

JOCELYN M. SUAZO, PETITIONER, VS. ANGELITO SUAZO AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 164493. March 10, 2010

Ponente: BRION, J.

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BRION, J.:

We resolve the appeal filed by petitioner Jocelyn Suazo (Jocelyn) from the July 14, 2004 Decision of the Court of Appeals (CA)[1] in CA-G.R. CV No. 62443, which reversed the January 29, 1999 judgment of the Regional Trial Court (RTC), Branch 119, Pasay City in Civil Case No. 97-1282.[2] The reversed RTC decision nullified Jocelyn's marriage with respondent Angelito Suazo (Angelito) on the ground of psychological incapacity.

THE FACTS

Jocelyn and Angelito were 16 years old when they first met in June 1985; they were residents of Laguna at that time. After months of courtship, Jocelyn went to Manila with Angelito and some friends. Having been gone for three days, their parents sought Jocelyn and Angelito and after finding them, brought them back to Biñan, Laguna. Soon thereafter, Jocelyn and Angelito's marriage was arranged and they were married on March 3, 1986 in a ceremony officiated by the Mayor of Biñan.

Without any means to support themselves, Jocelyn and Angelito lived with Angelito's parents after their marriage. They had by this time stopped schooling. Jocelyn took odd jobs and worked for Angelito's relatives as household help. Angelito, on the other hand, refused to work and was most of the time drunk. Jocelyn urged Angelito to find work and violent quarrels often resulted because of Jocelyn's efforts.

Jocelyn left Angelito sometime in July 1987. Angelito thereafter found another woman with whom he has since lived. They now have children.

Ten years after their separation, or on October 8, 1997, Jocelyn filed with the RTC a petition for declaration of nullity of marriage under Article 36 of the Family Code, as amended. She claimed that Angelito was psychologically incapacitated to comply with the essential obligations of marriage. In addition to the above historical narrative of their relationship, she alleged in her complaint:

x x x x

8. That from the time of their marriage up to their separation in July 1987, their relationship had been marred with bitter quarrels which caused unbearable physical and emotional pains on the part of the plaintiff because defendant inflicted physical injuries upon her every time they had a troublesome encounter;

9. That the main reason for their quarrel was always the refusal of the defendant to work or his indolence and his excessive drinking which makes him psychologically incapacitated to perform his marital obligations making life unbearably bitter and intolerable to the plaintiff causing their separation in fact in July 1987;

10. That such psychological incapacity of the defendant started from the time of their marriage and became

very apparent as time went and proves to be continuous, permanent and incurable;

x x x x

Angelito did not answer the petition/complaint. Neither did he submit himself to a psychological examination with psychologist Nedy Tayag (who was presumably hired by Jocelyn).

The case proceeded to trial on the merits after the trial court found that no collusion existed between the parties. Jocelyn, her aunt Maryjane Serrano, and the psychologist testified at the trial.

In her testimony, Jocelyn essentially repeated the allegations in her petition, including the alleged incidents of physical beating she received from Angelito. On cross-examination, she remained firm on these declarations but significantly declared that Angelito had not treated her violently before they were married.

Asst. Sol. Gen. Kim Briguera:

Q. Can you describe your relationship with the respondent before you got married?

A. He always go (sic) to our house to court me.

Q. Since you cited violence, after celebration of marriage, will you describe his behavioural (sic) pattern before you got married?

A. He show (sic) kindness, he always come (sic) to the house.

Q. So you cannot say his behavioral pattern composing of violent nature before you got married (sic), is there any signs (sic) of violence?

A. None maam (sic), because we were not sweethearts.

Q. Even to other people?

A. He also quarrel (sic).[3]

Maryjane Serrano corroborated parts of Jocelyn's testimony.

When the psychologist took the witness stand, she declared:

Q. What about the respondent, did you also make clinical interpretation of his behavior?

A. Apparently, the behavior and actuation of the respondent during the time of the marriage the respondent is suffering from anti-social personality Disorder this is a serious and severe apparently incurable (sic). This disorder is chronic and long-standing before the marriage.

