

ROWENA PADILLA-RUMBAUA, PETITIONER, VS. EDWARD RUMBAUA, RESPONDENT.*G.R. No. 166738. August 14, 2009*

Ponente: BRION, J.

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Petitioner Rowena Padilla-Rumbaua (petitioner) challenges, through her petition for review on certiorari,[1] the decision dated June 25, 2004[2] and the resolution dated January 18, 2005[3] of the Court of Appeals (CA) in CA-G.R. CV No. 75095. The challenged decision reversed the decision[4] of the Regional Trial Court (RTC) declaring the marriage of the petitioner and respondent Edward Rumbaua (respondent) null and void on the ground of the latter's psychological incapacity. The assailed resolution, on the other hand, denied the petitioner's motion for reconsideration.

ANTECEDENT FACTS

The present petition traces its roots to the petitioner's complaint for the declaration of nullity of marriage against the respondent before the RTC, docketed as Civil Case No. 767. The petitioner alleged that the respondent was psychologically incapacitated to exercise the essential obligations of marriage as shown by the following circumstances: the respondent reneged on his promise to live with her under one roof after finding work; he failed to extend financial support to her; he blamed her for his mother's death; he represented himself as single in his transactions; and he pretended to be working in Davao, although he was cohabiting with another woman in Novaliches, Quezon City.

Summons was served on the respondent through substituted service, as personal service proved futile.[5] The RTC ordered the provincial prosecutor to investigate if collusion existed between the parties and to ensure that no fabrication or suppression of evidence would take place.[6] Prosecutor Melvin P. Tiongson's report negated the presence of collusion between the parties.[7]

The Republic of the Philippines (Republic), through the office of the Solicitor General (OSG), opposed the petition.[8] The OSG entered its appearance and deputized the Provincial Prosecutor of Nueva Vizcaya to assist in all hearings of the case.[9]

The petitioner presented testimonial and documentary evidence to substantiate her charges.

The petitioner related that she and the respondent were childhood neighbors in Dupax del Norte, Nueva Vizcaya. Sometime in 1987, they met again and became sweethearts but the respondent's family did not approve of their relationship. After graduation from college in 1991, the respondent promised to marry the petitioner as soon as he found a job. The job came in 1993, when the Philippine Air Lines (PAL) accepted the respondent as a computer engineer. The respondent proposed to the petitioner that they first have a "secret marriage" in order not to antagonize his parents. The petitioner agreed; they were married in Manila on February 23, 1993. The petitioner and the respondent, however, never lived together; the petitioner stayed with her sister in Fairview, Quezon City,

while the respondent lived with his parents in Novaliches.

The petitioner and respondent saw each other every day during the first six months of their marriage. At that point, the respondent refused to live with the petitioner for fear that public knowledge of their marriage would affect his application for a PAL scholarship. Seven months into their marriage, the couple's daily meetings became occasional visits to the petitioner's house in Fairview; they would have sexual trysts in motels. Later that year, the respondent enrolled at FEATI University after he lost his employment with PAL.[10]

In 1994, the parties' respective families discovered their secret marriage. The respondent's mother tried to convince him to go to the United States, but he refused. To appease his mother, he continued living separately from the petitioner. The respondent forgot to greet the petitioner during her birthday in 1992 and likewise failed to send her greeting cards on special occasions. The respondent indicated as well in his visa application that he was single.

In April 1995, the respondent's mother died. The respondent blamed the petitioner, associating his mother's death to the pain that the discovery of his secret marriage brought. Pained by the respondent's action, the petitioner severed her relationship with the respondent. They eventually reconciled through the help of the petitioner's father, although they still lived separately.

In 1997, the respondent informed the petitioner that he had found a job in Davao. A year later, the petitioner and her mother went to the respondent's house in Novaliches and found him cohabiting with one Cynthia Villanueva (Cynthia). When she confronted the respondent about it, he denied having an affair with Cynthia.[11] The petitioner apparently did not believe the respondents and moved to Nueva Vizcaya to recover from the pain and anguish that her discovery brought.[12]

The petitioner disclosed during her cross-examination that communication between her and respondent had ceased. Aside from her oral testimony, the petitioner also presented a certified true copy of their marriage contract;[13] and the testimony, curriculum vitae,[14] and psychological report[15] of clinical psychologist Dr. Nedy Lorenzo Tayag (Dr. Tayag).

