

VERONICA CABACUNGAN ALCAZAR, PETITIONER, VS. REY C. ALCAZAR, RESPONDENT.*G.R. No. 174451. October 13, 2009*

Ponente: CHICO-NAZARIO, J.

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This Petition for Review on Certiorari seeks to reverse the Decision[1] dated 24 May 2006 of the Court of Appeals in CA-G.R. CV No. 84471, affirming the Decision dated 9 June 2004 of the Regional Trial Court (RTC) of Malolos City, Branch 85, in Civil Case No. 664-M-2002, which dismissed petitioner Veronica Cabacungan Alcazar's Complaint for the annulment of her marriage to respondent Rey C. Alcazar.

The Complaint,[2] docketed as Civil Case No. 664-M-2002, was filed by petitioner before the RTC on 22 August 2002. Petitioner alleged in her Complaint that she was married to respondent on 11 October 2000 by Rev. Augusto G. Pabustan (Pabustan), at the latter's residence. After their wedding, petitioner and respondent lived for five days in San Jose, Occidental Mindoro, the hometown of respondent's parents. Thereafter, the newlyweds went back to Manila, but respondent did not live with petitioner at the latter's abode at 2601-C Jose Abad Santos Avenue, Tondo, Manila. On 23 October 2000, respondent left for Riyadh, Kingdom of Saudi Arabia, where he worked as an upholsterer in a furniture shop. While working in Riyadh, respondent did not communicate with petitioner by phone or by letter. Petitioner tried to call respondent for five times but respondent never answered. About a year and a half after respondent left for Riyadh, a co-teacher informed petitioner that respondent was about to come home to the Philippines. Petitioner was surprised why she was not advised by respondent of his arrival.

Petitioner further averred in her Complaint that when respondent arrived in the Philippines, the latter did not go home to petitioner at 2601-C Jose Abad Santos Avenue, Tondo, Manila. Instead, respondent proceeded to his parents' house in San Jose, Occidental Mindoro. Upon learning that respondent was in San Jose, Occidental Mindoro, petitioner went to see her brother-in-law in Velasquez St., Tondo, Manila, who claimed that he was not aware of respondent's whereabouts. Petitioner traveled to San Jose, Occidental Mindoro, where she was informed that respondent had been living with his parents since his arrival in March 2002.

Petitioner asserted that from the time respondent arrived in the Philippines, he never contacted her. Thus, petitioner concluded that respondent was physically incapable of consummating his marriage with her, providing sufficient cause for annulment of their marriage pursuant to paragraph 5, Article 45 of the Family Code of the Philippines (Family Code). There was also no more possibility of reconciliation between petitioner and respondent.

Per the Sheriff's Return[3] dated 3 October 2002, a summons, together with a copy of petitioner's Complaint, was served upon respondent on 30 September 2002.[4]

On 18 November 2002, petitioner, through counsel, filed a Motion[5] to direct the public prosecutor to conduct an investigation of the case pursuant to Article 48 of the Family Code.

As respondent did not file an Answer, the RTC issued on 27 November 2002 an Order[6] directing the public prosecutor to conduct an investigation to ensure that no collusion existed between the parties; to submit a report thereon; and to appear in all stages of the proceedings to see to it that evidence was not fabricated or suppressed.

On 4 March 2003, Public Prosecutrix Veronica A.V. de Guzman (De Guzman) submitted her Report manifesting that she had conducted an investigation of the case of petitioner and respondent in January 2003, but respondent never participated therein. Public Prosecutrix De Guzman also noted that no collusion took place between the parties, and measures were taken to prevent suppression of evidence between them. She then recommended that a full-blown trial be conducted to determine whether petitioner's Complaint was meritorious or not.

Pre-trial was held and terminated on 20 May 2003.

On 21 May 2003, the RTC received the Notice of Appearance of the Solicitor General.

Trial on the merits ensued thereafter.

During trial, petitioner presented herself, her mother Lolita Cabacungan (Cabacungan), and clinical psychologist Nedy L. Tayag (Tayag) as witnesses.

Petitioner first took the witness stand and elaborated on the allegations in her Complaint. Cabacungan corroborated petitioner's testimony.

Petitioner's third witness, Tayag, presented the following psychological evaluation of petitioner and respondent:

After meticulous scrutiny and careful analysis of the collected data, petitioner is found to be free from any underlying personality aberration neither (sic) of any serious psychopathological traits, which may possibly impede her normal functioning (sic) of marriage. On the other hand, the undersigned arrived to (sic) a firm opinion that the sudden breakdown of marital life between petitioner and respondent was clearly due to the diagnosed personality disorder that the respondent is harboring, making him psychologically incapacitated to properly assume and comply [with] essential roles (sic) of obligations as a married man.

The pattern of behaviors displayed by the respondent satisfies the diagnostic criteria of a disorder clinically classified as Narcissistic Personality Disorder, a condition deemed to be grave, severe, long lasting in proportion and incurable by any treatment.

People suffering from Narcissistic Personality Disorder are known to have a pervasive pattern of grandiosity (in fantasy or behavior), need for admiration, and lack of empathy, beginning by early adulthood and present in a variety of contexts, as indicated by five (or more) of the following:

1. has a grandiose of self-importance (e.g. exaggerates achievements and talents, expect to be recognized as superior without commensurate achievements)
2. is preoccupied with fantasies of unlimited success, power, brilliance, beauty or ideal love
3. believes that he or she is "special" and unique and can only be understood by, or should associate with, other special or high status people (institutions)
4. requires excessive admiration
5. has sense of entitlement, i.e., unreasonable expectations of especially favorable treatment or automatic compliance with his or her expectations
6. is interpersonally exploitative, i.e., takes advantage of others to achieve his or her own ends
7. lacks empathy: is unwilling to recognize or identify with the feelings and needs of others

8. is often envious of others or believes that others are envious of him or her

9. shows arrogant, haughty behavior or attitudes.

