

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LAILA TANYAG-SAN JOSE AND MANOLITO SAN JOSE, RESPONDENTS.

G.R. NO. 168328. February 28, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Respondents Laila Tanyag-San Jose (Laila) and Manolito San Jose (Manolito) were married on June 12, 1988. Laila was 19 years and 4 months old, while Manolito was 20 years and 10 months old.[1]

The couple begot two children: Joana Marie who was born on January 3, 1989,[2] and Norman who was born on March 14, 1997.[3]

For nine years, the couple stayed with Manolito's parents. Manolito was jobless and was hooked to gambling and drugs. As for Laila, she sold fish at the wet market of Taguig.[4]

On August 20, 1998, Laila left Manolito and transferred to her parents' house.[5]

On March 9, 1999, Laila filed a Petition for Declaration of Nullity of Marriage,[6] under Article 36[7] of the Family Code on the ground of psychological incapacity, before the Regional Trial Court (RTC) of Pasig where it was docketed as JDRC Case No. 4862.

Testifying for Laila, Dr. Nedy Tayag, a clinical psychologist at the National Center for Mental Health, declared that from the psychological test and clinical interview she conducted on Laila, she found Manolito, whom she did not personally examine, to be psychologically incapacitated to perform the duties of a husband.

Dr. Tayag's May 28, 1999 Report on the Psychological Condition of LAILA T. SAN JOSE[8] was submitted in evidence. The pertinent portions of the Report read:

BACKGROUND DATA & BRIEF MARITAL HISTORY:

X X X X

. . . [Laila's] association with [Manolito] started with the game of basketball. As a youngster, petitioner often spent her free time seeking fun in the outdoors. She was then beginning to cast her interests on basketball games and eventually became one of the avid spectators when a minor league was staged at their place. Respondent happened to be one of the cagers who, with his hardcourt skills, greatly impressed petitioner. The latter then became a fan of respondent. Eventually acquiring the upper hand, respondent introduced himself personally to his admirers and their initial encounter with petitioner proved to be a milestone for both of their fates. Courtship followed and after a short period, they were already steadies.

Savoring the momentum, petitioner and respondent decided to formally seal their union. They entered marriage on June 12, 1989 under religious ceremonies held in Taguig. After the occasion, the newlyweds then went on to lead a life of their own making. However, contrary to what was expected, their marriage turned out to be rocky right from the very start.

Claimed, respondent refused to get himself a job. Instead, he spent most of his available time with his friends drinking intoxicating substances and gambling activities. Petitioner was left without much choice but to flex her muscles and venture on several areas which could be a source of income. She tried to endure the situation with the hope that respondent would change for the better in no time. Their first child, Joana Marie, was born of January 3, 1989. Petitioner was apparently happy with the birth of their first born, thinking that her presence would make a difference in the family, particularly on the part of respondent.

Years had passed but no improvement was seen on respondent's behavior. He turned out to be worse instead and it was only later that petitioner discovered that he was into drugs. Said, he prefers to be with his friends rather than his own family. He seemed oblivious to the efforts rendered by petitioner just to make ends meet. She was the breadwinner of the family and whenever an argument occurred between her and respondent, she often received the brunt of her husband's irrationality. On one of such incidents, she decided to separate from respondent. The latter however pursued her and pleaded for another chance. He promised that he would change his behavior if only petitioner would give him a son. Seeing his sincerity and unwilling to give up the marriage, petitioner agreed to the compromise.

They reconciled and she did gave birth to a son, Norman, on March of 1997. Respondent was happy but his show of good nature was superficial. Briefly after the birth of their second child, respondent resumed his old ways and made them even worse.

Still, petitioner remained hopeful that something will turn out right in their union. However, with respondent's continuing irresponsibility, she realized that all her efforts proved nonsense to him. On August 20, 1998, respondent went out of their dwelling for his usual late night stints but he never came back the following morning. They never lived together since.

Respondent is MANOLITO SAN JOSE, 31 years old with last known address at 14-D Ibayo, Tipas, Taguig, Metro Manila. He is unemployed and stayed in school only to finish his secondary education. He was described to be a happy-go-lucky individual spending most of his time hanging out with friends. Considered to be a bad influence, he was into gambling, drinking sprees and prohibited drugs as well.

x x x x

REMARKS:

Through the evaluation of test data, correlated with clinical interviews and description of their marital plight, it is the opinion of the undersigned that the disintegration of the marriage between petitioner and respondent was caused primarily by the latter's psychological incapacity to perform the essential roles and obligations of a married man and a father.