Dr. Tayag declared on the witness stand that she administered the following tests on the petitioner: a Revised Beta Examination; a Bender Visual Motor Gestalt Test; a Rorschach Psychodiagnostic Test; a Draw a Person Test; a Sach's Sentence Completion Test; and MMPI.[16] She thereafter prepared a psychological report with the following findings:

TEST RESULTS AND EVALUATION

Psychometric tests data reveal petitioner to operate in an average intellectual level. Logic and reasoning remained intact. She is seen to be the type of woman who adjusts fairly well into most situations especially if it is within her interests. She is pictured to be faithful to her commitments and had reservations from negative criticisms such that she normally adheres to social norms, behavior-wise. Her age speaks of maturity, both intellectually and emotionally. Her one fault lies in her compliant attitude which makes her a subject for manipulation and deception such that of respondent. In all the years of their relationship, she opted to endure his irresponsibility largely because of the mere belief that someday things will be much better for them. But upon the advent of her husband's infidelity, she gradually lost hope as well as the sense of self-respect, that she has finally taken her tool to be assertive to the point of being aggressive and very cautious at times – so as to fight with the frustration and insecurity she had especially regarding her failed marriage.

Respondent in this case, is revealed to operate in a very self-centered manner as he believes that the world revolves around him. His egocentrism made it so easy for him to deceitfully use others for his own advancement with an extreme air of confidence and dominance. He would do actions without any remorse or

guilt feelings towards others especially to that of petitioner.

REMARKS

Love happens to everyone. It is dubbed to be boundless as it goes beyond the expectations people tagged with it. In love, “age does matter.” People love in order to be secure that one will share his/her life with another and that he/she will not die alone. Individuals who are in love had the power to let love grow or let love die – it is a choice one had to face when love is not the love he/she expected.

In the case presented by petitioner, it is very apparent that love really happened for her towards the young respondent – who used “love” as a disguise or deceptive tactic for exploiting the confidence she extended towards him. He made her believe that he is responsible, true, caring and thoughtful – only to reveal himself contrary to what was mentioned. He lacked the commitment, faithfulness, and remorse that he was able to engage himself to promiscuous acts that made petitioner look like an innocent fool. His character traits reveal him to suffer Narcissistic Personality Disorder - declared to be grave, severe and incurable.[17] [Emphasis supplied.]

The RTC Ruling

The RTC nullified the parties’ marriage in its decision of April 19, 2002. The trial court saw merit in the testimonies of the petitioner and Dr. Tayag, and concluded as follows:

x x x x

Respondent was never solicitous of the welfare and wishes of his wife. Respondent imposed limited or block [sic] out communication with his wife, forgetting special occasions, like petitioner’s birthdays and Valentine’s Day; going out only on occasions despite their living separately and to go to a motel to have sexual intercourse.

It would appear that the foregoing narration are the attendant facts in this case which show the psychological incapacity of respondent, at the time of the celebration of the marriage of the parties, to enter into lawful marriage and to discharge his marital responsibilities (See Articles 68 to 71, Family Code). This incapacity is “declared grave, severe and incurable.”

WHEREFORE, in view of the foregoing, the marriage between petitioner Rowena Padilla Rumbaua and respondent Edwin Rumbaua is hereby declared annulled.

SO ORDERED.[18]

The CA Decision

The Republic, through the OSG, appealed the RTC decision to the CA.[19] The CA decision of June 25, 2004 reversed and set aside the RTC decision, and denied the nullification of the parties’ marriage.[20]

In its ruling, the CA observed that Dr. Tayag’s psychiatric report did not mention the cause of the respondent’s so-called “narcissistic personality disorder;” it did not discuss the respondent’s childhood and thus failed to give the court an insight into the respondent’s developmental years. Dr. Tayag likewise failed to explain why she came to the conclusion that the respondent’s incapacity was “deep-seated” and “incurable.”

