

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. NESTOR GALANG, RESPONDENT.*G.R. No. 168335. June 06, 2011*

Ponente: BRION, J.

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We resolve the Petition for Review on Certiorari [1] filed by the Republic of the Philippines (petitioner), challenging the decision [2] dated November 25, 2004 and the resolution [3] dated May 9, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 70004. The challenged decision affirmed the decision [4] of the Regional Trial Court (RTC), Branch 62, Angeles City, declaring the marriage of Nestor Galang (respondent) and Juvy Salazar null and void on the ground of the latter's psychological incapacity. The assailed resolution denied the petitioner's motion for reconsideration.

Antecedent Facts

On March 9, 1994, the respondent and Juvy contracted marriage in Pampanga. They resided in the house of the respondent's father in San Francisco, Mabalacat, Pampanga. The respondent worked as an artist-illustrator at the Clark Development Corporation, earning P8,500.00 monthly. Juvy, on the other hand, stayed at home as a housewife. They have one child, Christopher.

On August 4, 1999, the respondent filed with the RTC a petition for the declaration of nullity of his marriage with Juvy, under Article 36 of the Family Code, as amended. The case was docketed as Civil Case No. 9494. He alleged that Juvy was psychologically incapacitated to exercise the essential obligations of marriage, as she was a kleptomaniac and a swindler. He claimed that Juvy stole his ATM card and his parents' money, and often asked money from their friends and relatives on the pretext that Christopher was confined in a hospital. According to the respondent, Juvy suffers from "mental deficiency, innate immaturity, distorted discernment and total lack of care, love and affection [towards him and their] child." He posited that Juvy's incapacity was "extremely serious" and "appears to be incurable." [5]

The RTC ordered the city prosecutor to investigate if collusion existed between the parties. Prosecutor Angelito I. Balderama formally manifested, on October 18, 1999, that he found no evidence of collusion between the parties. The RTC set the case for trial in its Order of October 20, 1999. The respondent presented testimonial and documentary evidence to substantiate his allegations.

In his testimony, the respondent alleged that he was the one who prepared their breakfast because Juvy did not want to wake up early; Juvy often left their child to their neighbors' care; and Christopher almost got lost in the market when Juvy brought him there. [6]

The respondent further stated that Juvy squandered the P15,000.00 he entrusted to her. He added that Juvy stole his ATM card and falsified his signature to encash the check representing his (the respondent's) father's pension. He, likewise, stated that he caught Juvy playing "mahjong" and "kuwaho" three (3) times. Finally, he testified that

Juvy borrowed money from their relatives on the pretense that their son was confined in a hospital. [7]

Aside from his testimony, the respondent also presented Anna Liza S. Guiang, a psychologist, who testified that she conducted a psychological test on the respondent. According to her, she wrote Juvy a letter requesting for an interview, but the latter did not respond. [8] In her Psychological Report, the psychologist made the following findings:

Psychological Test conducted on client Nestor Galang resembles an emotionally-matured individual. He is well-adjusted to the problem he meets, and enable to throw-off major irritations but manifest[s] a very low frustration tolerance which means he has a little ability to endure anxiety and the client manifests suppressed feelings and emotions which resulted to unbearable emotional pain, depression and lack of self-esteem and gained emotional tensions caused by his wife's behavior.

The incapacity of the defendant is manifested [in] such a manner that the defendant-wife: (1) being very irresponsible and very lazy and doesn't manifest any sense of responsibility; (2) her involvement in gambling activities such as mahjong and kuwaho; (3) being an estafador which exhibits her behavioral and personality disorders; (4) her neglect and show no care attitude towards her husband and child; (5) her immature and rigid behavior; (6) her lack of initiative to change and above all, the fact that she is unable to perform her marital obligations as a loving, responsible and caring wife to her family. There are just few reasons to believe that the defendant is suffering from incapacitated mind and such incapacity appears to be incorrigible.

x x x

The following incidents are the reasons why the couple separated:

- After the marriage took place, the incapacity of the defendant was manifested on such occasions wherein the plaintiff was the one who prepared his breakfast, because the defendant doesn't want to wake up early; this became the daily routine of the plaintiff before reporting to work;
- After reporting from work, the defendant was often out gambling, as usual, the plaintiff was the one cooking for supper while the defendant was very busy with her gambling activities and never attended to her husband's needs;
- There was an occasion wherein their son was lost in the public market because of the irresponsible attitude of the defendant;
- That the defendant suffers from personality and behavioral disorders, there was an occasion wherein the defendant [would] steal money from the plaintiff and use them for gambling;
- Defendant, being an estafador had been manifested after their marriage took place, wherein the defendant would come with stories so that people [would] feel pity on her and give her money. Through false pretenses she [would] be able to deceive and take money from neighbors, relatives and other people.
- That the plaintiff convinced the defendant to stop her unhealthy lifestyle (gambling), but the defendant never listened to his advices;
- That the plaintiff was the one who [was] taking care of their son, when the plaintiff will leave for work, the defendant [would] entrust their son to their neighbor and go [to] some place. This act reflects the incapacity of the defendant by being an irresponsible mother;
- That the defendant took their son and left their conjugal home that resulted into the couple's separation.

Psychological findings tend to confirm that the defendant suffers from personality and behavioral disorders. These disorders are manifested through her grave dependency on gambling and stealing money. She doesn't manifest any sense of responsibility and loyalty and these disorders appear to be incorrigible.

The plaintiff tried to forget and forgive her about the incidents and start a new life again and hoping she would change. Tried to get attention back by showing her with special care, treating her to places for a weekend vacation, cook[ing] her favorite food, but the defendant didn't care to change, she did not prepare meals, wash clothes nor clean up. She neglected her duties and failed to perform the basic obligations as a wife.

So in the view of the above-mentioned psychological findings, it is my humble opinion that there is sufficient reason to believe that the defendant wife is psychologically incapacitated to perform her marital duties as a wife and mother to their only son.[9]

The RTC Ruling

The RTC nullified the parties' marriage in its decision of January 22, 2001. The trial court saw merit in the testimonies of the respondent and the psychologist, and concluded that:

After a careful perusal of the evidence in the instant case and there being no controverting evidence, this Court is convinced that as held in Santos case, the psychological incapacity of respondent to comply with the essential marital obligations of his marriage with petitioner, which Dr. Gerardo Veloso said can be characterized by (a) gravity because the subject cannot carry out the normal and ordinary duties of marriage and family shouldered by any average couple existing under ordinary circumstances of life and work; (b) antecedence, because the root cause of the trouble can be traced to the history of the subject before marriage although its overt manifestations appear over after the wedding; and (c) incurability, if treatments required exceed the ordinary means or subject, or involve time and expense beyond the reach of the subject - are all obtaining in this case.

x x x x

WHEREFORE, premises considered, the instant petition is granted and the marriage between petitioner and defendant is hereby declared null and void pursuant to Article 36 of the Family Code of the Philippines. [10]

The CA Decision

The petitioner, through the Office of the Solicitor General, appealed the RTC decision to the CA. The CA, in its decision dated November 25, 2004, affirmed the RTC decision in toto.

The CA held that Juvy was psychologically incapacitated to perform the essential marital obligations. It explained that Juvy's indolence and lack of sense of responsibility, coupled with her acts of gambling and swindling, undermined her capacity to comply with her marital obligations. In addition, the psychologist characterized Juvy's condition to be permanent, incurable and existing at the time of the celebration of her marriage with the respondent. [11]

The petitioner moved to reconsider this Decision, but the CA denied his motion in its resolution dated May 9, 2005. [12]

The Petition and the Issues

The petitioner claims in the present petition that the totality of the evidence presented by the respondent was insufficient to establish Juvy's psychological incapacity to perform her essential marital obligations. The petitioner additionally argues that the respondent failed to show the juridical antecedence, gravity, and incurability of Juvy's condition. [13] The respondent took the exact opposite view.

The issue boils down to whether there is basis to nullify the respondent's marriage to Juvy on the ground that at the time of the celebration of the marriage, Juvy suffered from psychological incapacity that prevented her from complying with her essential marital obligations.

The Court's Ruling

After due consideration, we resolve to grant the petition, and hold that no sufficient basis exists to annul the marriage on the ground of psychological incapacity under the terms of Article 36 of the Family Code.

