

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LYNNETTE CABANTUG-BAGUIO, RESPONDENT.

G.R. No. 171042. June 30, 2008

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

From the Decision of the Court of Appeals which affirmed that of the Regional Trial Court of Cebu, Branch 24 nullifying the marriage of respondent, Lynnette Cabantug-Baguio (Lynnette), to Martini Dico Baguio (Martini), the Republic through the Office of the Solicitor General filed the present petition for review.

Lynnette and Martini contracted marriage on August 12, 1997. Less than three years later or on October 12, 2000, Lynnette filed before the Regional Trial Court (RTC) of Cebu City a complaint^[1] for declaration of nullity of marriage, docketed as Civil Case No. CEB 25700, on the ground of Martini's psychological incapacity to comply with the essential marital duties and obligations under Articles 68-70^[2] of the Family Code.

Despite service of summons upon Martini, he never filed any responsive pleading to the complaint.^[3] No collusion was established between the parties.^[4] Upon the authority of the Solicitor General, the provincial prosecutor of Cebu City appeared in the case under the former's supervision and control.^[5]

From the deposition of Lynnette taken before Branch Clerk of Court Atty. Monalila S. Tecson on January 10, 2001,^[6] the following are gathered:

Lynnette and Martini, a seaman working overseas, became pen pals in 1995.

In 1996, the two met in person during Martini's vacation after the expiration of his contract on board an ocean-going vessel.

On August 12, 1997, Martini, then 32, and Lynnette, then 34, contracted marriage,^[7] following which they moved to the house of Lynnette's parents at 33-B La Guardia Extension, Lahug, Cebu City. Martini, however, stayed there only on weekends, and during weekdays he stayed with his parents in Looc, Lapu-lapu City. While Lynnette suggested that the two of them stay in the house of Martini's parents, Martini disagreed, claiming that there were many already living with his parents.

Lynnette noticed that every time she conversed with Martini, he always mentioned his mother and his family, and she soon realized that he was a "mama's boy." And she noticed too that when she would call up Martini at his parent's house and his mother was the one who answered the call, she would deny that he was around.

In 1998, after Martini again returned following an almost 10-month contract overseas,^[8] he stayed with Lynnette. When in 1999 Martini again disembarked, he stayed with his parents.

On the insistence of his mother, Martini's monetary allotment was shared equally between her and Lynnette.

Lynnette had since January 1999 not heard from Martini. And since April 1999, Lynnette stopped receiving her

share of the allotment, drawing her to inquire from Martini's employer who informed her that he had already disembarked on even month. She soon found out that Martini was in Alabang, Muntinlupa.

When Lynnette and Martini finally met in Cebu City, he told her that they are not compatible and should just part ways.

The last time the couple talked was on October 14, 1999 when Martini was at the Ninoy Aquino International Airport (NAIA) about to depart for abroad. Since then, Martini never communicated with Lynnette. On investigation, Lynnette learned that Martini declared in his employment records that he was "single" and named his mother as principal allottee.[9]

Hence, Lynnette's filing of the complaint for declaration of nullification of marriage.

Aside from her deposition,[10] Lynnette presented her Certificate of Marriage,[11] Martini's undated Seafarer Information Sheet,[12] the letter of clinical psychologist Dr. Andres S. Gerong (Dr. Gerong) to Martini requesting for a personal interview,[13] Dr. Gerong's testimony,[14] and the Psychological Evaluation Report[15] prepared by Dr. Gerong after his interview of Lynnette and her sister Dr. Rosemarie Sistoza.[16]

In the Psychological Evaluation Report, Dr. Gerong noted as follows:

- The couples [sic] were married on August 12, 1997 in Danao City, Cebu[;]
- After the wedding the couple stayed at the petitioner's residence, but the defendant would always go home to his parents in Looc, Lapu-lapu City;
- Defendant did not show any directions to establish their home, [is] happy-go-lucky, and would just see the plaintiff for his physical and sexual needs;
- Plaintiff felt being used, exploited, uncared for, taken for granted, abandoned;
- Defendant's parents appeared to control the son to the extent of meddling [with] the finances coming from the income as a seaman;
- Defendant never showed respect for his parents-in-law;
- Parents of the defendant insisted [on] a co-allot[ment without] any protestations from the plaintiff who has been generous all the time;
- Defendant remained immature, could not stand by his wife and would still depend upon the decisions of his parents and without any personal directions as to what to do with his family;
- Strictly speaking, the couple never really live[d] together as husband and wife like any ordinary couple[17] (underscoring supplied),

and concluded that

Defendant shows immature personality disorder, dependency patterns, and self-centered motives. Th[ese are] the core personality dysfunctions noted and have been exaggeratedly expressed which are detrimental to the familial well-being;

The situation is serious, grave, existing already during the adolescent period, and incurable because personality and character are stable whether or not it is normal and adaptive.

x x x x

The defendant is psychologically incapacitated to comply with the essential obligations in marriage and

family.[18] (Underscoring supplied)

Expounding on his findings, Dr. Gerong testified, thus:

ATTY. SINGCO: (To witness)

Q:

In gist, what were your findings as to the psychological capacity or incapacity of defendant Martini Dico Baguio?

A:

x x x [T]o sum it up, the synopsis of the findings, the defendant husband appeared to be [a] dependent person to his family and unable to [sever . . .] the connection being a married man and to establish a domicile for his family and to support his family.

x x x x

ATTY. SINGCO: (To witness)

Q:

Dr. Gerong, how grave or serious is the psychological incapacity of the defendant?

A:

Being, I would say in our popular parlance, "mama's boy" as alleged, that will endanger the integrity of the marriage because instead of establishing a permanent conjugal relationship with the wife the husband-defendant would remain dependent on his family.

x x x x

ATTY. SINGCO: (To witness)

Q:

Okay, in terms of the chances that this incapacity will be cured, what are the chances, if any?

A:

As to curability, since I am using a clinical term ["personality or character disorder or dysfunction"] and as I have said many times that the personality is stable and pervasive over time. And if it is established as early as adolescent period and up to the present it has remained persistent thru the years and therefore it's a permanent trait of the defendant-husband, therefore it's incurable.[19] (Emphasis and underscoring supplied)

By Decision[20] of January 2, 2002, Branch 24 of the Cebu City RTC found Martini psychologically incapacitated to comply with the essential marital obligations of marriage, and that the same incapacity existed "at the time the couple exchanged their marriage vows."

The Solicitor General, via appeal,[21] challenged before the Court of Appeals the trial court's decision

. . . DECLARING THE PARTIES' MARRIAGE NULL AND VOID, DEFENDANTS MARTINI DICO BAGUIO'S PSYCHOLOGICAL INCAPACITY NOT HAVING BEEN PROVEN TO EXIST.[22]

By Decision[23] of January 13, 2005, the Court of Appeals affirmed the trial court's decision. Addressing the Solicitor General's argument that Dr. Gerong's testimony failed to establish the cause of Martini's psychological incapacity and to show that it existed at the inception of the marriage,[24] the Court of Appeals held:

x x x [I]n contradiction of the Republic's contention and its supporting above-cited doctrine, this Court cites the more recent jurisprudence laid down in the case of *Marcos v. Marcos*,^[25] in which the High Tribunal has foregone with the requirement that the defendant should be examined by a physician or psychologist as a *conditio sine qua non* for declaration of nullity of marriage. It held thus:

"The x x x guidelines do not require that a physician examine the person to be declared psychologically incapacitated x x x - [w]hat is important is the presence of evidence that can adequately establish the party's psychological condition, [f]or indeed, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination for the person concerned need not be resorted to."^[26]

Therefore, the oral deposition [of Lynette] and the Psychological Evaluation Report by Dr. Andres S. Gerong, Ph.D. as Clinical Psychologist declaring the defendant psychologically incapacitated to comply with the essential obligations in marriage and family life was sufficient for US to believe that undeniably the defendant suffers psychological incapacity.^[27] (*Italics in the original; emphasis and underscoring supplied*)