The CA held that Article 36 of the Family Code requires the incapacity to be psychological, although its manifestations may be physical. Moreover, the evidence presented must show that the incapacitated party was mentally or physically ill so that he or she could not have known the marital obligations assumed, knowing them, could not have assumed them. In other words, the illness must be shown as downright incapacity or inability, not a refusal, neglect, or difficulty to perform the essential obligations of marriage. In the present case, the petitioner suffered because the respondent adamantly refused to live with her because of his parents’ objection to their

marriage.

The petitioner moved to reconsider the decision, but the CA denied her motion in its resolution of January 18, 2005. [21]

The Petition and the Issues

The petitioner argues in the present petition that –

- the OSG certification requirement under *Republic v. Molina*[22] (the Molina case) cannot be dispensed with because A.M. No. 02-11-10-SC, which relaxed the requirement, took effect only on March 15, 2003;
- vacating the decision of the courts a quo and remanding the case to the RTC to recall her expert witness and cure the defects in her testimony, as well as to present additional evidence, would temper justice with mercy; and
- Dr. Tayag's testimony in court cured the deficiencies in her psychiatric report.

The petitioner prays that the RTC's and the CA's decisions be reversed and set aside, and the case be remanded to the RTC for further proceedings; in the event we cannot grant this prayer, that the CA's decision be set aside and the RTC's decision be reinstated.

The Republic maintained in its comment that: (a) A.M. No. 02-11-10-SC was applicable although it took effect after the promulgation of Molina; (b) invalidating the trial court's decision and remanding the case for further proceedings were not proper; and (c) the petitioner failed to establish respondent's psychological incapacity.[23]

The parties simply reiterated their arguments in the memoranda they filed.

THE COURT'S RULING

We resolve to deny the petition for lack of merit.

A.M. No. 02-11-10-SC is applicable

In Molina, the Court emphasized the role of the prosecuting attorney or fiscal and the OSG; they are to appear as counsel for the State in proceedings for annulment and declaration of nullity of marriages:

(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. [Emphasis supplied.]

A.M. No. 02-11-10-SC[24] -- which this Court promulgated on March 15, 2003 and duly published -- is geared towards the relaxation of the OSG certification that Molina required. Section 18 of this remedial regulation provides:

SEC. 18. Memoranda. – The court may require the parties and the public prosecutor, in consultation with the Office of the Solicitor General, to file their respective memoranda in support of their claims within fifteen days from the date the trial is terminated. It may require the Office of the Solicitor General to file its own memorandum if the case is of significant interest to the State. No other pleadings or papers may be submitted without leave of court. After the lapse of the period herein provided, the case will be considered submitted for decision, with or without the memoranda.

The petitioner argues that the RTC decision of April 19, 2002 should be vacated for prematurity, as it was rendered despite the absence of the required OSG certification specified in Molina. According to the petitioner, A.M. No. 02-11-10-SC, which took effect only on March 15, 2003, cannot overturn the requirements of Molina that was promulgated as early as February 13, 1997.

The petitioner's argument lacks merit.

The amendment introduced under A.M. No. 02-11-10-SC is procedural or remedial in character; it does not create or remove any vested right, but only operates as a remedy in aid of or confirmation of already existing rights. The settled rule is that procedural laws may be given retroactive effect,[25] as we held in *De Los Santos v. Vda. de Mangubat*: [26]

Procedural Laws do not come within the legal conception of a retroactive law, or the general rule against the retroactive operation of statutes - they may be given retroactive effect on actions pending and undetermined at the time of their passage and this will not violate any right of a person who may feel that he is adversely affected, inasmuch as there are no vested rights in rules of procedure.

A.M. No. 02-11-10-SC, as a remedial measure, removed the mandatory nature of an OSG certification and may be applied retroactively to pending matters. In effect, the measure cures in any pending matter any procedural lapse on the certification prior to its promulgation. Our rulings in *Antonio v. Reyes*[27] and *Navales v. Navales*[28] have since confirmed and clarified that A.M. No. 02-11-10-SC has dispensed with the Molina guideline on the matter of certification, although Article 48 mandates the appearance of the prosecuting attorney or fiscal to ensure that no collusion between the parties would take place. Thus, what is important is the presence of the prosecutor in the case, not the remedial requirement that he be certified to be present. From this perspective, the petitioner's objection regarding the Molina guideline on certification lacks merit.