His behavioral pattern characterized mainly by constant irresponsibility, lack of concern for the welfare of others, self-centered orientation, absence of remorse, violent tendencies and his involvement in activities defying social and moral ethics; suits under the classification of Anti-Social Personality Disorder.

Such disorder is considered to be grave and is deeply [immersed] within the system. It continues to influence the individual until the later stage of life.[9] (Emphasis and underscoring supplied)

Branch 70 of the RTC of Pasig, by Decision of July 17, 2001, citing Republic of the Philippines v. Court of Appeals[10] and Leouel Santos v. CA, et al.[11] denied Laila's petition in this wise:

In the recent case of Republic of the Philippines vs. Court of Appeals and Roridel Olaviano Molina (268 SCRA 198), the Supreme Court, reiterated its ruling [in] the earlier case of [Leouel] Santos vs. Court of Appeals (240 SCRA 20), to the effect that "psychological incapacity should refer to no less than a mental (not physical incapacity x x x) and that there is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorder clearly

demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage and that such incapacity "must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability."

Viewed in the light of the above guidelines, the present petition must necessarily be denied.

Petitioner's portrayal of respondent as jobless and irresponsible is not enough. As the Supreme Court said in the Molina case (supra), "(I)t is not enough to prove that the parties failed to meet their responsibilities and duties as married persons; it is essential that they must be shown to be incapable of doing so, due to some psychological (not physical) illness."

Petitioner's case is not in any way enhanced by the psychological evaluation and assessment done by psychologist Nedy Tayag as per her Psychological Report (Exhs. "C" to "C-1"). Although the body of the report mentions that the respondent is affected with "Anti-Social Personality Disorder", the same cannot sway this Court from its above disposition. There is no showing that [Dr.] Tayag was able to interview the respondent or any of his relatives in order to arrive at the above conclusion. Obviously, the data upon which the finding or conclusion was based is inadequate.[12] (Emphasis and underscoring supplied)

Laila's motion for reconsideration of the trial court's decision was, by Order of November 13, 2001,[13] denied. Laila thus appealed to the Court of Appeals which docketed it as CA G.R. CV No. 73286, faulting the trial court in holding that she failed to comply with the guidelines enumerated in Molina.

By Decision dated February 15, 2005,[14] the appellate court, finding Manolito psychologically incapacitated after considering "the totality of the evidence," reversed the decision of the trial court and declared the marriage between him and Laila void ab initio. Thus the appellate court held:

. . . We perused the records of the present case and unearthed that the totality of the evidence presented in the present case - including the testimony of the petitioner, were enough to sustain a finding that Manolito San Jose is psychologically incapacitated within the contemplation of the Family Code. We believe that his (respondent's) defects were already present at the inception of the marriage or that they are incurable. If being jobless (since the commencement of the marriage up to the filing of the present petition) and worse, a gambler, can hardly qualify as being mentally or physically ill - what then can We describe such acts? Are these normal manners of a married man? We are not at all swayed that a union affirmed in church rites and subsequently having children, are proofs that either of the spouses is mature and responsible enough to assume marital responsibilities.

Accordingly, We can safely conclude that said deficiency is so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume. This Court, finding the gravity of the failed relationship in which the parties found themselves trapped in its mire of unfulfilled vows and unconsummated marital obligations, can do no less but to declare the marriage between the herein petitioner and the respondent herein dissolved. While the law provides that the husband and the wife are obliged to live together, observe mutual love, respect and fidelity ([A]rticle 68 of the Family Code), however, what is there to preserve when the other spouse is an unwilling party to the cohesion and creation of a family as an inviolable social institution. In fine, Laila Tanyag-San Jose must be allowed to rise from the ashes and begin a new life-freed from a marriage which, to Us, was hopeless from the beginning and where the bonding could not have been possible.

x x x x

While We may not have strictly adhered to the ruling in the Molina case in arriving at Our present conclusion - We have reason to deviate from the same. In view of the peculiar circumstances attendant in this case, We were constrained to take exception from the Molina case. Note that the "(c) ommittee did not give any example of psychological incapacity for the fear that the giving of examples would limit the applicability of the provision under the principle of ejusdem generis. Rather, the Committee would like the judge to apply the

provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decision of Church tribunals which although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law." (page 37, Handbook of the Family Code of the Philippines, Sempio-Diy, 1991 reprinted). Hence, whether or not psychological incapacity exists is for Us to establish, as there is no hard and fast rule in the determination of what maybe considered indicia of psychological incapacity. To Our mind there are sufficient grounds for Us to conclude that indeed psychological incapacity exists so as to warrant declaration of the marriage void ab initio.[15] (*Italics and underscoring in the original; emphasis supplied*)