On the Solicitor General's contention that Martini's abandonment of Lynnette is a ground for legal separation and not for declaration of nullity of marriage,^[28] and that Martini's alleged personality traits are not of the nature contemplated by Article 36 of the Family Code,^[29] the Court of Appeals declared:

x x x WE note that it was not the abandonment which was the ground relied upon by the plaintiff-appellee but the defendant's being a mama's boy.^[30]

x x x x

Being a Mama's Boy, his uncaring attitude towards his wife, declaring himself single and naming his mother as the beneficiary, spending more time with his family and less with his wife and ultimately, abandoning her manifested defendant's psychological incapacity. These, to sum it all, to US are manifestations of severe psychological disorder rather than a mere obstinate refusal to comply with his marital obligations.^[31] (*Emphasis and underscoring supplied*)

The Solicitor General's Motion for Reconsideration^[32] having been denied by the Court of Appeals,^[33] the present petition^[34] was filed, faulting the appellate court to have gravely erred:

I

. . . IN RULING THAT THE PSYCHOLOGICAL EVALUATION AND TESTIMONY OF DR. ANDRES GERONG THAT DEFENDANT IS PSYCHOLOGICALLY INCAPACITATED HAVE LEGAL BASIS.

II

. . . IN FAILING TO TAKE INTO CONSIDERATION THAT ABANDONMENT BY ONE'S SPOUSE IS ONLY A GROUND FOR LEGAL SEPARATION AND NOT FOR THE DECLARATION OF NULLITY OF MARRIAGE.

III

. . . IN RULING THAT DEFENDANT'S BEING A MAMA'S BOY IS A MANIFESTATION OF A PSYCHOLOGICAL DISORDER.^[35] (*Italics in the original*)

The Solicitor General's arguments persuade.

The Solicitor General argued as follows:

Dr. Gerong merely testified that defendant's alleged psychological incapacity (being a mama's boy) began in his adolescent stage and has remained persistent through the years (p. 20, Brief). Dr. Gerong did not detail this

finding. He made no effort to look into and testify on defendant's past life, attitudes, habits and character to explain defendant's alleged psychological incapacity as required by this Honorable Court in the case of Republic vs. Court of Appeals and Molina, 268 SCRA 198 (1998).

Again, while it is true that Dr. Gerong testified that defendant's alleged defect is incurable, he failed to explain why it is clinically or medically permanent. His only basis for saying that it is incurable is his finding that defendant has been a mama's boy since his adolescence (p. 7, TSN, June 19, 2001). During the trial, Dr. Gerong also failed to explain in detail why the defendant's alleged psychological incapacity is grave and to discuss what kind of disorder defendant is suffering from.[36] (Emphasis in the original; italics and underscoring supplied)

On the doctor's findings in his Report, the Solicitor General argued:

The said findings reveal nothing in defendant's past life and acts that shows a behavior pattern that would prove his alleged psychological incapacity. Dr. Gerong's finding that defendant's parents are too controlling because they were made co-allottees of the remittances sent by their son does not prove the alleged psychological incapacity of defendant. The report likewise failed to explain the gravity of the alleged psychological incapacity of defendant and state whether or not it incapacitates defendant from carrying out the normal and ordinary duties of marriage and family. There is likewise no explanation by Dr. Gerong why he found defendant's incapacity to be incurable. This Honorable Court has held that such illness must be shown to be grave enough to bring about the disability of the party to assume the essential obligation of the marriage. Such incapacity must also be shown to be medically or clinically permanent or incurable and grave [Republic vs. Court of Appeals and Molina, *supra*]. These Dr. Gerong failed to do.

Even when the rules have been relaxed and the personal examination of the defendant by a psychiatrist or psychologist is no longer mandatory for the declaration of nullity of marriage under Article 36 of the Family Code, the totality of evidence presented during trial by private respondent must still prove the gravity, juridical antecedence, and incurability of the alleged psychological incapacity (Marcos v. Marcos, 343 SCRA 755 [2000]; Santos v. Court of Appeals, 240 SCRA 20 [1995]). (Emphasis in the original; italics and underscoring supplied)

In fine, the Solicitor General concluded that there was no showing that Martini's alleged personality traits are of the nature contemplated by Article 36 of the Family Code and the rulings of this Court in the cited cases,[37] and that Martini's abandonment of Lynnette constitutes only a ground for legal separation but not for declaration of nullity of marriage.[38]

Article 36 of the Family Code on which Lynnette anchors her complaint 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."