A Remand of the Case to the RTC is Improper

The petitioner maintains that vacating the lower courts' decisions and the remand of the case to the RTC for further reception of evidence are procedurally permissible. She argues that the inadequacy of her evidence during the trial was the fault of her former counsel, Atty. Richard Tabago, and asserts that remanding the case to the RTC would allow her to cure the evidentiary insufficiencies. She posits in this regard that while mistakes of counsel bind a party, the rule should be liberally construed in her favor to serve the ends of justice.

We do not find her arguments convincing.

A remand of the case to the RTC for further proceedings amounts to the grant of a new trial that is not procedurally proper at this stage. Section 1 of Rule 37 provides that an aggrieved party may move the trial court to set aside a judgment or final order already rendered and to grant a new trial within the period for taking an appeal. In addition, a motion for new trial may be filed only on the grounds of (1) fraud, accident, mistake or excusable negligence that could not have been guarded against by ordinary prudence, and by reason of which the aggrieved party's rights have probably been impaired; or (2) newly discovered evidence that, with reasonable diligence, the aggrieved party could not have discovered and produced at the trial, and that would probably alter the result if presented.

In the present case, the petitioner cites the inadequacy of the evidence presented by her former counsel as basis for a remand. She did not, however, specify the inadequacy. That the RTC granted the petition for declaration of nullity *prima facie* shows that the petitioner's counsel had not been negligent in handling the case. Granting *arguendo* that the petitioner's counsel had been negligent, the negligence that would justify a new trial must be excusable, i.e. one that ordinary diligence and prudence could not have guarded against. The negligence that the

petitioner apparently adverts to is that cited in *Uy v. First Metro Integrated Steel Corporation* where we explained:[29]

Blunders and mistakes in the conduct of the proceedings in the trial court as a result of the ignorance, inexperience or incompetence of counsel do not qualify as a ground for new trial. If such were to be admitted as valid reasons for re-opening cases, there would never be an end to litigation so long as a new counsel could be employed to allege and show that the prior counsel had not been sufficiently diligent, experienced or learned. This will put a premium on the willful and intentional commission of errors by counsel, with a view to securing new trials in the event of conviction, or an adverse decision, as in the instant case.

Thus, we find no justifiable reason to grant the petitioner's requested remand.

Petitioner failed to establish the respondent's psychological incapacity

A petition for declaration of nullity of marriage is anchored on Article 36 of the Family Code which provides that "a marriage contracted by any party who, at the time of its celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization." In *Santos v. Court of Appeals*,[30] the Court first declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. The defect 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."

We laid down more definitive guidelines in the interpretation and application of Article 36 of the Family Code in *Republic v. Court of Appeals* where we said:

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

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

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

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

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. 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...

(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.

These Guidelines incorporate the basic requirements we established in *Santos*. To reiterate, psychological incapacity must be characterized by: (a) gravity; (b) juridical antecedence; and (c) incurability.[31] These requisites must be strictly complied with, as the grant of a petition for nullity of marriage based on psychological incapacity must be confined only to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. Furthermore, since the Family Code does not define “psychological incapacity,” fleshing out its terms is left to us to do so on a case-to-case basis through jurisprudence.[32] We emphasized this approach in the recent case of *Ting v. Velez-Ting*[33] when we explained:

It was for this reason that we found it necessary to emphasize in *Ngo Te* that each case involving the application of Article 36 must be treated distinctly and judged not on the basis of a priori assumptions, predilections or generalizations but according to its own attendant 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.

In the present case and using the above standards and approach, we find the totality of the petitioner’s evidence insufficient to prove that the respondent is psychologically unfit to discharge the duties expected of him as a husband.

- Petitioner’s testimony did not prove the root cause, gravity and incurability of respondent’s condition

The petitioner’s evidence merely showed that the respondent: (a) reneged on his promise to cohabit with her; (b) visited her occasionally from 1993 to 1997; (c) forgot her birthday in 1992, and did not send her greeting cards during special occasions; (d) represented himself as single in his visa application; (e) blamed her for the death of

his mother; and (f) told her he was working in Davao when in fact he was cohabiting with another woman in 1997.