Q. And you based your interpretation on the report given by the petitioner?

A. Based on the psychological examination wherein there is no pattern of lying when I examined her, the petitioner was found to be very responsive, coherent, relevant to marital relationship with respondent.

Q. And the last page of Exhibit "E" which is your report there is a statement rather on the last page, last paragraph which state: It is the clinical opinion of the undersigned that marriage between the two, had already hit bottom rock (sic) even before the actual celebration of marriage. Respondent(s) immature, irresponsible and callous emotionality practically harbors (sic) the possibility of having blissful relationship. His general behavior fulfill(s) the diagnostic criteria for a person suffering from Anti Social Personality Disorder. Such disorder is serious and severe and it interfered (sic) in his capacity to provide love, caring, concern and responsibility to his family. The disorder is chronic and long-standing in proportion and appear(s) incurable. The disorder was present at the time of the wedding and became manifest thereafter due to stresses and

pressure of married life. He apparently grew up in a dysfunctional family. Could you explain what does chronic mean?

A. Chronic is a clinical language which means incurable it has been there long before he entered marriage apparently, it came during early developmental (sic) Basic trust was not develop (sic).

Q. And this long standing proportion (sic).

A. That no amount of psychological behavioral help to cure such because psychological disorder are not detrimental to men but to others particularly and this (sic) because the person who have this kind of disorder do not know that they have this kind of disorder.

Q. So in other words, permanent?

A. Permanent and incurable.

Q. You also said that this psychological disorder is present during the wedding or at the time of the wedding or became manifest thereafter?

A. Yes, ma'am."

x x x x

Court:

Q. Is there a clinical findings (sic)?

A. That is the clinical findings. Personality Disorder labeled on Anti-Social Personality Disorder (sic).

Q. How was shown during the marriage (sic)?

A. The physical abuses on the petitioner also correlated without any employment exploitative and silent (sic) on the part of the respondent is clearly Anti-Social Disorder.

Q. Do the respondent know that he has that kind of psychological disorder (sic)?

A. Usually a person suffering that psychological disorder will not admit that they are suffering that kind of disorder (sic).

Court:

Q. So because of this Anti-Social Disorder the petitioner suffers a lot (sic)?

A. Yes, because the petitioner is a victim of hardships of marital relation to the respondent (sic).

Court:

Q. Was the Anti-Social Personality Disorder also shown to the parents (sic)?

A. Yes, according to the petitioner, respondent never give due respect more often than not he even shouted at them for no apparent reason (sic).

Court:

Q. Did you say Anti-Social Disorder incurable (sic)?

A. Yes, sir.

Court:

Q. Is there a physical violence (sic)?

A. Actually, I could see the petitioner is tortured mentally of the respondent (sic).

Court:

Q. How was the petitioner tortured?

A. She was able to counter-act by the time she was separated by the respondent (sic).

Court:

Q. Do you mean to tell us that Anti-Social disorder is incurable?

A. Yes, sir.

Court:

Q. Why did you know?

A. Anti-Social disorder is incurable again because the person itself, the respondent is not aware that this kind of personality affect the other party (sic).

Court:

Q. This Anti-Social behavior is naturally affected the petitioner (sic)?

A. They do not have children because more often than not the respondent is under the influence of alcohol, they do not have peaceful harmonious relationship during the less than one year and one thing what is significant, respondent allowed wife to work as housemaid instead of he who should provide and the petitioner never receive and enjoy her earning for the five months that she work and it is also the petitioner who took sustenance of the vices. (sic)

Q. And because of that Anti-Social disorder he had not shown love to the petitioner?

A. From the very start the respondent has no emotion to sustain the marital relationship but what he need is to sustain his vices thru the petitioner (sic).

