

DIGNA A. NAJERA, PETITIONER, VS. EDUARDO J. NAJERA, RESPONDENT.

G.R. No. 164817. July 03, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari of the Decision dated February 23, 2004 of the Court of Appeals in CA-G.R. CV No. 68053 and its Resolution August 5, 2004, denying petitioner's motion for reconsideration. The Decision of the Court of Appeals affirmed the Decision of the Regional Trial Court of Lingayen, Pangasinan, Branch 68 (RTC), which found petitioner Digna A. Najera and respondent Eduardo J. Najera entitled to legal separation, but not annulment of marriage under Article 36 of the Family Code.

The facts are as follows:

On January 27, 1997, petitioner filed with the RTC a verified Petition for Declaration of Nullity of Marriage with Alternative Prayer for Legal Separation, with Application for Designation as Administrator Pendente Lite of the Conjugal Partnership of Gains.[1]

Petitioner alleged that she and respondent are residents of Bugallon, Pangasinan, but respondent is presently living in the United States of America (U.S.A). They were married on January 31, 1988 by Rev. Father Isidro Palinar, Jr. at the Saint Andrew the Apostle Church at Bugallon, Pangasinan.[2] They are childless.

Petitioner claimed that at the time of the celebration of marriage, respondent was psychologically incapacitated to comply with the essential marital obligations of the marriage, and such incapacity became manifest only after marriage as shown by the following facts:

(a) At the time of their marriage, petitioner was already employed with the Special Services Division of the Provincial Government of Pangasinan, while respondent was jobless. He did not exert enough effort to find a job and was dependent on petitioner for support. Only with the help of petitioner's elder brother, who was a seaman, was respondent able to land a job as a seaman in 1988 through the Intercrew Shipping Agency.

(b) While employed as a seaman, respondent did not give petitioner sufficient financial support and she had to rely on her own efforts and the help of her parents in order to live.

(c) As a seaman, respondent was away from home from nine to ten months each year. In May 1989, when he came home from his ship voyage, he started to quarrel with petitioner and falsely accused her of having an affair with another man. He took to smoking marijuana and tried to force petitioner into it. When she refused, he insulted her and uttered "unprintable words" against her. He would go out of the house and when he arrived home, he was always drunk.

(d) When respondent arrived home from his ship voyage in April 1994, as had been happening every year, he quarreled with petitioner. He continued to be jealous, he arrived home drunk and he smoked marijuana. On July 3,

1994, while he was quarreling with petitioner, without provocation, he inflicted physical violence upon her and attempted to kill her with a bolo. She was able to parry his attack with her left arm, yet she sustained physical injuries on different parts of her body. She was treated by Dr. Padlan, and the incident was reported at the Bugallon Police Station.

(e) Respondent left the family home, taking along all their personal belongings. He lived with his mother at Banaga, Bugallon, Pangasinan, and he abandoned petitioner.

Petitioner learned later that respondent jumped ship while it was anchored in Los Angeles, California, U.S.A.

Petitioner prayed that upon filing of the petition, an Order be issued appointing her as the sole administrator of their conjugal properties; and that after trial on the merits, judgment be rendered (1) declaring their marriage void ab initio in accordance with Article 36 of the Family Code; (2) in the alternative, decreeing legal separation of petitioner and respondent pursuant to Title II of the Family Code; and (3) declaring the dissolution of the conjugal partnership of petitioner and respondent and the forfeiture in

favor of petitioner of respondent's share in the said properties pursuant to Articles 42 (2) and 63 (2) of the Family Code; and (4) granting petitioner other just and equitable reliefs.

On March 7, 1997, the RTC issued an Order granting the motion of petitioner to effect service by publication as provided under Section 17, Rule 14 of the Rules of Court.