Petitioner, Republic of the Philippines, filed a Motion for Reconsideration[16] of the appellate court's decision which was denied, by Resolution dated June 2, 2005,[17] hence, its present Petition for Review,[18] positing that:

I

IT WAS NOT PROVEN THAT MANOLITO'S ALLEGED DEFECTS ARE CONSTITUTIVE OF PSYCHOLOGICAL INCAPACITY AS CONTEMPLATED UNDER ARTICLE 36 OF THE FAMILY CODE AND THAT THE SAME HAS JURIDICAL ANTECEDENCE, IS GRAVE AND INCURABLE[, AND]

II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT ADHERING TO THE RULING OF THE MOLINA CASE AND THE DOCTRINE OF STARE DECISIS.[19]

Petitioner contends that Laila failed to prove that Manolito is psychologically incapacitated to perform his marital obligations as she merely relied on the report of Dr. Tayag; and granted that the psychological examination of Manolito is not a requirement for a declaration of his psychological incapacity, the totality of the evidence presented does not show Manolito's psychological incapacity.

Petitioner further contends that the appellate court erred in believing that the "defects" of Manolito already existed at the inception of the marriage or are incurable; and in any event, "belief" cannot substitute for proof which the law and jurisprudence require.

Petitioner finally contends that a deviation from the Molina ruling is not proper in the present case.

Laila, as petitioner, had the burden of proof to show the nullity of the marriage.

Psychological incapacity, as a ground for nullity of marriage, has been succinctly expounded in the recent case of *Ma. Armida Perez-Ferraris v. Brix Ferraris* (Ferraris),[20] thus:

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

As the earlier-quoted Report of Dr. Tayag shows, her conclusion about Manolito's psychological incapacity was based on the information supplied by Laila which she found to be "factual." That Laila supplied the basis of her

conclusion, Dr. Tayag confirmed at the witness stand:

Q [Atty. Revilla, Jr.]: What was your conclusion, what w[ere] your findings with respect to the respondent?

A [Dr. Tayag]: Base[d] on the narration made by [Laila], which I found the narration to be factual, regarding her marital relationship with the petitioner (should have been respondent), I came up with a conclusion that respondent is psychologically incapacitated. The one which I found in him is his anti-social personality disorder because of the following overt manipulations: the presence of drug, the absence of remorse [sic], the constant incapacity in terms of maintaining the marital relationship, the lack of concern to his family, his self-centeredness, lack of remorse, in addition to the womanizing, respondent which clearly connotes the defiant of moral and personality disorder, he is tantamount to a person under the level, under our diagnostic criteria labeled as anti-social personality disorder, sir.

Q: So you would like to impress this Court that your findings with respect to this case were only base[d] on the information given to you by [Laila], is that correct?

A: Yes, wherein I found the narration made by [Laila] to be factual, sir.[21] (Emphasis supplied)

Undoubtedly, the doctor's conclusion is hearsay. It is "unscientific and unreliable," so this Court declared in *Choa v. Choa*[22] where the assessment of the therein party sought to be declared psychologically incapacitated was based merely on the information communicated to the doctor by the therein respondent-spouse:

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

x x x x

Obviously, Dr. Gauzon had no personal knowledge of the facts he testified to, as these had merely been relayed to him by respondent. The former was working on pure suppositions and secondhand information fed to him by one side. Consequently, his testimony can be dismissed as unscientific and unreliable.[23] (Emphasis and underscoring supplied)

Parenthetically, Dr. Tayag's Psychological Report does not even show that the alleged anti-social personality disorder of Manolito was already present at the inception of the marriage or that it is incurable. Neither does it explain the incapacitating nature of the alleged disorder nor identify its root cause. It merely states that "[s]uch disorder is considered to be grave and is deeply [immersed] within the system [and] continues to influence the individual until the later stage of life."

There is of course no requirement 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.[24] If it can be proven by independent means that one is psychologically incapacitated, there is no reason why the same should not be credited.

In the present case, the only proof which bears on the claim that Manolito is psychologically incapacitated is the following testimony of Laila, in answer to the clarificatory questions propounded by the trial court:

Q [Court]:

Now, so aside from what you said that your husband is a drug user and that he is jobless and was not able to support your family, what other reasons do you have for saying that your husband is psychologically incapacitated from performing his marital obligations?

A [Laila]:

He cannot give us a brighter future because he is jobless, your honor.

Q:

Apart from these two reasons which is for alleged use or possession of drugs and his inability to get a job and support his family you have no other basis to show for the declaration of nullity of your marriage?