Court:

Q. What are the vices?

A. Alcohol and gambling.

Court:

Q. And this affected psychological incapacity to perform marital obligation?

A. Not only that up to this time from my clinical analysis of Anti-Social Personality Disorder, he is good for nothing person.[4]

The psychologist also identified the Psychological Report she prepared. The Report pertinently states:[5]

Report on the psychological condition of JOCELYN M. SUAZO, a petitioner for "Nullity of Marriage" versus ANGELITO D. SUAZO

GENERAL DATA

[This pertains to Jocelyn's]

BRIEF MARITAL HISTORY

x x x x

Husband is Angelito D. Suazo, 28 years old reached 3[rd] year high school, a part time tricycle driver, eldest among 4 siblings. Father is a machine operator, described to be an alcoholic, womanizer and a heavy gambler. While mother is a sales agent. It was a common knowledge within their vicinity that she was also involved in an illicit relationship. Familial relationship was described to be stormy, chaotic whose bickering and squabbles were part and parcel of their day to day living.

TEST RESULTS AND EVALUATION

Projective data reveal an introvert person whose impulse life is adequately suppressed so much so that it does not create inner tension and anxiety. She is fully equipped in terms of drives and motivation particularly in uplifting not, only her socio-emotional image but was as her morale. She may be sensitive yet capable of containing the effect of such sensitiveness; in order to remain in goodstead (sic) with her immediate environment.

She is pictured as a hard-working man (sic) who looks forward for a better future in spite of difficulties she had gone through in the past. She is fully aware of external realities of life that she set simple life goals which is (sic) commensurate with her capabilities and limitations. However, she needs to prioritize her interest in order to direct her energy toward specific goals. Her tolerance for frustration appears to be at par with her coping mechanism that she is able to discharge negative trends appropriately.

REMARKS :

[Already cited in full in the psychologist's testimony quoted above][6]

The Office of the Solicitor General - representing the Republic of the Philippines - strongly opposed the petition for declaration of nullity of the marriage. Through a Certification filed with the RTC, it argued that the psychologist failed to examine and test Angelito; thus, what she said about him was purely hearsay.

THE RTC RULING

The RTC annulled the marriage under the following reasoning:

While there is no particular instance set forth (sic) in the law that a person may be considered as psychologically incapacitated, there as (sic) some admitted grounds that would render a person to be unfit to comply with his marital obligation, such as "immaturity, i.e., lack of an effective sense of rational judgment and responsibility, otherwise peculiar to infants (like refusal of the husband to support the family or excessive dependence on parents or peer group approval) and habitual alcoholism, or the condition by which a person lives for the next drink and the next drinks" (The Family Code of the Phils, Alicia Sempio-Diy, p.39, 1988 ed.)

The evidence presented by the petitioner and the testimony of the petitioner and Dr. Tayag, points (sic) to one thing - that the petitioner failed to establish a harmonious family life with the respondent. On the contrary, the respondent has not shown love and respect to the petitioner manifested by the former's being irresponsible, immature, jobless, gambler, drunkard and worst of all - a wife beater. The petitioner, unable to bear any longer the misbehavior and attitude of the respondent, decided, after one year and four months of messy days, to leave the respondent.

In this regard, the petitioner was able to prove that right from the start of her married life with the respondent, she already suffered from maltreatment, due to physical injuries inflicted upon her and that she was the one who worked as a housemaid of a relative of her husband to sustain the latter's niece (sic) and because they were living with her husband's family, she was obliged to do the household chores - an indication that she is a

battered wife coupled with the fact that she served as a servant in his (sic) husband's family.

This situation that the petitioner had underwent may be attributed to the fact that at the time of their marriage, she and her husband are still young and was forced only to said marriage by her relatives. The petitioner and the respondent had never developed the feeling of love and respect, instead, the respondent blamed the petitioner's family for said early marriage and not to his own liking.

Applying the principles and the requisites of psychological incapacity enunciated by this Court in *Santos v. Court of Appeals*,^[7] the RTC concluded:

The above findings of the psychologist [referring to the psychologist' testimony quoted above] would only tend to show that the respondent was, indeed, suffering from psychological incapacity which is not only grave but also incurable.

