

ENRIQUE AGRAVIADOR Y ALUNAN, PETITIONER, VS. ERLINDA AMPARO-AGRAVIADOR AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.*G.R. No. 170729. December 08, 2010*

Ponente: BRION, J.

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Enrique Agraviador y Alunan (petitioner) challenges through his petition for review on certiorari[1] the decision dated May 31, 2005[2] and the resolution dated December 6, 2005[3] of the Court of Appeals (CA) in CA-G.R. CV No. 75207. The challenged decision reversed the resolution[4] of the Regional Trial Court (RTC), Branch 276, Muntinlupa City, declaring the marriage of the petitioner and Erlinda Amparo-Agraviador (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 petitioner first met the respondent in 1971 at a beerhouse where the latter worked. The petitioner, at that time, was a 24-year old security guard of the Bureau of Customs, while the respondent was a 17-year old waitress. Their meeting led to a courtship, and they eventually became sweethearts. They often spent nights together at the respondent's rented room, and soon entered into a common-law relationship.

On May 23, 1973, the petitioner and the respondent contracted marriage in a ceremony officiated by Reverend Juanito Reyes at a church in Tondo, Manila. The petitioner's family was apprehensive about this marriage because of the nature of the respondent's work and because she came from a broken family. Out of their union, the petitioner and the respondent begot four (4) children, namely: Erisque, Emmanuel, Evelyn, and Eymarey.

On March 1, 2001, the petitioner filed with the RTC a petition for the declaration of nullity of his marriage with the respondent, under Article 36 of the Family Code, as amended.[5] The case was docketed as Civil Case No. 01-081. He alleged that the respondent was psychologically incapacitated to exercise the essential obligations of marriage as she was carefree and irresponsible, and refused to do household chores like cleaning and cooking; stayed away from their house for long periods of time; had an affair with a lesbian; did not take care of their sick child; consulted a witch doctor in order to bring him bad fate; and refused to use the family name Agraviador in her activities.

The petitioner likewise claimed that the respondent refused to have sex with him since 1993 because she became "very close" to a male tenant in their house. In fact, he discovered their love notes to each other, and caught them inside his room several times.

The respondent moved to dismiss the petition on the ground that the root cause of her psychological incapacity was not medically identified and alleged in the petition.[6] The RTC denied this motion in its order dated July 2, 2001.[7]

In her answer,[8] the respondent denied that she engaged in extramarital affairs and maintained that it was the petitioner who refused to have sex with her. She claimed that the petitioner wanted to have their marriage annulled because he wanted to marry their former household helper, Gilda Camarin. She added that she was the one who took care of their son at the hospital before he died.

The RTC ordered the city prosecutor and/or the Solicitor General to investigate if collusion existed between the parties.[9] The RTC, in its Order of November 20, 2001, allowed the petitioner to present his evidence ex parte.[10] The petitioner, thus, presented testimonial and documentary evidence to substantiate his claims.

In his testimony, the petitioner confirmed what he stated in his petition, i.e., that the respondent was carefree, irresponsible, immature, and whimsical; stubbornly did what she wanted; did not stay long in the conjugal dwelling; refused to do household chores; refused to take care of him and their children; and consulted a witch doctor in order to bring bad luck upon him.

The petitioner further confirmed that the respondent abandoned their sick child, which led to the latter's death. The petitioner further stated that the respondent became very close to a male border of their house; he discovered their love notes to each other, and caught them inside his room several times.

The petitioner declared that he filed the petition for nullity because the respondent refused to change; he loves his children and does not want their children to be affected by their mother's conduct. He intimated that he might remarry if it would benefit their children.

Aside from his testimony, the petitioner also presented a certified true copy of their marriage contract (Exh. "B")[11] and the psychiatric evaluation report (Exh. "A")[12] of Dr. Juan Cirilo L. Patac.

In his Psychiatric Evaluation Report, Dr. Patac made the following findings:

REMARKS AND RECOMMENDATIONS

Based on the information gathered from Enrique, his son and their helper, the psychological report and the mental status examination, Enrique is found to be psychologically capable to fulfill the essential obligations of marriage. He coped with Erlinda's selfish and irresponsible behavior as he dutifully performed what she failed to do for the family. He patiently tried to understand her and exerted every effort to make her realize the harm caused by her neglect to the family. Throughout their marriage, he provided emotional and material support for the family. He engaged in other business endeavors aside from his employment as he maintained to be financially productive.