A:

Yes, your honor.[25] (Underscoring supplied)

Manolito's alleged psychological incapacity is thus premised on his being jobless and a drug user, as well as his inability to support his family and his refusal or unwillingness to assume the essential obligations of marriage. Manolito's state or condition or attitude has not been shown, however, to be a malady or disorder rooted on some incapacitating or debilitating psychological condition.

In Molina, where the therein respondent preferred to spend more time with his friends than with his family, this Court found the same to be more of a "difficulty" if not outright "refusal" or "neglect" in the performance of some marital obligations.

In Ferraris,[26] this Court held:

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

Also in Ferraris, this Court held that habitual alcoholism, just like sexual infidelity or perversion and abandonment, does not by itself constitute ground for declaring a marriage void based on psychological incapacity.[27] Neither is emotional immaturity and irresponsibility.[28] Or failure or refusal to meet duties and responsibilities of a married man if it is not shown to be due to some psychological (not physical) illness.[29]

While Molina then is not set in stone,[30] the facts and circumstances attendant to this case do not warrant a deviation from it.

WHEREFORE, the petition is GRANTED. The February 15, 2005 Decision and June 2, 2005 Resolution of the Court of Appeals in CA- G.R. CV No. 73286 are REVERSED AND SET ASIDE. The July 17, 2001 Decision of the Regional Trial Court of Pasig City in JDRC Case No. 4862 is REINSTATED.

SO ORDERED.

Quisumbing, (Chairperson), J., in the result.

Carpio, Tinga, and Velasco, Jr., JJ., concur.

[1] Marriage Contract, Exhibit "A," records, p. 51. In her testimony, however, Laila stated that she was only 18 years old while Manolito was 19 years old (TSN, January 14, 2000, p. 11).

[2] Exhibit "B," id. at 6.

[3] Exhibit "B-1," id. at 7.

[4] TSN, January 14, 2000, pp. 4-10.

[5] Id. at 6-7, 13.

[6] Records, pp. 1-4.

[7] 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. (As amended by E.O. 227)

[8] Records, pp. 52-57.

[9] Ibid.

[10] 335 Phil. 664 (1997).

[11] 310 Phil. 21 (1995).

[12] RTC records, pp. 62-63.

[13] Id. at 109.

[14] CA rollo, pp. 73-86. Penned by Justice Jose L. Sabio, Jr. with the concurrence of Justices Noel G. Tijam and Mariflor P. Punzalan Castillo.

[15] Id. at 82-85.

[16] Id. at 87-93.

[17] Id. at 108-109. Penned by Justice Jose L. Sabio, Jr. with the concurrence of Justices Noel G. Tijam and Mariflor P. Punzalan Castillo.

[18] Rollo, pp. 7-41.

[19] Id. at 15-16.

[20] G.R. No. 162368, July 17, 2006.

[21] TSN, April 13, 2000, pp. 6-7.

[22] 441 Phil. 175 (2002).

[23] Id. at 190-191.

[24] Marcos v. Marcos, 397 Phil. 840 (2000); Vide Antonio v. Reyes, G.R. No. 155800, March 10, 2006, 484 SCRA 353; Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508.

[25] TSN, January 14, 2000, p. 17.

[26] Supra note 20.

[27] Vide *Hernandez v. Court of Appeals*, 377 Phil. 919, 931 (1999).

[28] *Dedel v. Court of Appeals*, G.R. No. 151867, January 29, 2004, 421 SCRA 461; *Pesca v. Pesca*, G.R. No. 136921, April 17, 2001, 356 SCRA 588.

[29] Vide *Republic of the Philippines v. Court of Appeals*, supra note 10 at 674.

[30] In *Antonio v. Reyes*, supra note 24 at 370, this Court said: The Court thus acknowledges that the definition of psychological incapacity, as intended by the revision committee, was not cast in intractable specifics. Judicial understanding of psychological incapacity may be informed by evolving standards, taking into account the particulars of each case, current trends in psychological and even canonical thought, and experience. It is under the auspices of the deliberate ambiguity of the framers that the Court has developed the Molina rules, which have been consistently applied since 1997. Molina has proven indubitably useful in providing a unitary framework that guides courts in adjudicating petitioners for declaration of nullity under Article 36. At the same time, the Molina guidelines are not set in stone, the clear legislative intent mandating a case-to-case perception of each situation, and Molina itself arising from this evolutionary understanding of Article 36. There is no cause to disavow Molina at present...There is need though to emphasize other perspectives as well which should govern the disposition of petitions for declaration of nullity under Article 36. (*Italics in the original*)

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