Likewise, applying the principles set forth in the case of *Republic vs. Court of Appeals and Molina*, 268 SCRA 198, wherein the Supreme Court held that:

x x x [At this point, the RTC cited the pertinent *Molina* ruling]

The Court is satisfied that the evidence presented and the testimony of the petitioner and Dr. Familiar (sic) [the psychologist who testified in this case was Nedy Tayag, not a Dr. Familiar] attesting that there is psychological incapacity on the part of the respondent to comply with the essential marital obligations has been sufficiently and clearly proven and, therefore, petitioner is entitled to the relief prayed for.

A claim that the marriage is valid as there is no psychological incapacity of the respondent is a speculation and conjecture and without moral certainty. This will enhanced (sic) a greater tragedy as the battered wife/petitioner will still be using the surname of the respondent, although they are now separated, and a grim and sad reminder of her husband who made here a slave and a punching bag during the short span of her marriage with him. The law on annulment should be liberally construed in favor of an innocent suffering petitioner otherwise said law will be an instrument to protect persons with mental illness like the serious anti-social behavior of herein respondent.^[8]

THE CA RULING

The Republic appealed the RTC decision to the CA. The CA reversed the RTC decision, ruling that:

True, as stated in *Marcos vs Marcos* 343 SCRA 755, the guidelines set in *Santos vs Court of Appeals* and *Republic vs Court of Appeals* do not require that a physician personally examine the person to be declared psychologically incapacitated. The Supreme Court adopted the totality of evidence approach which allows the fact of psychological incapacity to be drawn from evidence that medically or clinically identify the root causes of the illness. If the totality of the evidence is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to. Applied in *Marcos*, however, the aggregate testimony of the aggrieved spouse, children, relatives and the social worker were not found to be sufficient to prove psychological incapacity, in the absence of any evaluation of the respondent himself, the person whose mental and psychological capacity was in question.

In the case at bench, there is much scarcer evidence to hold that the respondent was psychologically incapable of entering into the marriage state, that is, to assume the essential duties of marriage due to an underlying psychological illness. Only the wife gave first-hand testimony on the behavior of the husband, and it is inconclusive. As observed by the Court in *Marcos*, the respondent may have failed to provide material support to the family and has resorted to physical abuse, but it is still necessary to show that they were manifestations of a deeper psychological malaise that was clinically or medically identified. The theory of the psychologist that the respondent was suffering from an anti-social personality syndrome at the time of the marriage was not the product of any adequate medical or clinical investigation. The evidence that she got from the petitioner,

anecdotal at best, could equally show that the behavior of the respondent was due simply to causes like immaturity or irresponsibility which are not equivalent to psychological incapacity, *Pesca vs Pesca* 356 SCRA 588, or the failure or refusal to work could have been the result of rebelliousness on the part of one who felt that he had been forced into a loveless marriage. In any event, the respondent was not under a permanent compulsion because he had later on shown his ability to engage in productive work and more stable relationships with another. The element of permanence or incurability that is one of the defining characteristics of psychological incapacity is not present.

There is no doubt that for the short period that they were under the same roof, the married life of the petitioner with the respondent was an unhappy one. But the marriage cannot for this reason be extinguished. As the Supreme Court intimates in *Pesca*, our strict handling of Article 36 will be a reminder of the inviolability of the marriage institution in our country and the foundation of the family that the law seeks to protect. The concept of psychological incapacity is not to be a mantra to legalize what in reality are convenient excuses of parties to separate and divorce.

THE PETITION

Jocelyn now comes to us via the present petition to challenge and seek the reversal of the CA ruling based on the following arguments:

1. The Court of Appeals went beyond what the law says, as it totally disregarded the legal basis of the RTC in declaring the marriage null and void - *Tuason v. Tuason* (256 SCRA 158; to be accurate, should be *Tuason v. Court of Appeals*) holds that "the finding of the Trial Court as to the existence or non-existence of petitioner's psychological incapacity at the time of the marriage is final and binding on us (the Supreme Court); petitioner has not sufficiently shown that the trial court's factual findings and evaluation of the testimonies of private respondent's witnesses vis-à-vis petitioner's defenses are clearly and manifestly erroneous";