The same data revealed that Erlinda failed to fulfill the essential obligations of marriage. She manifested inflexible maladaptive behavior even at the time before their marriage. She is known to be stubborn and uncaring who did things her way without regard to the feelings of others. She is an irresponsible individual who selfishly ignored and neglected her role as daughter to her parents as wife to Enrique and mother to their children. Before the marriage at a young age of 17, Erlinda defied her parents as she lived alone, rented a room for herself and allowed Enrique to sleep with her. She did not care about the needs of Enrique before and after marriage and she maintained to be so with her children. She abandoned and relegated her duty to her family to their helper. She never stayed long in their house despite pleadings from her children and Enrique. Her irresponsible, uncaring behavior even led to the death of one of their children. Likewise, she does not show concern and ignores a daughter who is presently manifesting behavioral problem. She kept secrets as she never allowed her husband and children know where she stays when she's not at work. She falsified documents as she hid her marital status when she used her maiden surname in her present employment. She is having illicit affairs and is reported to be presently having an affair with a lesbian. Her desire to bring bad fate and death to Enrique through her consultation with a "mangkukulam" point out her lack of care, love, and respect to Enrique.

Erlinda's lack of motivation and insight greatly affected her capacity to render love, respect and support to her family.

The above data shows that Erlinda is suffering from a Personality Disorder (Mixed Personality Disorder). She has been having this disorder since her adolescence. There is no definite treatment for this disorder. She is deemed psychologically incapacitated to perform the obligations of marriage.

In fairness to Erlinda, she is recommended to undergo the same examination as Enrique underwent.[13]

The RTC Ruling

The RTC nullified the marriage of the petitioner and the respondent in its decision of April 26, 2002. It saw merit in the petitioner's testimony and Dr. Patac's psychiatric evaluation report, and concluded that:

Without contradiction the recitation by Petitioner and the findings of the doctor show that Respondent is indeed suffering from "Mixed Personality Disorder" that render her incapable of complying with her marital obligations. Respondent's refusal to commit herself to the marriage, her tendencies to avoid a close relationship with Petitioner, preferring to be with her lover and finally abandoning their home for a lesbian, a disregard of social norm, show that she was never prepared for marital commitment in the first place. This incapacity is deeply rooted from her family upbringing with no hope for a cure. Therefore, for the good of society and of the parties themselves, it is best that this marriage between ENRIQUE AGRAVIADOR Y ALUNAN and ERLINDA AMPARO AGRAVIADOR be annulled as if it never took place at all. The Civil Registrar of the City of Manila and the General Civil Registrar, National Census and Statistics Office, East Avenue, Quezon City, are hereby requested to make the necessary correction of the civil record of the marriage between the parties and on their respective civil status.

The children ERISQUE AGRAVIADOR, EMMANUEL AGRAVIADOR, EVELYN AGRAVIADOR and EYMAREY AGRAVIADOR will however remain as their legitimate children.

It is SO ORDERED.[14]

The CA Decision

The Republic of the Philippines, through the Office of the Solicitor General, appealed the RTC decision to the CA. The CA, in its decision[15] dated May 31, 2005, reversed and set aside the RTC resolution, and dismissed the petition.

The CA held that Dr. Patac's psychiatric evaluation report failed to establish that the respondent's personality disorder was serious, grave and permanent; it likewise did not mention the root cause of her incapacity. The CA further ruled that Dr. Patac had no basis in concluding that the respondent's disorder had no definite treatment because he did not subject her to a mental assessment.

The CA added that the "psychiatric remarks" in the Report were nothing but a showcase of respondent's character flaws and liabilities. There was no proof of a natal or supervening factor that effectively incapacitated the respondent from accepting and complying with the essential obligations of marriage. If at all, these character flaws may only give rise to a legal separation suit.