Article 36 of the Family Code and Related Jurisprudence

Article 36 of the Family Code provides that "a marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization." [14]

In *Leouel Santos v. Court of Appeals, et al.*, [15] 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." [16] We laid down more definitive guidelines in the interpretation and application of Article 36 of the Family Code in *Republic of the Philippines v. Court of Appeals and Roridel Olaviano Molina*, whose salient points are footnoted below. [17] These guidelines incorporate the basic requirements we established in *Santos*. [18]

In *Brenda B. Marcos v. Wilson G. Marcos*, [19] we further clarified that it is not absolutely necessary to introduce expert opinion in a petition under Article 36 of the Family Code if the totality of evidence shows that psychological incapacity exists and its gravity, juridical antecedence, and incurability can be duly established. Thereafter, the Court promulgated A.M. No. 02-11-10-SC (Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages) [20] which provided that "the complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged."

Our 2009 ruling in *Edward Kenneth Ngo Te v. Rowena Ong Gutierrez Yu-Te* [21] placed some cloud in the continued applicability of the time-tested *Molina* [22] guidelines. We stated in this case that instead of serving as a guideline, *Molina* unintentionally became a straitjacket; it forced all cases involving psychological incapacity to fit into and be bound by it. This is contrary to the intention of the law, since no psychological incapacity case can be considered as completely on "all fours" with another.

Benjamin G. Ting v. Carmen M. Velez-Ting [23] and *Jocelyn M. Suazo v. Angelito Suazo*, [24] however, laid to rest any question regarding the continued applicability of *Molina*. [25] In these cases, we clarified that *Ngo Te* [26] did not abandon *Molina*. [27] Far from abandoning *Molina*, [28] *Ngo Te* [29] simply suggested the relaxation of its stringent requirements. We also explained that *Suazo* [30] that *Ngo Te* [31] merely stands for a more flexible approach in considering petitions for declaration of nullity of marriages based on psychological incapacity. [32]

The Present Case

In the present case and using the above guidelines, we find the totality of the respondent's evidence - the testimonies of the respondent and the psychologist, and the latter's psychological report and evaluation - insufficient to prove Juvy's psychological incapacity pursuant to Article 36 of the Family Code.

a. The respondent's testimony

The respondent's testimony merely showed that Juvy: (a) refused to wake up early to prepare breakfast; (b) left their child to the care of their neighbors when she went out of the house; (c) squandered a huge amount of the P15,000.00 that the respondent entrusted to her; (d) stole the respondent's ATM card and attempted to withdraw the money deposited in his account; (e) falsified the respondent's signature in order to encash a check; (f) made up false stories in order to borrow money from their relatives; and (g) indulged in gambling.

These acts, to our mind, do not per se rise to the level of psychological incapacity that the law requires. We stress that psychological incapacity must be more than just a "difficulty," "refusal" or "neglect" in the performance of some marital obligations. In *Republic of the Philippines v. Norma Cuison-Melgar, et al.*, [33] we ruled that 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 or she must be shown to be incapable of doing so because of some psychological, not physical, illness. In other words, proof of 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 - had to be shown. [34] A cause has to be shown and linked with the manifestations of the psychological incapacity.

The respondent's testimony failed to show that Juvy's condition is a manifestation of a disordered personality rooted in some incapacitating or debilitating psychological condition that rendered her unable to discharge her essential marital obligation. In this light, the acts attributed to Juvy only showed indications of immaturity and lack of sense of responsibility, resulting in nothing more than the difficulty, refusal or neglect in the performance of marital obligations. In *Ricardo B. Toring v. Teresita M. Toring*, [35] we emphasized that irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility, and the like do not by themselves warrant a finding of psychological incapacity, as these may only be due to a person's difficulty, refusal or neglect to undertake the obligations of marriage that is not rooted in some psychological illness that Article 36 of the Family Code addresses.