On April 17, 1997, respondent filed his Answer[3] wherein he denied the material allegations in the petition and averred that petitioner was incurably immature, of dubious integrity, with very low morality, and guilty of infidelity. He claimed that the subject house and lot were acquired through his sole effort and money. As counterclaim, respondent prayed for the award of P200,000.00 as moral damages, P45,000.00 as attorney's fees, and P1,000.00 as appearance fee for every scheduled hearing.

On July 18, 1997, the Office of the Solicitor General filed its Notice of Appearance.

On June 29, 1998, the RTC issued an Order[4]terminating the pre-trial conference after the parties signed a Formal Manifestation/Motion, which stated that they had agreed to dissolve their conjugal partnership of gains and divide equally their conjugal properties.

On August 3, 1998, Assistant Provincial Prosecutor Ely R. Reintar filed a Compliance manifesting that after conducting an investigation, he found that no collusion existed between the parties.[5] The initial hearing of the case was held on November 23, 1998.

Petitioner testified in court and presented as witnesses the following: her mother, Celedonia Aldana; psychologist Cristina R. Gates; and Senior Police Officer 1 (SPO1) Sonny Dela Cruz, a member of the Philippine National Police (PNP), Bugallon, Pangasinan.

Petitioner testified that she was a commerce graduate and was working as an accounting clerk in a government agency in Manila. She and respondent married on January 31, 1988 as evidenced by their marriage contract.[6] At the time of their marriage, respondent was jobless, while petitioner was employed as Clerk at the Special Services Division of the Provincial Government of Pangasinan with a monthly salary of P5,000.00. It was petitioner's brother who helped respondent find a job as a seaman at the Intercrew Shipping Agency in Manila. On July 30, 1988, respondent was employed as a seaman, and he gave petitioner a monthly allotment of P1,600.00. After ten months at work, he went home in 1989 and then returned to work after three months. Every time respondent was home, he quarreled with petitioner and accused her of having an affair with another man. Petitioner noticed that respondent also smoked marijuana and every time he went out of the house and returned home, he was drunk.

However, there was no record in their barangay that respondent was involved in drugs.[7]

In 1990, petitioner and respondent were able to purchase a lot out of their earnings. In 1991, they constructed a house on the lot.[8]

On July 3, 1994, petitioner and respondent were invited to a party by the boyfriend of petitioner's sister. Respondent, however, did not allow petitioner to go with him. When respondent arrived home at around midnight, petitioner asked him about the party, the persons who attended it, and the ladies he danced with, but he did not answer her. Instead, respondent went to the kitchen. She asked him again about what happened at the party. Respondent quarreled with her and said that she was the one having an affair and suddenly slapped and boxed her, causing her eyes to be bloodied. When she opened her eyes, she saw respondent holding a bolo, and he attempted to kill her. However, she was able to parry his attack with her left arm, causing her to sustain injuries on different parts of her body. When respondent saw that she was bloodied, he got nervous and went out. After 10 minutes, he turned on the light in the kitchen, but he could not find her because she had gone out and was hiding from him. When she heard respondent start the motorcycle, she left her hiding place and proceeded to Gomez Street toward the highway. At the highway, she boarded a bus and asked the conductor to stop at a clinic or hospital. She alighted in Mangatarem, Pangasinan and proceeded to the clinic of one Dr. Padlan, who sutured her wounds. After a few hours, she went home.[9]

When petitioner arrived home, the house was locked. She called for her parents who were residing about 300 meters away. She then asked her brother to enter the house through the ceiling in order to open the door. She found that their personal belongings were gone, including her Automated Teller Machine card and jewelry.[10]

Thereafter, petitioner reported the incident at the police station of Bugallon, Pangasinan.[11]

Since then, respondent never returned home. He stayed with his mother in Banaga, Bugallon, Pangasinan. Petitioner learned that he went abroad again, but she no longer received any allotment from him.[12]

Petitioner testified that her parents were happily married, while respondent's parents were separated. Respondent's brothers were also separated from their respective wives.[13]

Petitioner disclosed that she also filed a petition for the annulment of her marriage with the Matrimonial Tribunal of the Diocese of Alaminos, Pangasinan on the ground of psychological incapacity of respondent.[14]