These acts, in our view, do not rise to the level of the “psychological incapacity” that the law requires, and should be distinguished from the “difficulty,” if not outright “refusal” or “neglect” in the performance of some marital obligations that characterize some marriages. In *Bier v. Bier*,^[34] we ruled that it was not enough that 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 – had to be shown and was not shown in this cited case.

In the present case, the respondent's stubborn refusal to cohabit with the petitioner was doubtlessly irresponsible, but it was never proven to be rooted in some psychological illness. As the petitioner's testimony reveals, respondent merely refused to cohabit with her for fear of jeopardizing his application for a scholarship, and later due to his fear of antagonizing his family. The respondent's failure to greet the petitioner on her birthday and to send her cards during special occasions, as well as his acts of blaming petitioner for his mother's death and of representing himself as single in his visa application, could only at best amount to forgetfulness, insensitivity or emotional immaturity, not necessarily psychological incapacity. Likewise, the respondent's act of living with another woman four years into the marriage cannot automatically be equated with a psychological disorder, especially when no specific evidence was shown that promiscuity was a trait already existing at the inception of marriage. In fact, petitioner herself admitted that respondent was caring and faithful when they were going steady and for a time after their marriage; their problems only came in later.

To be sure, the respondent was far from perfect and had some character flaws. The presence of these imperfections, however, does not necessarily warrant a conclusion that he had a psychological malady at the time of the marriage that rendered him incapable of fulfilling his duties and obligations. To use the words of *Navales v. Navales*:^[35]

Article 36 contemplates downright incapacity or inability to take cognizance of and to assume basic marital obligations. 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 on some debilitating psychological condition or illness. Indeed, 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 and not due to some psychological illness that is contemplated by said rule.

b. Dr. Tayag's psychological report and court testimony

We cannot help but note that Dr. Tayag's conclusions about the respondent's psychological incapacity were based on the information fed to her by only one side – the petitioner – whose bias in favor of her cause cannot be doubted. While this circumstance alone does not disqualify the psychologist for reasons of bias, her report, testimony and conclusions deserve the application of a more rigid and stringent set of standards in the manner we discussed above.^[36] For, effectively, Dr. Tayag only diagnosed the respondent from the prism of a third party account; she did not actually hear, see and evaluate the respondent and how he would have reacted and responded to the doctor's probes.

Dr. Tayag, in her report, merely summarized the petitioner's narrations, and on this basis characterized the respondent to be a self-centered, egocentric, and unremorseful person who “believes that the world revolves around him”; and who “used love as a...deceptive tactic for exploiting the confidence [petitioner] extended

towards him.” Dr. Tayag then incorporated her own idea of “love”; made a generalization that respondent was a person who “lacked commitment, faithfulness, and remorse,” and who engaged “in promiscuous acts that made the petitioner look like a fool”; and finally concluded that the respondent’s character traits reveal “him to suffer Narcissistic Personality Disorder with traces of Antisocial Personality Disorder declared to be grave and incurable.”

We find these observations and conclusions insufficiently in-depth and comprehensive to warrant the conclusion that a psychological incapacity existed that prevented the respondent from complying with the essential obligations of marriage. It failed to identify the root cause of the respondent's narcissistic personality disorder and to prove that it existed at the inception of the marriage. Neither did it explain the incapacitating nature of the alleged disorder, nor show that the respondent was really incapable of fulfilling his duties due to some incapacity of a psychological, not physical, nature. Thus, we cannot avoid but conclude that Dr. Tayag’s conclusion in her Report – i.e., that the respondent suffered “Narcissistic Personality Disorder with traces of Antisocial Personality Disorder declared to be grave and incurable” – is an unfounded statement, not a necessary inference from her previous characterization and portrayal of the respondent. While the various tests administered on the petitioner could have been used as a fair gauge to assess her own psychological condition, this same statement cannot be made with respect to the respondent’s condition. To make conclusions and generalizations on the respondent’s psychological condition based on the information fed by only one side is, to our mind, not different from admitting hearsay evidence as proof of the truthfulness of the content of such evidence.

Petitioner nonetheless contends that Dr. Tayag’s subsequent testimony in court cured whatever deficiencies attended her psychological report.

We do not share this view.