In like manner, Juvy's acts of falsifying the respondent's signature to encash a check, of stealing the respondent's ATM, and of squandering a huge portion of the P15,000.00 that the respondent entrusted to her, while no doubt reprehensible, cannot automatically be equated with a psychological disorder, especially when the evidence shows that these were mere isolated incidents and not recurring acts. Neither can Juvy's penchant for playing mahjong and kuwaho for money, nor her act of soliciting money from relatives on the pretext that her child was sick, warrant a conclusion that she suffered from a mental malady at the time of the celebration of marriage that rendered her incapable of fulfilling her marital duties and obligations. The respondent, in fact, admitted that Juvy engaged in these behaviors (gambling and what the respondent refers to as "swindling") only two (2) years after their marriage, and after he let her handle his salary and manage their finances. The evidence also shows that Juvy even tried to augment the family's income during the early stages of their marriage by putting up a sari-sari store and by working as a manicurist.

b. The Psychologist's Report

The submitted psychological report hardly helps the respondent's cause, as it glaringly failed to establish that Juvy was psychologically incapacitated to perform her essential marital duties at the material time required by Article 36 of the Family Code.

To begin with, the psychologist admitted in her report that she derived her conclusions exclusively from the information given her by the respondent. Expectedly, the respondent's description of Juvy would contain a considerable degree of bias; thus, a psychological evaluation based on this one-sided description alone can hardly be considered as credible or sufficient. We are of course aware of our pronouncement in *Marcos* [36] that the

person sought to be declared psychologically incapacitated need not be examined by the psychologist as a condition precedent to arrive at a conclusion. If the incapacity can be proven by independent means, no reason exists why such independent proof cannot be admitted to support a conclusion of psychological incapacity, independently of a psychologist's examination and report. In this case, however, no such independent evidence has ever been gathered and adduced. To be sure, evidence from independent sources who intimately knew Juvy before and after the celebration of her marriage would have made a lot of difference and could have added weight to the psychologist's report.

Separately from the lack of the requisite factual basis, the psychologist's report simply stressed Juvy's negative traits which she considered manifestations of Juvy's psychological incapacity (e.g., laziness, immaturity and irresponsibility; her involvement in swindling and gambling activities; and her lack of initiative to change), and declared that "psychological findings tend to confirm that the defendant suffers from personality and behavioral disorders x x x she doesn't manifest any sense of responsibility and loyalty, and these disorders appear to be incorrigible." [37] In the end, the psychologist opined - without stating the psychological basis for her conclusion - that "there is sufficient reason to believe that the defendant wife is psychologically incapacitated to perform her marital duties as a wife and mother to their only son." [38]

We find this kind of conclusion and report grossly inadequate. First, we note that the psychologist did not even identify the types of psychological tests which she administered on the respondent and the root cause of Juvy's psychological condition. We also stress that the acts alleged to have been committed by Juvy all occurred during the marriage; there was no showing that any mental disorder existed at the inception of the marriage. Second, the report failed to prove the gravity or severity of Juvy's alleged condition, specifically, why and to what extent the disorder is serious, and how it incapacitated her to comply with her marital duties. Significantly, the report did not even categorically state the particular type of personality disorder found. Finally, the report failed to establish the incurability of Juvy's condition. The report's pronouncements that Juvy "lacks the initiative to change" and that her mental incapacity "appears incorrigible" [39] are insufficient to prove that her mental condition could not be treated, or if it were otherwise, the cure would be beyond her means to undertake.

c. The Psychologist's Testimony

The psychologist's court testimony fared no better in proving the juridical antecedence, gravity or incurability of Juvy's alleged psychological defect as she merely reiterated what she wrote in her report - i.e., that Juvy was lazy and irresponsible; played mahjong and kuhawo for money; stole money from the respondent; deceived people to borrow cash; and neglected her child - without linking these to an underlying psychological cause. Again, these allegations, even if true, all occurred during the marriage. The testimony was totally devoid of any information or insight into Juvy's early life and associations, how she acted before and at the time of the marriage, and how the symptoms of a disordered personality developed. Simply put, the psychologist failed to trace the history of Juvy's psychological condition and to relate it to an existing incapacity at the time of the celebration of the marriage.