Psychologist Cristina R. Gates testified that she interviewed petitioner, but not respondent who was abroad. She confirmed her Psychological Report, the conclusion of which reads:

PSYCHOLOGICAL CONCLUSIONS BASED ON THE INTERVIEWS:

It is clear from the interviews that Respondent is afflicted with psychological hang-ups which are rooted in the kind of family background he has. His mother had an extramarital affair and separated from Respondent's father. This turn of events left an irreparable mark upon Respondent, gauging from his alcoholic and marijuana habit. In time, he seemed steep in a kind of a double bind where he both deeply loved and resented his mother.

His baseless accusation against his wife and his violent behavior towards her appears to be an offshoot of deep-seated feelings and recurrent thoughts towards his own mother. Unable to resolve his childhood conflicts and anger, he turned to his wife as the scapegoat for all his troubles.

Based on the Diagnostic and Statistical Manual (DSM IV), Respondent is afflicted with a Borderline Personality Disorder as marked by his pattern of instability in his interpersonal relationships, his marred self-image and self-destructive tendencies, his uncontrollable impulses. Eduardo Najera's psychological impairment as traced to his parents' separation, aggravated by the continued meddling of his mother in his adult

life, antedates his marriage to Petitioner Digna Aldana.

Furthermore, the ingestion of prohibited substances (alcohol and marijuana), known to cause irreparable damage organically, and the manifest worsening of his violent and abusive behavior across time render his impairment grave and irreversible. In the light of these findings, it is recommended that parties' marriage be annulled on grounds of psychological incapacity on the part of Respondent Eduardo Najera to fully assume his marital duties and responsibilities to Digna Aldana-Najera.[15]

Psychologist Cristina Gates testified that the chances of curability of respondent's psychological disorder were nil. Its curability depended on whether the established organic damage was minimal — referring to the malfunction of the composites of the brain brought about by habitual drinking and marijuana, which possibly afflicted respondent with borderline personality disorder and uncontrollable impulses.[16]

Further, SPO1 Sonny Dela Cruz, a member of the PNP, Bugallon, Pangasinan, testified that on July 3, 1994, he received a complaint from petitioner that respondent arrived at their house under the influence of liquor and mauled petitioner without provocation on her part, and that respondent tried to kill her. The complaint was entered in the police blotter.[17]

On March 31, 2000, the RTC rendered a Decision that decreed only the legal separation of the petitioner and respondent, but not the annulment of their marriage. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

- Decreeing legal separation of Petitioner/Plaintiff Digna Najera and respondent/defendant Eduardo Najera;
- Ordering the dissolution of the conjugal partnership of the petitioner/plaintiff and respondent/defendant, and to divide the same equally between themselves pursuant to their Joint Manifestation/Motion dated April 27, 1998.[18]

Petitioner's motion for reconsideration was denied in a Resolution[19] dated May 2, 2000.

Petitioner appealed the RTC Decision and Resolution to the Court of Appeals.

In a Decision dated February 23, 2004, the Court of Appeals affirmed the Decision of the RTC, the dispositive portion of which reads:

WHEREFORE, premises considered, appeal is hereby DISMISSED and judgment of the Trial Court is AFFIRMED in toto. No costs.[20]

Petitioner's motion for reconsideration was denied by the Court of Appeals in a Resolution dated August 5, 2004.