A careful reading of Dr. Tayag’s testimony reveals that she failed to establish the fact that at the time the parties were married, respondent was already suffering from a psychological defect that deprived him of the ability to assume the essential duties and responsibilities of marriage. Neither did she adequately explain how she came to the conclusion that respondent’s condition was grave and incurable. To directly quote from the records:

ATTY. RICHARD TABAGO:

Q:

I would like to call your attention to the Report already marked as Exh. “E-7”, there is a statement to the effect that his character traits begin to suffer narcissistic personality disorder with traces of antisocial personality disorder. What do you mean? Can you please explain in layman’s word, Madam Witness?

DR. NEDY LORENZO TAYAG:

A:

Actually, in a layman’s term, narcissistic personality disorder cannot accept that there is something wrong with his own behavioral manifestation. [sic] They feel that they can rule the world; they are eccentric; they are exemplary, demanding financial and emotional support, and this is clearly manifested by the fact that respondent abused and used petitioner’s love. Along the line, a narcissistic person cannot give empathy; cannot give love simply because they love themselves more than anybody else; and thirdly, narcissistic person cannot support his own personal need and gratification without the help of others and this is where the petitioner set in.

Q:

Can you please describe the personal [sic] disorder?

A:

Clinically, considering that label, the respondent behavioral manifestation under personality disorder [sic] this is already considered grave, serious, and treatment will be impossible [sic]. As I say this, a kind of developmental disorder wherein it all started during the early formative years and brought about by one familiar relationship the way he was reared and cared by the family. Environmental exposure is also part and parcel of the child disorder. [sic]

Q:

You mean to say, from the formative [years] up to the present?

A:

Actually, the respondent behavioral manner was [present] long before he entered marriage. [Un]fortunately, on the part of the petitioner, she never realized that such behavioral manifestation of the respondent connotes pathology. [sic]

x x x x

Q:

So in the representation of the petitioner that the respondent is now lying [sic] with somebody else, how will you describe the character of this respondent who is living with somebody else?

A:

This is where the antisocial personality trait of the respondent [sic] because an antisocial person is one who indulge in philandering activities, who do not have any feeling of guilt at the expense of another person, and this [is] again a buy-product of deep seated psychological incapacity.

Q:

And this psychological incapacity based on this particular deep seated [sic], how would you describe the psychological incapacity? [sic]

A:

As I said there is a deep seated psychological dilemma, so I would say incurable in nature and at this time and again [sic] the psychological pathology of the respondent. One plays a major factor of not being able to give meaning to a relationship in terms of sincerity and endurance.

Q:

And if this psychological disorder exists before the marriage of the respondent and the petitioner, Madam Witness?

A:

Clinically, any disorder are usually rooted from the early formative years and so if it takes enough that such psychological incapacity of respondent already existed long before he entered marriage, because if you analyze how he was reared by her parents particularly by the mother, there is already an unhealthy symbiosis developed between the two, and this creates a major emotional havoc when he reached adult age.

Q:

How about the gravity?

A:

This is already grave simply because from the very start respondent never had an inkling that his behavioral manifestation connotes pathology and second ground [sic], respondent will never admit again that such behavior of his connotes again pathology simply because the disorder of the respondent is not detrimental to himself but, more often than not, it is detrimental to other party involved.

x x x x

PROSECUTOR MELVIN TIONGSON:

Q:

You were not able to personally examine the respondent here?

DR. NEDY TAYAG:

A:

Efforts were made by the psychologist but unfortunately, the respondent never appeared at my clinic.

Q:

On the basis of those examinations conducted with the petitioning wife to annul their marriage with her husband in general, what can you say about the respondent?

A:

That from the very start respondent has no emotional intent to give meaning to their relationship. If you analyze their marital relationship they never lived under one room. From the very start of the [marriage], the respondent to have petitioner to engage in secret marriage until that time their family knew of their marriage [sic]. Respondent completely refused, completely relinquished his marital obligation to the petitioner.

x x x x

COURT:

Q:

Because you have interviewed or you have questioned the petitioner, can you really enumerate the specific traits of the respondent?

DR. NEDY TAYAG:

A:

One is the happy-go-lucky attitude of the respondent and the dependent attitude of the respondent.

Q:

Even if he is already eligible for employment?