The petitioner moved to reconsider this decision, but the CA denied his motion in its resolution of December 6, 2005.[16]

The Petition and Issues

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

- THE EVIDENCE ADDUCED BY [HIM] WAS MORE THAN SUBSTANTIAL TO ESTABLISH THE PSYCHOLOGICAL INCAPACITY OF THE RESPONDENT[;]
- THE GUIDELINES SET FORTH IN REPUBLIC V. MOLINA [HAD BEEN] SATISFIED[;]
- THE ADMISSIBILITY XXX OF THE PSYCHIATRIC EVALUATION REPORT XXX STILL STANDS FOR NOT HAVING BEEN CONTESTED XXX BY THE STATE AND/THE RESPONDENT[; and]
- THE DEGREE OF PROOF REQUIRED IN CIVIL CASES HAD BEEN SATISFIED[.]

The issue in this case essentially boils down to whether there is basis to nullify the petitioner's marriage to the respondent on the ground of psychological incapacity to comply with the essential marital obligations.

The Court's Ruling

We resolve to deny the petition for lack of merit, and hold that no sufficient basis exists to annul the marriage, pursuant to Article 36 of the Family Code and its related jurisprudence.

The totality of evidence presented
failed to establish the respondent's
psychological incapacity

The 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 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." It introduced the concept of psychological incapacity as a ground for nullity of marriage, although this concept eludes exact definition.

The initial common consensus on psychological incapacity under Article 36 of the Family Code was that it did not involve a species of vice of consent. Justices Sempio-Diy and Caguioa, both members of the Family Code revision committee that drafted the Code, conceded that the spouse may have given free and voluntary consent to a marriage but was, nonetheless, incapable of fulfilling such rights and obligations. Dr. Arturo Tolentino likewise stated in the 1990 edition of his commentaries on the Family Code that this "psychological incapacity to comply with the essential marital obligations does not affect the consent to the marriage." [17]

In Santos v. Court of Appeals, [18] the Court first declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. It should refer to "no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage." [19] 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 [20] (the Molina case) 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 ejusdem generis, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

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

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

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

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

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

(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the defensor vinculi contemplated under Canon 1095.

These guidelines incorporate the basic requirements we established in Santos. A later case, Marcos v. Marcos,[21] further clarified that there is no requirement that the defendant/respondent spouse should be personally examined by a physician or psychologist as a condition sine qua non for the declaration of nullity of marriage based on psychological incapacity. Accordingly, it is no longer necessary to introduce expert opinion in a petition under Article 36 of the Family Code if the totality of evidence shows that psychological incapacity exists and its gravity, juridical antecedence, and incurability can be duly established.

A later case, *Ngo Te v. Yu-Te*,^[22] declared that it may have been inappropriate for the Court to impose a rigid set of rules, as the one in *Molina*, in resolving all cases of psychological incapacity. We stated that instead of serving as a guideline, *Molina* unintentionally became a straightjacket, forcing all cases involving psychological incapacity to fit into and be bound by it, which is not only contrary to the intention of the law but unrealistic as well because, with respect to psychological incapacity, no case can be considered as on "all fours" with another. *Ngo Te*, therefore, put into question the applicability of time-tested guidelines set forth in *Molina*.

Ting v. Velez-Ting^[23] and the fairly recent case of *Suazo v. Suazo*^[24] squarely met the issue and laid to rest any question regarding the applicability of *Molina*. In these cases, we clarified that *Ngo Te* did not abandon *Molina*; far from abandoning *Molina*, it simply suggested the relaxation of its stringent requirements. We also explained in *Suazo* that *Ngo Te* merely stands for a more flexible approach in considering petitions for declaration of nullity of marriages based on psychological incapacity.

Under these established guidelines, we find the totality of the petitioner's evidence insufficient to prove the respondent's psychological incapacity.

a. Petitioner's court testimony

For clarity, we reproduce the pertinent portions of the petitioner's testimony that essentially confirmed what the petition alleged:

Q:

Out of your marriage with the said respondent, were you blessed with children, and how many?

A:

Yes, sir, we were blessed with four (4), two (2) boys and two (2) girls.

Q:

Where are they now?

A:

All grown up with the exception of one who died of pneumonia due to the neglect and fault of my said wife who abandone[d] him at the time of his illness.

Q:

Is that the reason why you file[d] the instant petition, Mr. Witness?

A:

It is only one of the several reasons, Sir.