Article 36 must be read in conjunction with the other articles in the Family Code, specifically Articles 35, 37, 38, and 41 which provide different grounds to render a marriage void ab initio, as well as Article 45 which dwell on voidable marriages, and Article 55 on legal separation.[39] Care must be observed so that these various circumstances are not to be applied indiscriminately as if the law were indifferent on the matter.[40]

And Article 36 should not be confused with a divorce law that cuts the marital bond at the time the causes therefor manifest themselves, nor 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, habitual alcoholism, sexual infidelity, abandonment, and the like.[41]

"Psychological incapacity" has been elucidated on as follows:

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 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 a 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. x x x [T]he root cause must be identified as a psychological illness, and its incapacitating nature must be fully explained x x x.[42] (Emphasis and underscoring supplied)

The mere showing of "irreconcilable differences" and "conflicting personalities" does not constitute psychological incapacity.[43] Nor does failure of the parties to meet their responsibilities and duties as married persons.

It is essential that the parties to a marriage must be shown to be insensitive to or incapable of meeting their duties and responsibilities due to some psychological (not physical) illness,[44] which insensitivity or incapacity should have been existing at the time of the celebration of the marriage even if it becomes manifest only after its solemnization.[45]

In fine, for psychological incapacity to render a marriage void ab initio, it must be characterized by

(a)

Gravity - It must be grave and serious such that the party would be incapable of carrying out the ordinary duties required in a marriage;

(b)

Juridical Antecedence - It must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and

(c)

Incurability - It must be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved.[46]

Dr. Gerong found that Martini's "personality disorders" including his being a "mama's boy" are "serious, grave, existing already during the adolescent period and incurable" and concluded that Martini "appeared" to be dependent upon his family and unable "to establish a domicile for his family and to support his family."

The doctor's findings and conclusion were derived from his interview of Lynnette and her sister and Lynnette's deposition. From Lynnette's deposition, however, it is gathered that Martini's failure to establish a common life with her stems from his refusal, not incapacity, to do so. It is downright incapacity, not refusal or neglect or difficulty, much less ill will,[47] which renders a marriage void on the ground of psychological incapacity. In another vein, how the doctor arrived at the conclusion, after interviewing Lynnette and considering her deposition, that any such personality disorders of Martini have been existing since Martini's adolescent years has not been explained. It bears recalling that Martini and Lynnette became pen pals in 1995 and contracted marriage in 1997 when Martini was already 32 years old, far removed from adolescent years.

Dr. Gerong's citing of Martini's appointment of his mother as a beneficiary and his representing himself as single in his Seafarer Information Sheet, without more, as indications of Martini's dependence on his family amounting to his incapacity to fulfill his duties as a married man does not logically follow, especially given that the Seafarer's Information Sheet is not even dated[48] and, therefore, there is no certainty that it was prepared after Martini contracted marriage.

While the examination by a physician of a person in order to declare him/her psychological incapacitated is not required, the root cause thereof must be "medically or clinically identified." There must thus be evidence to adequately establish the same. There is none such in the case at bar, however.

The Constitution sets out a policy of protecting and strengthening the family as the basic social institution and marriage as the foundation of the family.[49] Marriage, an inviolable institution protected by the State,[50] cannot be dissolved at the whim of the parties.[51] In petitions for the declaration of nullity of marriage, the burden of proof to show the nullity of marriage lies on the plaintiff.[52] Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.[53]

As reflected above, Lynnette failed to discharge the onus probandi. While the Court sympathizes with her predicament, its first and foremost duty is to apply the law.[54] *Dura lex sed lex*.