2. Article 36 of the Family Code did not define psychological incapacity; this omission was intentional to give the courts a wider discretion to interpret the term without being shackled by statutory parameters. Article 36 though was taken from Canon 1095 of the New Code of Canon Law, which gives three conditions that would make a person unable to contract marriage from mental incapacity as follows:

"1095. They are incapable of contracting marriage:

(1) who lack the sufficient use of reason;

(2) who suffer from grave lack of discretion of judgment concerning essential matrimonial rights and duties which are to be mutually given and accepted;

(3) who

are not capable of assuming the essential obligations of matrimony due to causes of a psychic nature."

The decision of the RTC, Jocelyn claims, intelligently conforms to these criteria. The RTC, being clothed with discretionary functions, applied its finding of psychological incapacity based on existing jurisprudence and the law itself which gave lower court magistrates enough latitude to define what constitutes psychological incapacity. On the contrary, she further claims, the OSG relied on generalities without being specific on why it is opposed to the dissolution of a marriage that actually exists only in name.

Simply stated, we face the issue of whether there is basis to nullify Jocelyn's marriage with Angelito under Article 36 of the Family Code.

THE COURT'S RULING

We find the petition devoid of merit. The CA committed no reversible error of law in setting aside the RTC decision, as no basis exists to declare Jocelyn's marriage with Angelito a nullity under Article 36 of the Family Code and its related jurisprudence.

The Law, Molina and Te

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

A unique feature of this law is its intended open-ended application, as it merely introduced an abstract concept - psychological incapacity that disables compliance with the contractual obligations of marriage - without any concrete definition or, at the very least, an illustrative example. We must therefore apply the law based on how the concept of psychological incapacity was shaped and developed in jurisprudence.

Santos v. Court of Appeals[9] declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. It should refer to "no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage." It must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage." [10]

The Court laid down more definitive guidelines in the interpretation and application of the law in Republic v. Court of Appeals[11] (Molina) as follows:

(1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it "as the foundation of the nation." It decrees marriage as legally "inviolable," thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.

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

(2) The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological - not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties or one of them was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of ejusdem generis, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

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

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone

of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. x x x

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

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

(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts x x x

(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.[12]

Molina, subsequent jurisprudence holds, merely expounded on the basic requirements of Santos.[13]

A later case, *Marcos v. Marcos*, [14] further clarified that there is no requirement that the defendant/respondent spouse should be personally examined by a physician or psychologist as a condition *sine qua non* for the declaration of nullity of marriage based on psychological incapacity. Accordingly, it is no longer necessary to introduce expert opinion in a petition under Article 36 of the Family Code if the totality of evidence shows that psychological incapacity exists and its gravity, juridical antecedence, and incurability can be duly established.[15]

Pesca v. Pesca [16] clarifies that the Molina guidelines apply even to cases then already pending, under the reasoning that the court's interpretation or construction establishes the contemporaneous legislative intent of the law; the latter as so interpreted and construed would thus constitute a part of that law as of the date the statute is enacted. It is only when a prior ruling of this Court finds itself later overruled, and a different view is adopted, that the new doctrine may have to be applied prospectively in favor of parties who have relied on the old doctrine and have acted in good faith in accordance therewith under the familiar rule of "*lex prospicit, non respicit*."

On March 15, 2003, the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages (A.M. No. 08-11-10 SC, Rules) promulgated by the Court took effect. Section 2(d) of the Rules pertinently provides:

(d) What to allege. - A petition under Article 36 of the Family Code shall specifically allege the complete facts showing that either or both parties were psychologically incapacitated from complying with the essential marital obligations of marriage at the time of the celebration of marriage even if such incapacity becomes manifest only after its celebration.

The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged.