A:

He remains to be at the mercy of his mother. He is a happy-go-lucky simply because he never had a set of responsibility. I think that he finished his education but he never had a stable job because he completely relied on the support of his mother.

Q:

You give a more thorough interview so I am asking you something specific?

A:

The happy-go-lucky attitude; the overly dependent attitude on the part of the mother merely because respondent happened to be the only son. I said that there is a unhealthy symbiosis relationship [sic] developed between the son and the mother simply because the mother always pampered completely, pampered to the point that respondent failed to develop his own sense of assertion or responsibility particularly during that stage and there is also presence of the simple lying act particularly his responsibility in terms of handling emotional imbalance and it is clearly manifested by the fact that respondent refused to build a home together with the petitioner when in fact they are legally married. Thirdly, respondent never felt or completely ignored the feelings of the petitioner; he never felt guilty hurting the petitioner because on the part of the petitioner, knowing that respondent indulge with another woman it is very, very traumatic on her part yet respondent never had the guts to feel guilty or to atone said act he committed in their relationship, and clinically this falls under antisocial personality. [37]

In terms of incurability, Dr. Tayag's answer was very vague and inconclusive, thus:

x x x x

ATTY. RICHARD TABAGO

Q:

Can this personally be cured, madam witness?

DR. NEDY TAYAG

A:

Clinically, if persons suffering from personality disorder curable, up to this very moment, no scientific could be upheld to alleviate their kind of personality disorder; Secondly, again respondent or other person suffering from any kind of disorder particularly narcissistic personality will never admit that they are suffering from this kind of disorder, and then again curability will always be a question. [sic][38]

This testimony shows that while Dr. Tayag initially described the general characteristics of a person suffering from a narcissistic personality disorder, she did not really show how and to what extent the respondent exhibited these traits. She mentioned the buzz words that jurisprudence requires for the nullity of a marriage – namely, gravity, incurability, existence at the time of the marriage, psychological incapacity relating to marriage – and in her own limited way, related these to the medical condition she generally described. The testimony, together with her report, however, suffers from very basic flaws.

First, what she medically described was not related or linked to the respondent's exact condition except in a very general way. In short, her testimony and report were rich in generalities but disastrously short on particulars, most notably on how the respondent can be said to be suffering from narcissistic personality disorder; why and to what extent the disorder is grave and incurable; how and why it was already present at the time of the marriage; and the effects of the disorder on the respondent's awareness of and his capability to undertake the duties and responsibilities of marriage. All these are critical to the success of the petitioner's case.

Second, her testimony was short on factual basis for her diagnosis because it was wholly based on what the petitioner related to her. As the doctor admitted to the prosecutor, she did not at all examine the respondent, only the petitioner. Neither the law nor jurisprudence requires, of course, that the person sought to be declared

psychologically incapacitated should be personally examined by a physician or psychologist as a condition sine qua non to arrive at such declaration.[39] If a psychological disorder can be proven by independent means, no reason exists why such independent proof cannot be admitted and given credit.[40] No such independent evidence, however, appears on record to have been gathered in this case, particularly about the respondent's early life and associations, and about events on or about the time of the marriage and immediately thereafter. Thus, the testimony and report appear to us to be no more than a diagnosis that revolves around the one-sided and meager facts that the petitioner related, and were all slanted to support the conclusion that a ground exists to justify the nullification of the marriage. We say this because only the baser qualities of the respondent's life were examined and given focus; none of these qualities were weighed and balanced with the better qualities, such as his focus on having a job, his determination to improve himself through studies, his care and attention in the first six months of the marriage, among others. The evidence fails to mention also what character and qualities the petitioner brought into her marriage, for example, why the respondent's family opposed the marriage and what events led the respondent to blame the petitioner for the death of his mother, if this allegation is at all correct. To be sure, these are important because not a few marriages have failed, not because of psychological incapacity of either or both of the spouses, but because of basic incompatibilities and marital developments that do not amount to psychological incapacity. The continued separation of the spouses likewise never appeared to have been factored in. Not a few married couples have likewise permanently separated simply because they have "fallen out of love," or have outgrown the attraction that drew them together in their younger years.

Thus, on the whole, we do not blame the petitioner for the move to secure a remand of this case to the trial courts for the introduction of additional evidence; the petitioner's evidence in its present state is woefully insufficient to support the conclusion that the petitioner's marriage to the respondent should be nullified on the ground of the respondent's psychological incapacity.

