sought to have the marriage annulled was eighteen years of age or over but below twenty-one, and the marriage was solemnized without the consent of the parents, guardian or person having substitute parental authority over the party, in that order, unless after attaining the age of twenty-one, such party freely cohabited with the other and both lived together as husband and wife;
(2) That either party was of unsound mind, unless such party after coming to reason, freely cohabited with the other as husband and wife;
(3) That the consent of either party was obtained by fraud, unless such party afterwards, with full knowledge of the facts constituting the fraud, freely cohabited with the other as husband and wife;
(4) That the consent of either party was obtained by force, intimidation or undue influence, unless the same having disappeared or ceased, such party thereafter freely cohabited with the other as husband and wife;
(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable; or
(6) That either party was inflicted with a sexually-transmitted disease found to be serious and appears to be incurable.

[26] Concurring Opinion of Justice Jose C. Vitug in Republic v. Court of Appeals, supra note 9 at 690.

[27] Carating-Siayngco v. Siayngco, supra note 19 at 439.

[28] Marcos v. Marcos, supra note 13.

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