Q:

Can you cite these reasons, you mentioned?

A:

She appears to be carefree, irresponsible, immature, whimsical and used to impose what she wanted to get, she refused to do household chores, like cooking, caring for the husband and children, used to stay from the conjugal dwelling, initially for weeks, then for months and lately fully abandoned the family house and stay with a lesbian. [sic]

At first, I discovered a love note while being so secretive and used to be very close to a male renter in the ground floor of their house and caught them several times alone in his room, thus explaining the reason why she refused to have sex since 1993, up to and until the present time.

Lately, we discovered that she used to consult a cult "mangkukulam" to bring bad fate against the family and death for me.

Q:

By the way did you give her the chance to change?

A:

I gave her but she refused to reform.

x x x x

Q:

Can you not give a last chance for you to save your marriage?

A:

I think I cannot since she does not accept her fault and she does not want to change for the sake of our family.[25]

These exchanges during trial significantly constituted the totality of the petitioner's testimony on the respondent's supposed psychological or mental malady. We glean from these exchanges the petitioner's theory that the respondent's psychological incapacity is premised on her refusal or unwillingness to perform certain marital obligations, and a number of unpleasant personality traits such as immaturity, irresponsibility, and unfaithfulness.

These acts, in our view, do not rise to the level of 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.[26] The intent of the law has been to confine the meaning of psychological incapacity to the most serious cases of personality disorders - existing at the time of the marriage - clearly demonstrating an utter insensitivity or inability to give meaning and significance to the marriage.[27] The psychological illness that must have afflicted a party at the inception of the marriage should be a malady so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond he or she is about to assume.[28]

In the present case, the petitioner's testimony failed to establish that the respondent's condition is a manifestation of a disordered personality rooted on some incapacitating or debilitating psychological condition that makes her completely unable to discharge the essential marital obligations. If at all, the petitioner merely showed that the respondent had some personality defects that showed their manifestation during the marriage; his testimony sorely lacked details necessary to establish that the respondent's defects existed at the inception of the marriage. In addition, the petitioner failed to discuss the gravity of the respondent's condition; neither did he mention that the respondent's malady was incurable, or if it were otherwise, the cure would be beyond the respondent's means to undertake. The petitioner's declarations that the respondent "does not accept her fault," "does not want to change," and "refused to reform" are insufficient to establish a psychological or mental defect that is serious, grave, or incurable as contemplated by Article 36 of the Family Code.

In a similar case, *Bier v. Bier*,[29] we ruled that it was not enough that the respondent, alleged to be psychologically incapacitated, had difficulty in complying with his marital obligations, or was unwilling to

perform these obligations. Proof of a natal or supervening disabling factor - an adverse integral element in the respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations - had to be shown.

b. Dr. Patac's Psychiatric Evaluation Report

The Court finds that Dr. Patac's Psychiatric Evaluation Report fell short in proving that the respondent was psychologically incapacitated to perform the essential marital duties. We emphasize that Dr. Patac did not personally evaluate and examine the respondent; he, in fact, recommended at the end of his Report for the respondent to "undergo the same examination [that the petitioner] underwent." [30] Dr. Patac relied only on the information fed by the petitioner, the parties' second child, Emmanuel, and household helper, Sarah. Largely, the doctor relied on the information provided by the petitioner. Thus, while his Report can be used as a fair gauge to assess the petitioner's own psychological condition (as he was, in fact, declared by Dr. Patac to be psychologically capable to fulfill the essential obligations of marriage), the same statement cannot be made with respect to the respondent's condition. The methodology employed simply cannot satisfy the required depth and comprehensiveness of the examination required to evaluate a party alleged to be suffering from a psychological disorder. [31]

We do not suggest that a personal examination of the party alleged to be psychologically incapacitated is mandatory. We have confirmed in *Marcos v. Marcos* that the person sought to be declared psychologically incapacitated must be personally examined by a psychologist as a condition sine qua non to arrive at such declaration. [32] If a psychological disorder can be proven by independent means, no reason exists why such independent proof cannot be admitted and given credit. [33] No such independent evidence appears on record, however, to have been gathered in this case.