The Court commiserates with the petitioner's marital predicament. The respondent may indeed be unwilling to discharge his marital obligations, particularly the obligation to live with one's spouse. Nonetheless, we cannot presume psychological defect from the mere fact that respondent refuses to comply with his marital duties. As we ruled in *Molina*, it is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he must be shown to be incapable of doing so due to some psychological illness. The psychological illness that must afflict a party at the inception of the marriage should be a malady so grave and permanent as to deprive the party of his or her awareness of the duties and responsibilities of the matrimonial bond he or she was then about to assume.[41]

WHEREFORE, in view of these considerations, we DENY the petition and AFFIRM the decision and resolution of the Court of Appeals dated June 25, 2004 and January 18, 2005, respectively, in CA-G.R. CV No. 75095.

SO ORDERED.

[*]Carpio-Morales, (acting Chairperson), [**]Carpio, [***]Chico-Nazario, and [****]Leonardo-De Castro, JJ., concur.

[*] Designated Acting Chairperson of the Second Division effective August 1, 2009 per Special Order No. 670 dated July 28, 2009.

[**] Designated additional Member of the Second Division effective August 1, 2009 per Special Order No. 671 dated July 28, 2009.

[***] Designated additional Member of the Second Division effective June 3, 2009 per Special Order No. 658

dated June 3, 2009.

[****] Designated additional Member of the Second Division effective May 11, 2009 per Special Order No. 635 dated May 7, 2009.

[1] Under Rule 45 of the Revised Rules of Court.

[2] Penned by Associate Justice Arcangelita M. Romilla-Lontok, and concurred in by Associate Justice Eloy R. Bello, Jr. and Associate Justice Danilo B. Pine (both retired); rollo, pp. 26-34.

[3] Id., pp. 33-34.

[4] Penned by Hon. Gil L. Valdez, Presiding Judge, Branch 29, RTC, Boyombong, Nueva Vizcaya; records, pp. 1-4.

[5] Sheriff's Return, id., p. 9.

[6] Id., p. 15.

[7] Resolution of August 11, 2000; id., pp. 23-24.

[8] Id., pp. 29-32.

[9] Id., p. 33.

[10] TSN, November 23, 2000, pp. 1-13.

[11] Id., pp. 13-14.

[12] TSN, January 11, 1001, pp. 2-9.

[13] Records, p. 46.

[14] Id., pp. 54-55.

[15] Id., pp. 47-53.

[16] TSN, February 22, 2001, p. 6.

[17] Records, pp. 51-53.

[18] Rollo, pp. 40-41.

[19] Docketed as CA-G.R. CV No. 75095.

[20] Annex "A"; id., pp. 26-29.

[21] Annex "A-1"; id., pp. 33-34.

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

[23] Rollo, pp. 104-124.

[24] The Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages.

[25] See Republic v. Court of Appeals, G.R. No. 141530, March 18, 2003, 399 SCRA 277.

[26] G.R. No. 149508, October 10, 2007, 535 SCRA 411.

[27] G.R. No. 155800, March 10, 2006, 484 SCRA 353.

- [28] G.R. No. 167523, June 27, 2008.
- [29] G.R. No. 167245, September 27, 2006, 503 SCRA 704.
- [30] G.R. No. 112019, January 4, 1995, 240 SCRA 20.
- [31] Paras v. Paras, G.R. No. 147824, August 2, 2007, 529 SCRA 81.
- [32] Bier v. Bier, G.R. No. 173294, February 27, 2008, 547 SCRA 123.
- [33] G.R. No. 166562, March 31, 2009.
- [34] Supra note 33.
- [35] Supra note 29.
- [36] See So v. Valera, G.R. No.150677, June 5, 2009.
- [37] TSN, February 22, 2001, pp. 8-17.
- [38] TSN, February 22, 2001, p. 17.
- [39] See Marcos v. Marcos, G.R. No. 136490, October 19, 2000, 343 SCRA 755.
- [40] See Republic v. Tanyag-San Jose, G.R. No. 168328, February 28, 2007, 517 SCRA 123.
- [41] Supra note 34.

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