She, likewise, failed to successfully prove the elements of gravity and incurability. In these respects, she merely stated that despite the respondent's efforts to show love and affection, Juvy was hesitant to change. From this premise, she jumped to the conclusion that Juvy appeared to be incurable or incorrigible, and would be very hard to cure. These unfounded conclusions cannot be equated with gravity or incurability that Article 36 of the Family Code requires. To be declared clinically or medically incurable is one thing; to refuse or be reluctant to change is another. To hark back to what we earlier discussed, psychological incapacity refers 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. [40]

The Constitution sets out a policy of protecting and strengthening the family as the basic social institution, and marriage is the foundation of the family. Marriage, as an inviolable institution protected by the State, cannot be dissolved at the whim of the parties. In petitions for the declaration of nullity of marriage, the burden of proof to show the nullity of marriage lies with the plaintiff. [41] Unless the evidence presented clearly reveals a situation where the parties, or one of them, could not have validly entered into a marriage by reason of a grave and serious psychological illness existing at the time it was celebrated, we are compelled to uphold the indissolubility of the marital tie. [42]

WHEREFORE, in view of these considerations, we GRANT the petition. We SET ASIDE the Decision and the Resolution of the Court of Appeals, dated November 25, 2004 and May 9, 2005, respectively, in CA-G.R. CV No. 70004. Accordingly, we DISMISS respondent Nestor Galang's petition for the declaration of nullity of his marriage to Juvy Salazar under Article 36 of the Family Code. Costs against respondent Nestor Galang.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, [*]Abad, and Villarama, Jr. JJ., concur.
Serenio, J., sick leave.

[*] Designated additional member vice Associate Justice Maria Lourdes P. A. Sereno, per Special Order No. 997, dated June 6, 2011.

[*] Sick Leave.

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

[2] Rollo, pp. 51-58; penned by Associate Justice Edgardo P. Cruz, and concurred in by Associate Justice Godardo A. Jacinto and Associate Justice Jose C. Mendoza (now a member of this Court).

[3] Id. at 59.

[4] CA rollo, pp. 47-58; penned by Judge Melencio Claros.

[5] Records, pp. 2-3.

[6] TSN, March 7, 2000, pp. 5-7.

[7] Id. at 8-12.

[8] TSN, June 13, 2000, pp. 5-6.

[9] Record of Exhibits, Exhibit "K," pp. 14-16.

[10] Supra note 4, at 55-57.

[11] Supra note 2.

[12] Supra note 3.

[13] Rollo, pp. 10-49.

[14] So v. Valera, G.R. No. 150677, June 5, 2009, 588 SCRA 319, 331.

[15] G.R. No. 112019, January 4, 1995, 240 SCRA 20, 34.

[16] See Padilla-Rumbaua v. Rumbaua, G.R. No. 166738, August 14, 2009, 596 SCRA 157, 175.

[17] G.R. No. 108763, February 13, 1997, 268 SCRA 198, 209-213.

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

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

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

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

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

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

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

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

(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the defensor vinculi contemplated under Canon

1095.

[18] Supra note 15.

[19] G.R. No. 136490, October 19, 2000, 343 SCRA 755, 764.

[20] Took effect on March 15, 2003.

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

[22] Supra note 17.

[23] G.R. No. 166562, March 31, 2009, 582 SCRA 694.

[24] G.R. No. 164493, March 12, 2010, 615 SCRA 154.

[25] Supra note 17.

[26] Supra note 21.

[27] Supra note 17.

[28] Ibid.

[29] Supra note 21.

[30] Supra note 23.

[31] Supra note 21.

[32] Agraviador v. Amparo Agraviador, G.R. No. 170729, December 8, 2010.

[33] G.R. No. 139676, March 31, 2006, 486 SCRA 177.

[34] See Bier v. Bier, G.R. No. 173294, February 27, 2008, 547 SCRA 123, 135.

[35] G.R. No. 165321, August 3, 2010, 626 SCRA 389, 408.

[36] Supra note 19.

[37] Supra note 9, Exhibit "K-1," at 15.

[38] Supra note 9, Exhibit "K-2," at 16.

[39] Supra note 37.

[40] Supra note 15.

[41] See Paz v. Paz, G.R. No. 166579, February 18, 2010, 613 SCRA 195.

[42] Supra note 32.

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