Hence, this petition raising the following issues:

- The Court of Appeals failed to take into consideration the Decision of the National Appellate Matrimonial Tribunal, contrary to the guidelines decreed by the Supreme Court in the case of Republic v. Court of Appeals, 268 SCRA 198.
- The evidence of petitioner proved the root cause of the psychological incapacity of respondent Eduardo Najera.
- The factual basis of the Decision of the National Appellate Matrimonial Tribunal is practically the same set of facts established by petitioner's evidence submitted before the trial court and therefore the same conclusion ought to be rendered by the Court.
- Credence ought to be given to the conclusion of Psychologist Cristina R. Gates as an expert in Psychology.[21]

The main issue is whether or not the totality of petitioner's evidence was able to prove that respondent is psychologically incapacitated to comply with the essential obligations of marriage warranting the annulment of their marriage under Article 36 of the Family Code.[22]

Petitioner contends that her evidence established the root cause of the psychological incapacity of respondent which is his dysfunctional family background. With such background, respondent could not have known the obligations he was assuming, particularly the duty of complying with the obligations essential to marriage.

The Court is not persuaded.

Republic v. Court of Appeals[23] laid down the guidelines in the interpretation and application of Article 36 of the Family Code, thus:

(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.

x x x x

(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.

The guidelines incorporate the three basic requirements earlier mandated by the Court in *Santos v. Court of Appeals*: "psychological incapacity must be characterized by (a) gravity (b) juridical antecedence, and (c) incurability." [24] The foregoing guidelines do not require that a physician examine the person to be declared psychologically incapacitated. [25] In fact, the root cause may be "medically or clinically identified." [26] What is important is the presence of evidence that can adequately establish the party's psychological condition. For indeed, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to. [27]

In this case, the Court agrees with the Court of Appeals that the totality of the evidence submitted by petitioner failed to satisfactorily prove that respondent was psychologically incapacitated to comply with the essential obligations of marriage. The root cause of respondent's alleged psychological incapacity was not sufficiently proven by experts or shown to be medically or clinically permanent or incurable.

As found by the Court of Appeals, Psychologist Cristina Gates' conclusion that respondent was psychologically incapacitated was based on facts relayed to her by petitioner and was not based on her personal knowledge and evaluation of respondent; thus, her finding is unscientific and unreliable. [28] Moreover, the trial court correctly found that petitioner failed to prove with certainty that the alleged personality disorder of respondent was incurable as may be gleaned from Psychologist Cristina Gates' testimony:

Q

You mentioned in your report that respondent is afflicted with a borderline personality disorder. [D]id you find any organic cause?

A

No, sir.

Q

Do you think that this cause you mentioned existed at the time of the marriage of the respondent?

A

I believe so, sir. Physically, if you examined the [respondent's family] background, there was strong basis that respondent developed mal-adoptive pattern.

Q

Did you interview the respondent's family?

A

No, sir , but on the disclosure of petitioner (sic).

x x x x

Q

Have you [seen] the respondent?

A

He is not in the country, sir.

Q

Madam Witness, this disorder that you stated in your report which the respondent is allegedly affected, is this curable?

A

The chances are nil.

Q

But it is curable?

A

It depends actually if the established organic damage is minimal.

Q

What is this organic damage?

A

Composites of the brain is malfunctioning.

Q

How did you find out the malfunctioning since you have not seen him (respondent)?

A

His habitual drinking and marijuana habit possibly afflicted the respondent with borderline personality disorder. This [is] based on his interpersonal relationships, his marred self-image and self-destructive tendencies, and his uncontrollable impulses.

Q

Did you interview the respondent in this regard?

A

I take the words of the petitioner in this regard.[29]

The Court agrees with the Court of Appeals that the evidence presented by petitioner in regard to the physical violence or grossly abusive conduct of respondent toward petitioner and respondent's abandonment of petitioner without justifiable cause for more than one year are grounds for legal separation[30] only and not for annulment of marriage under Article 36 of the Family Code.

Petitioner argued that the Court of Appeals failed to consider the Decision of the National Appellate Matrimonial Tribunal which her counsel sought to be admitted by the Court of Appeals on February 11, 2004, twelve days before the decision was promulgated on February 23, 2004. She contended that the Court of Appeals failed to follow Guideline No. 7 in *Republic v. Court of Appeals*, thus:

(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.

Petitioner's argument is without merit.