Section 12(d) of the Rules requires a pre-trial brief containing all the evidence presented, including expert opinion, if any, briefly stating or describing the nature and purpose of these pieces of evidence. Section 14(b) requires the court to consider during the pre-trial conference the advisability of receiving expert testimony and such other matters as may aid in the prompt disposition of the petition. Under Section 17 of the Rules, the grounds for the declaration of the absolute nullity or annulment of marriage must be proved.

All cases - involving the application of Article 36 of the Family Code - that came to us were invariably decided based on the principles in the cited cases. This was the state of law and jurisprudence on Article 36 when the Court decided *Te v. Yu-Te*[17] (*Te*) which revisited the *Molina* guidelines.

Te begins with the observation that the Committee that drafted the Family Code did not give any examples of psychological incapacity for fear that by so doing, it would limit the applicability of the provision under the principle of *ejusdem generis*; that the Committee desired that the courts should interpret the provision on a case-to-case basis, guided by experience, by the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals that, although not binding on the civil courts, may be given persuasive effect since the provision itself was taken from the Canon Law.[18] *Te* thus assumes it a basic premise that the law is so designed to allow some resiliency in its application.[19]

Te then sustained Santos' doctrinal value, saying that its interpretation is consistent with that of the Canon Law.

Going back to its basic premise, *Te* said:

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*, ruled that the findings of the trial court are final and binding on the appellate courts.

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*, 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.

With this as backdrop, *Te* launched an attack on *Molina*. It said that 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*. *Molina*, to *Te*, 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.

Te then enunciated 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. 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.

As a final note though, *Te* expressly stated that it is not suggesting the abandonment of *Molina*, but that, following *Antonio v. Reyes*, it merely looked at other perspectives that should also govern the disposition of petitions for declaration of nullity under Article 36. The subsequent *Ting v. Velez-Ting*[20] follows *Te*'s lead when it reiterated that *Te* did not abandon *Molina*; far from abandoning *Molina*, it simply suggested the relaxation of its stringent requirements, cognizant of the explanation given by the Committee on the Revision of the Rules on the

rationale of the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages:[21]

To require the petitioner to allege in the petition the particular root cause of the psychological incapacity and to attach thereto the verified written report of an accredited psychologist or psychiatrist have proved to be too expensive for the parties. They adversely affect access to justice of poor litigants. It is also a fact that there are provinces where these experts are not available. Thus, the Committee deemed it necessary to relax this stringent requirement enunciated in the *Molina Case*. The need for the examination of a party or parties by a psychiatrist or clinical psychologist and the presentation of psychiatric experts shall now be determined by the court during the pre-trial conference.

Te, therefore, instead of substantially departing from *Molina*,[22] merely stands for a more flexible approach in considering petitions for declaration of nullity of marriages based on psychological incapacity. It is also noteworthy for its evidentiary approach in these cases, which it expounded on as follows:

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.

x x x x

Hernandez v. Court of Appeals 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* 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. 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.[23] [Underscoring supplied]

This evidentiary approach is repeated in *Ting v. Velez-Ting*. [24]

Under this evolutionary development, as shown by the current string of cases on Article 36 of the Family Code, what should not be lost on us is the intention of the law to confine the application of Article 36 to the most serious cases of personality disorders, clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage; that the psychological illness that must have afflicted a party at the inception of the marriage should be a malady so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond he or she is about to assume.[25] It is not enough that the respondent, alleged to be psychologically incapacitated, had difficulty in complying with his marital obligations, or was unwilling to perform these obligations. Proof of a natal or supervening disabling factor - an adverse integral element in the respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations - must be shown.[26] Mere difficulty, refusal or neglect in the performance of marital obligations or ill will on the part of the spouse is different from incapacity rooted in some debilitating psychological condition or illness; irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility and the like, do not by themselves warrant a finding of psychological incapacity under Article 36, as the same may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage.[27]

If all these sound familiar, they do, for they are but iterations of *Santos'* juridical antecedence, gravity and

incurability requisites. This is proof of Santos' continuing doctrinal validity.