In his Report, Dr. Patac attempted to establish the juridical antecedence of the respondent's condition by stating that the respondent manifested "inflexible maladaptive behavior" before marriage, pointing out how the respondent behaved before the marriage - the respondent defied her parents and lived alone; rented a room for herself; and allowed the petitioner to sleep with her. These perceived behavioral flaws, to our mind, are insufficient to establish that the incapacity was rooted in the history of the respondent antedating the marriage. Dr. Patac failed to elucidate on the circumstances that led the respondent to act the way she did, for example, why she "defied her parents" and decided to live alone; why she "neglected her obligations as a daughter;" and why she often slept with the petitioner. This is an area where independent evidence, such as information from a person intimately related to the respondent, could prove useful. As earlier stated, no such independent evidence was gathered in this case. In the absence of such evidence, it is not surprising why the Psychiatric Report Evaluation failed to explain how and why the respondent's so-called inflexible maladaptive behavior was already present at the time of the marriage.

Dr. Patac's Psychiatric Evaluation Report likewise failed to prove the gravity or seriousness of the respondent's condition. He simply made an enumeration of the respondent's purported behavioral defects (as related to him by third persons), and on this basis characterized the respondent to be suffering from mixed personality disorder. In the "Background History" portion of his Psychiatric Evaluation Report, Dr. Patac mentioned that the respondent employed one of her siblings to do the household chores; did not help in augmenting the family's earnings; belittled the petitioner's income; continued her studies despite the petitioner's disapproval; seldom stayed at home; became "close" to a male border; had an affair with a lesbian; did not disclose the actual date of her departure to Taiwan; threatened to poison the petitioner and their children; neglected and ignored their children; used her maiden name at work; and consulted a witch doctor to bring bad fate to the petitioner. Except for the isolated and unfounded statement that "Erlinda's lack of motivation and insight greatly affected her capacity to render love,

respect and support to the family,"[34] there was no other statement regarding the degree of severity of the respondent's condition, why and to what extent the disorder is grave, and how it incapacitated her to comply with the duties required in marriage. There was likewise no showing of a supervening disabling factor or debilitating psychological condition that effectively incapacitated the respondent from complying with the essential marital obligations. At any rate, the personality flaws mentioned above, even if true, could only amount to insensitivity, sexual infidelity, emotional immaturity, and irresponsibility, which do not by themselves warrant a finding of psychological incapacity under Article 36 of the Family Code.

Interestingly, Dr. Patac's Psychiatric Evaluation Report highlighted only the respondent's negative behavioral traits without balancing them with her other qualities. The allegations of infidelity and insinuations of promiscuity, as well as the claim that the respondent refused to engage in sexual intercourse since 1993, of course, came from the petitioner, but these claims were not proven. Even assuming *ex gratia argumenti* that these accusations were true, the Psychiatric Evaluation Report did not indicate that unfaithfulness or promiscuousness were traits that antedated or existed at the time of marriage. Likewise, the accusation that the respondent abandoned her sick child which eventually led to the latter's death appears to be an exaggerated claim in the absence of any specifics and corroboration. On the other hand, the petitioner's own questionable traits - his flirtatious nature before marriage and his admission that he inflicted physical harm on the respondent every time he got jealous - were not pursued. From this perspective, the Psychiatric Evaluation Report appears to be no more than a one-sided diagnosis against the respondent that we cannot consider a reliable basis to conclusively establish the root cause and the degree of seriousness of her condition.

The Psychiatric Evaluation Report likewise failed to adequately explain how Dr. Patac came to the conclusion that the respondent's personality disorder had "no definite treatment." It did not discuss the concept of mixed personality disorder, i.e., its classification, cause, symptoms, and cure, and failed to show how and to what extent the respondent exhibited this disorder in order to create a necessary inference that the respondent's condition had no definite treatment or is incurable. A glaring deficiency, to our mind, is the Psychiatric Evaluation Report's failure to support its findings and conclusions with any factual basis. It simply enumerated the respondent's perceived behavioral defects, and then associated these traits with mixed personality disorder. We find it unfortunate that Dr. Patac himself was not called on the witness stand to expound on the findings and conclusions he made in his Psychiatric Evaluation Report. It would have aided petitioner's cause had he called Dr. Patac to testify.