Lynnette's marriage with Martini may have failed then, but it cannot be declared void ab initio on the ground of psychological incapacity in light of the insufficient evidence presented.[55]

WHEREFORE, the petition is GRANTED. The decision of the Court of Appeals dated January 13, 2005 is REVERSED and SET ASIDE. Civil Case No. CEB 25700 of the Regional Trial Court of Cebu, Branch 24, is DISMISSED.

SO ORDERED.

Quisumbing, (Chairperson), Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Records, pp. 1-4.

[2] Article 68:

The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

Article 69:

The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family.

Article 70:

The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income and fruits of their separate properties.

[3] Records, pp. 9-10.

[4] January 23, 2001 Investigation Report of Prosecutor II Enriqueta L. Belarmino of the Cebu City Prosecutor's Office bearing the approval of the Officer-in-Charge, *id.* at 17-18.

[5] *Id.* at 21-23.

[6] Exhibit "C," *id.* at 25-37. The motion to take deposition by oral examination, filed on December 21, 2000, on

the ground that Lynnette was about to leave the Philippines on the second week of January 2001 in order to comply with the deadline set by her prospective employer in the United States to report for work on said date, was granted by the trial court by Order of January 2, 2001 (Exhibit "D," records, p. 14).

[7] Exhibit "A," records, p. 43.

[8] Vide TSN, January 8, 2001, pp. 6-7.

[9] Records, p. 44.

[10] Supra note 8 at 1-12.

[11] Exhibit "A," records, p. 43.

[12] Exhibit "B," id. at 44.

[13] Exhibit "E," id. at 45.

[14] TSN, June 19, 2001, pp. 4-9.

[15] Exhibit "F," records, pp. 46-47.

[16] TSN, June 19, 2001, pp. 5-6.

[17] Records, p. 46.

[18] Id. at 47.

[19] TSN, June 19, 2001, pp. 6-7.

[20] Records, pp. 71-76.

[21] Id. at 78.

[22] CA rollo, p. 38.

[23] Penned by Court of Appeals Associate Justice Arsenio J. Magpale, with the concurrences of Associate Justices Mariflor P. Punzalan Castillo and Ramon M. Bato, Jr. CA rollo, pp. 152-163.

[24] Id. at 57-58.

[25] 397 Phil. 840 (2000).

[26] Id. at 850; italics added in CA rollo, p. 160.

[27] Id. at 160-161.

[28] Id. at 56.

[29] Id. at 46-56.

[30] Id. at 158.

[31] Id. at 159.

[32] Id. at 165-178.

[33] Id. at 191-192.

[34] Rollo, pp. 25-55.

[35] Id. at 28-29.

[36] Rollo, pp. 38-39.

[37] Id. at 46-56.

[38] Id. at 56.

[39] Vide Perez-Ferraris v. Ferraris, G.R. No. 162368, 495 SCRA 396, July 17, 2006, 403-405.

[40] Id. at 405 (citation omitted).

[41] Vide id. at 405-406 (citations omitted).

[42] Perez-Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006, 495 SCRA 396, 400-401.

[43] Vide Republic v. Court of Appeals, 335 Phil. 664, 674 (1997).

[44] Ibid.

[45] Vide FAMILY CODE, Article 36; Republic v. Court of Appeals, id. at 677; Santos v. Court of Appeals, 310 Phil. 21, 39 (1995).

[46] Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508, 521 (citation omitted).

[47] Vide Republic v. Court of Appeals, supra note 43 at 678.

[48] Exhibit "B," records, p. 44.

[49] Vide 1987 CONSTITUTION, Article XV, Sections 1 and 2; Republic v. Iyoy, G.R. No. 152577, September 21, 2005, 470 SCRA 508, 526-527.

[50] Vide 1987 CONSTITUTION, Article XV, Section 2; FAMILY CODE, Article 1.

[51] Vide FAMILY CODE, Article 1; Perez-Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006, 495 SCRA 396, 403.

[52] Republic v. Court of Appeals, supra note 40 at 676.

[53] Ibid.

[54] Dedel v. Court of Appeals, 466 Phil. 226, 235 (2004).

[55] Vide Perez-Ferraris v. Ferraris, G.R. No. 162368, July 17, 2006, 495 SCRA 396, 403.

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