In its Decision dated February 23, 2004, the Court of Appeals apparently did not have the opportunity to consider the decision of the National Appellate Matrimonial Tribunal. Nevertheless, it is clear that the Court of Appeals considered the Matrimonial Tribunal's decision in its Resolution dated August 5, 2004 when it resolved petitioner's motion for reconsideration. In the said Resolution, the Court of Appeals took cognizance of the very same issues now raised before this Court and correctly held that petitioner's motion for reconsideration was devoid of merit. It stated:

The Decision of the National Appellate Matrimonial Tribunal dated July 2, 2002, which was forwarded to this Court only on February 11, 2004, reads as follows:

x x x The FACTS collated from party complainant and reliable witnesses which include a sister-in-law of Respondent (despite summons from the Court dated June 14, 1999, he did not appear before the Court, in

effect waiving his right to be heard, hence, trial in absentia followed) corroborate and lead this Collegiate Court to believe with moral certainty required by law and conclude that the husband-respondent upon contracting marriage suffered from grave lack of due discretion of judgment, thereby rendering nugatory his marital contract: First, his family was dysfunctional in that as a child, he saw the break-up of the marriage of his own parents; his own two siblings have broken marriages; Second, he therefore grew up with a domineering mother with whom [he] identified and on whom he depended for advice; Third, he was according to his friends, already into drugs and alcohol before marriage; this affected his conduct of bipolar kind: he could be very quiet but later very talkative, peaceful but later hotheaded even violent, he also was aware of the infidelity of his mother who now lives with her paramour, also married and a policeman; Finally, into marriage, he continued with his drugs and alcohol abuse until one time he came home very drunk and beat up his wife and attacked her with a bolo that wounded her; this led to final separation.

WHEREFORE, premises considered, this Court of Second Instance, having invoked the Divine Name and having considered the pertinent Law and relevant Jurisprudence to the Facts of the Case hereby proclaims, declares and decrees the confirmation of the sentence from the Court a quo in favor of the nullity of marriage on the ground contemplated under Canon 1095, 2 of the 1983 Code of Canon Law.

However, records of the proceedings before the Trial Court show that, other than herself, petitioner-appellant offered the testimonies of the following persons only, to wit: Aldana Celedonia (petitioner-appellant's mother), Sonny de la Cruz (member, PNP, Bugallon, Pangasinan), and Ma. Cristina R. Gates (psychologist). Said witnesses testified, in particular, to the unfaithful night of July 1, 1994 wherein the respondent allegedly made an attempt on the life of the petitioner. But unlike the hearing and finding before the Matrimonial Tribunal, petitioner-appellant's sister-in-law and friends of the opposing parties were never presented before said Court. As to the contents and veracity of the latter's testimonies, this Court is without any clue.

True, in the case of *Republic v. Court of Appeals, et al.* (268 SCRA 198), the Supreme Court held that the 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. However, the Highest Tribunal expounded as follows:

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 be decreed civilly void x x x.

And in relation thereto, Rule 132, Sec. 34 of the Rules of Evidence states:

The court shall consider no evidence which has not been formally offered. The purpose of which the evidence is offered must be specified.

Given the preceding disquisitions, petitioner-appellant should not expect us to give credence to the Decision of the National Appellate Matrimonial Tribunal when, apparently, it was made on a different set of evidence of which We have no way of ascertaining their truthfulness.

Furthermore, it is an elementary rule that judgments must be based on the evidence presented before the court (*Manzano vs. Perez*, 362 SCRA 430 [2001]). And based on the evidence on record, We find no ample reason to reverse or modify the judgment of the Trial Court.[31]

Santos v. Santos[32] cited the deliberations during the sessions of the Family Code Revision Committee, which drafted the Code, to provide an insight on the import of Article 36 of the Family Code. It stated that a part of the provision is similar to the third paragraph of Canon 1095 of the Code of Canon Law, which reads:

Canon 1095. The following are incapable of contracting marriage:

- those who lack sufficient use of reason;
- those who suffer from a grave lack of discretion of judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted;
- those who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage.