Admittedly, the standards used by the Court in assessing the sufficiency of psychological evaluation reports may be deemed very strict, but these are proper, in view of the principle that any doubt should be resolved in favor of the validity of the marriage and the indissolubility of the marital vinculum.[35] Marriage, an inviolable institution protected by the State, cannot be dissolved at the whim of the parties, especially where the prices of evidence presented are grossly deficient to show the juridical antecedence, gravity and incurability of the condition of the party alleged to be psychologically incapacitated to assume and perform the essential marital duties.

The petitioner's marriage to the respondent may have failed and appears to be without hope of reconciliation. The remedy, however, is not always to have it declared void *ab initio* on the ground of psychological incapacity. We stress that Article 36 of the Family Code contemplates downright incapacity or inability to assume and fulfill the basic marital obligations, not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse. It is not to be confused with a divorce law that cuts the marital bond at the time the grounds for divorce manifest themselves. The State, fortunately or unfortunately, has not seen it fit to decree that divorce should be available in this country. Neither should an Article 36 declaration of nullity be equated with legal separation, in which the grounds need not be rooted in psychological incapacity but on physical violence, moral pressure, moral

corruption, civil interdiction, drug addiction, sexual infidelity, abandonment, and the like.[36] Unless the evidence presented clearly reveals a situation where the parties or one of them, by reason of a grave and incurable psychological illness existing at the time the marriage was celebrated, was incapacitated to fulfill the obligations of marital life (and thus could not then have validly entered into a marriage), then we are compelled to uphold the indissolubility of the marital tie.

WHEREFORE, in light of all the foregoing, we DENY the petition and AFFIRM the Decision and the Resolution of the Court of Appeals dated May 31, 2005 and December 6, 2005, respectively, in CA-G.R. CV No. 75207. Costs against the petitioner.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

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

[2] Rollo, pp. 39-55. Penned by Associate Justice Ruben T. Reyes, and concurred in by Associate Justice Josefina Guevara-Salonga and Associate Justice Fernanda Lampas-Peralta.

[3] Id. at 56-57.

[4] Id. at 33-38.

[5] Records, pp. 1-4.

[6] Id. at 8.

[7] Id. at 36.

[8] Id. at 38.

[9] Id. at 48.

[10] Id. at 53.

[11] Id. at 5.

[12] Id. at 28-33.

[13] Id. at 32-33.

[14] Supra note 4, at 37-38.

[15] Supra note 2.

[16] Supra note 3.

[17] See Antonio v. Reyes, G.R. No. 155800, March 10, 2006, 484 SCRA 353, 367, citing Santos v. CA, 310 Phil. 21 (1995); A. Sempio-Diy, Handbook on the Family Code of the Philippines (1988 ed.), 37; and A. Toletino, Civil Code of the Philippines: Commentaries and Jurisprudence (1990 ed.), 274-275.

[18] G.R. No. 112019, January 4, 1995, 240 SCRA 20, 33.

[19] Id. at 34.

[20] 335 Phil. 664, 676-680.

- [21] G.R. No. 136490, October 19, 2000, 343 SCRA 755.
- [22] G.R. No. 161793, February 13, 2009, 579 SCRA 193.
- [23] G.R. No. 166562, March 31, 2009, 582 SCRA 694.
- [24] G.R. No. 164493, March 10, 2010.
- [25] TSN, November 20, 2001, pp. 3-5.
- [26] See *Padilla-Rumbaua v. Rumbaua*, G.R. No. 166738, August 14, 2009, 596 SCRA 157, 178.
- [27] *Republic v. Cuison-Melgar*, G.R. No. 139676, March 31, 2006, 486 SCRA 177.
- [28] *Supra* note 23.
- [29] G.R. No. 173294, February 27, 2008, 547 SCRA 123, 135.
- [30] *Records*, p. 33.
- [31] *Suazo v. Suazo*, *supra* note 24.
- [32] *Supra* at note 21.
- [33] *Padilla-Rumbaua v. Rumbaua*, *supra* note 26.
- [34] *Records*, p. 32.
- [35] *Navales v. Navales*, G.R. No. 167523, June 27, 2008, 556 SCRA 272, 292.
- [36] See *Paras v. Paras*, G.R. No. 147824, August 2, 2007, 529 SCRA 81, 106.

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