The Present Case

As the CA did, we find Jocelyn's evidence insufficient to establish Angelito's psychological incapacity to perform essential marital obligations. We so conclude based on our own examination of the evidence on record, which we were compelled to undertake because of the differences in the trial court and the appellate court's appreciation and evaluation of Jocelyn's presented evidence.

a. The Expert Opinion Evidence

Both the psychologist's testimony and the psychological report did not conclusively show the root cause, gravity and incurability of Angelito's alleged psychological condition.

We first note a critical factor in appreciating or evaluating the expert opinion evidence - the psychologist's testimony and the psychological evaluation report - that Jocelyn presented. Based on her declarations in open court, the psychologist evaluated Angelito's psychological condition only in an indirect manner - she derived all her conclusions from information coming from Jocelyn whose bias for her cause cannot of course be doubted. Given the source of the information upon which the psychologist heavily relied upon, the court must evaluate the evidentiary worth of the opinion with due care and with the application of the more rigid and stringent set of standards outlined above, i.e., that there must be a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a psychological incapacity that is grave, severe and incurable.

In saying this, we do not suggest that a personal examination of the party alleged to be psychologically incapacitated is mandatory; jurisprudence holds that this type of examination is not a mandatory requirement. While such examination is desirable, we recognize that it may not be practical in all instances given the oftentimes estranged relations between the parties. For a determination though of a party's complete personality profile, information coming from persons intimately related to him (such as the party's close relatives and friends) may be helpful. This is an approach in the application of Article 36 that allows flexibility, at the same time that it avoids, if not totally obliterate, the credibility gaps spawned by supposedly expert opinion based entirely on doubtful sources of information.

From these perspectives, we conclude that the psychologist, using meager information coming from a directly interested party, could not have secured a complete personality profile and could not have conclusively formed an objective opinion or diagnosis of Angelito's psychological condition. While the report or evaluation may be conclusive with respect to Jocelyn's psychological condition, this is not true for Angelito's. The methodology employed simply cannot satisfy the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder. In short, this is not the psychological report that the Court can rely on as basis for the conclusion that psychological incapacity exists.

Other than this credibility or reliability gap, both the psychologist's report and testimony simply provided a general description of Angelito's purported anti-social personality disorder, supported by the characterization of this disorder as chronic, grave and incurable. The psychologist was conspicuously silent, however, on the bases for her conclusion or the particulars that gave rise to the characterization she gave. These particulars are simply not in the Report, and neither can they be found in her testimony.

For instance, the psychologist testified that Angelito's personality disorder is chronic or incurable; Angelito has long been afflicted with the disorder prior to his marriage with Jocelyn or even during his early developmental stage, as basic trust was not developed. However, she did not support this declaration with any factual basis. In

her Report, she based her conclusion on the presumption that Angelito apparently grew up in a dysfunctional family. Quite noticeable, though, is the psychologist's own equivocation on this point - she was not firm in her conclusion for she herself may have realized that it was simply conjectural. The veracity, too, of this finding is highly suspect, for it was based entirely on Jocelyn's assumed knowledge of Angelito's family background and upbringing.

Additionally, the psychologist merely generalized on the questions of why and to what extent was Angelito's personality disorder grave and incurable, and on the effects of the disorder on Angelito's awareness of and his capability to undertake the duties and responsibilities of marriage.

The psychologist therefore failed to provide the answers to the more important concerns or requisites of psychological incapacity, all of which are critical to the success of Jocelyn's cause.

b. Jocelyn's Testimony

The inadequacy and/or lack of probative value of the psychological report and the psychologist's testimony impel us to proceed to the evaluation of Jocelyn's testimony, to find out whether she provided the court with sufficient facts to support a finding of Angelito's psychological incapacity.

Unfortunately, we find Jocelyn's testimony to be insufficient. Jocelyn merely testified on Angelito's habitual drunkenness, gambling, refusal to seek employment and the physical beatings she received from him - all of which occurred after the marriage. Significantly, she declared in her testimony that Angelito showed no signs of violent behavior, assuming this to be indicative of a personality disorder, during the courtship stage or at the earliest stages of her relationship with him. She testified on the alleged physical beatings after the marriage, not before or at the time of the celebration of the marriage. She did not clarify when these beatings exactly took place - whether it was near or at the time of celebration of the marriage or months or years after. This is a clear evidentiary gap that materially affects her cause, as the law and its related jurisprudence require that the psychological incapacity must exist at the time of the celebration of the marriage.