It must be pointed out that in this case, the basis of the declaration of nullity of marriage by the National Appellate Matrimonial Tribunal is not the third paragraph of Canon 1095 which mentions causes of a psychological nature, but the second paragraph of Canon 1095 which refers to those who suffer from a grave lack of discretion of judgment concerning essential matrimonial rights and obligations to be mutually given and accepted. For clarity, the pertinent portion of the decision of the National Appellate Matrimonial Tribunal reads:

The FACTS collated from party complainant and reliable witnesses which include a sister-in-law of Respondent (despite summons from the Court dated June 14, 1999, he did not appear before the Court, in effect waiving his right to be heard, hence, trial in absentia followed) corroborate and lead this Collegiate Court to believe with moral certainty required by law and conclude that the husband-respondent upon contacting marriage suffered from grave lack of due discretion of judgment, thereby rendering nugatory his marital contract x x x.

WHEREFORE, premises considered, this Court of Second Instance, having invoked the Divine Name and having considered the pertinent Law and relevant Jurisprudence to the Facts of the Case hereby proclaims, declares and decrees the confirmation of the sentence from the Court a quo in favor of the nullity of marriage on the ground contemplated under Canon 1095, 2 of the 1983 Code of Canon Law. x x x

Hence, even if, as contended by petitioner, the factual basis of the decision of the National Appellate Matrimonial Tribunal is similar to the facts established by petitioner before the trial court, the decision of the National Appellate Matrimonial Tribunal confirming the decree of nullity of marriage by the court a quo is not based on the psychological incapacity of respondent. Petitioner, therefore, erred in stating that the conclusion of Psychologist Cristina Gates regarding the psychological incapacity of respondent is supported by the decision of the National Appellate Matrimonial Tribunal.

In fine, the Court of Appeals did not err in affirming the Decision of the RTC.

WHEREFORE, the petition is DENIED. The Decision of the Court of Appeals in CA-G.R. CV No. 68053, dated February 23, 2004, and its Resolution dated August 5, 2004, are hereby AFFIRMED.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Nachura, JJ., concur.

[1] Records, p. 1.

[2] Marriage Contract, Exhibit "A," records, p. 192.

[3] Records, p. 34.

[4] Id. at 98.

[5] Id. at 125.

[6] Exhibit "A," records, p. 192.

[7] TSN, November 23, 1998, pp. 4-8, 22.

[8] Id. at 9-11.

[9] TSN, November 23, 1998, pp. 12-16.

[10] Id. at 16-17.

[11] Id. at 17-18. See Exhibit "F," records, p. 197.

[12] TSN, November 23, 1998, p. 19.

[13] Id. at 19-20.

[14] Id. at 20.

[15] Records, p. 201.

[16] TSN, April 14, 1999, pp. 7-8.

[17] Exhibit "F," records, p. 197.

[18] Rollo, p. 65.

[19] Id. at 66-67.

[20] Id. at 38.

[21] Id. at 16, 18, 20, 21.

[22] Art. 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.

[23] 335 Phil. 664, 676-680 (1997).

[24] *Marcos v. Marcos*, 397 Phil. 840, 850 (2000).

[25] Id.

[26] Id.

[27] Id.

[28] See *Choa v. Choa*, 441 Phil. 175, 191 (2002).

[29] TSN, April 14, 1999, pp. 6-8. (Emphasis supplied.)

[30] The Family Code, Art. 55. A petition for legal separation may be filed on any of the following grounds:

- (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to

engage in prostitution, or connivance in such corruption or inducement;

(4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;

(5) Drug addiction or habitual alcoholism of the respondent;

(6) Lesbianism or homosexuality of the respondent;

(7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

(8) Sexual infidelity or perversion;

(9) Attempt by the respondent against the life of the petitioner; or

(10) Abandonment of petitioner by respondent without justifiable cause for more than one year.

[31] Rollo, pp. 41-43. (Emphasis supplied.)

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

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