Habitual drunkenness, gambling and refusal to find a job, while indicative of psychological incapacity, do not, by themselves, show psychological incapacity. All these simply indicate difficulty, neglect or mere refusal to perform marital obligations that, as the cited jurisprudence holds, cannot be considered to be constitutive of psychological incapacity in the absence of proof that these are manifestations of an incapacity rooted in some debilitating psychological condition or illness.

The physical violence allegedly inflicted on Jocelyn deserves a different treatment. While we may concede that physical violence on women indicates abnormal behavioral or personality patterns, such violence, standing alone, does not constitute psychological incapacity. Jurisprudence holds that there must be evidence showing a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself. The evidence of this nexus is irretrievably lost in the present case under our finding that the opinion of the psychologist cannot be relied upon. Even assuming, therefore, that Jocelyn's account of the physical beatings she received from Angelito were true, this evidence does not satisfy the requirement of Article 36 and its related jurisprudence, specifically the Santos requisites.

On the whole, the CA correctly reversed the RTC judgment, whose factual bases we now find to be clearly and manifestly erroneous. Our ruling in Tuason recognizing the finality of the factual findings of the trial court in Article 36 cases (which is Jocelyn's main anchor in her present appeal with us) does not therefore apply in this case. We find that, on the contrary, the CA correctly applied Article 36 and its related jurisprudence to the facts and the evidence of the present case.

WHEREFORE, premises considered, we DENY the petition for lack of merit. We AFFIRM the appealed Decision of the Court of Appeals in CA-G.R. CV No. 62443. Costs against the petitioner.

SO ORDERED.

Carpio, (Chairperson), Del Castillo, Abad, and Perez, JJ., concur.

[1] Penned by Associate Justice Mario L. Guariña III, and concurred in by Associate Justice Marina L. Buzon and Associate Justice Santiago Javier Rañada (both retired).

[2] Penned by Judge Pedro de Leon Gutierrez.

[3] TSN, March 31, 1998, pp. 16-17.

[4] TSN, July 16, 1998, pp. 15-22.

[5] Record, pp. 36-39.

[6] Parenthetical notes supplied.

[7] The RTC enumerated the requisites as follows: (1) that psychological incapacity refers to no less than a mental not physical incapacity; (2) that the law intended psychological incapacity to be confined to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to marriage; and (3) that the psychological condition must exist at the time of the marriage and must be characterized by gravity, juridical antecedence and incurability. See citation at note 9.

[8] Parenthetical notes supplied.

[9] 310 Phil 21 (1995).

[10] Id. at 39-40.

[11] 335 Phil. 664 (1997).

[12] Id. at 676-680.

[13] See Marcos v. Marcos, 397 Phil. 840, 850 (2000).

[14] Id.

[15] Id. at 850.

[16] 408 Phil. 713, 720 (2001).

[17] G.R. No. 161793, February 13, 2009, 579 SCRA 193.

[18] Id. at 213.

[19] Id.

[20] G.R. No. 166562, March 31, 2009.

[21] A.M. No. 02-11-10-SC.

[22] A step that Te, a Third Division case, could not have legally undertaken because the Molina ruling is an En Banc ruling, in light of Article VIII, Section 4(3) of the Constitution.

[23] Supra note 16, pp. 231-232.

[24] Supra note 19.

[25] See *So v. Valera*, G.R. No. 150677, June 5, 2009, and *Padilla-Rumbaua v. Rumbaua*, G.R. No. 166738, August 14, 2009.

[26] *Id.*, *Padilla-Rumbaua v. Rumbaua*.

[27] *Navales v. Navales*, G.R. No. 167523, June 27, 2008, 556 SCRA 272, 288-289.

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