The root cause of respondent's personality disorder can be attributed to his early childhood years with predisposing psychosocial factors that influence[d] his development. It was recounted that respondent is the first child of his mother's second family. Obviously, unhealthy familial constellation composed his immediate environment in his growing up years. Respondent had undergone a severe longing for attention from his father who had been unfaithful to them and had died early in life, that he was left alone to fend for the family needs. More so that they were coping against poverty, his caregivers failed to validate his needs, wishes or responses and overlooked the love and attention he yearned which led to develop a pathological need for self-object to help him maintain a cohesive sense of self-such so great that everything other people offer is "consumed." Hence, he is unable to develop relationship with other (sic) beyond this need. There is no capacity for empathy sharing, or loving others.

The psychological incapacity of the respondent is characterized by juridical antecedence as it already existed long before he entered into marriage. Since it already started early in life, it is deeply engrained within his system and becomes a[n] integral part of his personality structure, thereby rendering such to be permanent and incurable.[7]

Tayag concluded in the end that:

As such, their marriage is already beyond repair, considering the fact that it has long been (sic) ceased to exist and have their different life priorities. Reconciliation between them is regarded to be (sic). The essential obligations of love, trust, respect, fidelity, authentic cohabitation as husband and wife, mutual help and support, and commitment, did not and will no lon[g]er exist between them. With due consideration of the above-mentioned findings, the undersigned recommends, the declaration of nullity of marriage between petitioner and respondent.[8]

On 18 February 2004, petitioner filed her Formal Offer of Evidence. Public Prosecutrix Myrna S. Lagrosa (Lagrosa), who replaced Public Prosecutrix De Guzman, interposed no objection to the admission of petitioner's evidence and manifested that she would no longer present evidence for the State.

On 9 June 2004, the RTC rendered its Decision denying petitioner's Complaint for annulment of her marriage to respondent, holding in substance that:

In the case at bar, the Court finds that the acts of the respondent in not communicating with petitioner and not living with the latter the moment he returned home from Saudi Arabia despite their marriage do (sic) not lead to a conclusion of psychological incapacity on his part. There is absolutely no showing that his "defects" were already present at the inception of their marriage or that these are incurable.

That being the case, the Court resolves to deny the instant petition.

WHEREFORE, premises considered, the Petition for Annulment of Marriage is hereby DENIED.[9]

Petitioner filed a Motion for Reconsideration[10] but it was denied by the RTC in an Order[11] dated 19 August 2004.

Aggrieved, petitioner filed an appeal with the Court of Appeals, docketed as CA-G.R. CV No. 84471. In a Decision[12] dated 24 May 2006, the Court of Appeals affirmed the RTC Decision dated 9 June 2004. The Court of Appeals ruled that the RTC did not err in finding that petitioner failed to prove respondent's psychological incapacity. Other than petitioner's bare allegations, no other evidence was presented to prove respondent's personality disorder that made him completely unable to discharge the essential obligations of the marital state.

Citing *Republic v. Court of Appeals*,^[13] the appellate court ruled that the evidence should be able to establish that at least one of the spouses was mentally or physically ill to such an extent that said person could not have known the marital obligations to be assumed; or knowing the marital obligations, could not have validly assumed the same. At most, respondent's abandonment of petitioner could be a ground for legal separation under Article 5 of the Family Code.

Petitioner's Motion for Reconsideration was denied by the Court of Appeals in a Resolution^[14] dated 28 August 2008.

Hence, this Petition raising the sole issue of:

WHETHER OR NOT, AS DEFINED BY THE LAW AND JURISPRUDENCE, RESPONDENT IS PSYCHOLOGICALLY INCAPACITATED TO PERFORM THE ESSENTIAL MARITAL OBLIGATIONS.^[15]

At the outset, it must be noted that the Complaint originally filed by petitioner before the RTC was for annulment of marriage based on Article 45, paragraph 5 of the Family Code, which reads:

ART. 45. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

x x x x

(5) That either party was physically incapable of consummating the marriage with the other, and such incapacity continues and appears to be incurable; x x x.

Article 45(5) of the Family Code refers to lack of power to copulate.^[16] Incapacity to consummate denotes the permanent inability on the part of the spouses to perform the complete act of sexual intercourse.^[17] Non-consummation of a marriage may be on the part of the husband or of the wife and may be caused by a physical or structural defect in the anatomy of one of the parties or it may be due to chronic illness and inhibitions or fears arising in whole or in part from psychophysical conditions. It may be caused by psychogenic causes, where such mental block or disturbance has the result of making the spouse physically incapable of performing the marriage act.^[18]

No evidence was presented in the case at bar to establish that respondent was in any way physically incapable to consummate his marriage with petitioner. Petitioner even admitted during her cross-examination that she and respondent had sexual intercourse after their wedding and before respondent left for abroad. There obviously being no physical incapacity on respondent's part, then, there is no ground for annulling petitioner's marriage to respondent. Petitioner's Complaint was, therefore, rightfully dismissed.

One curious thing, though, caught this Court's attention. As can be gleaned from the evidence presented by petitioner and the observations of the RTC and the Court of Appeals, it appears that petitioner was actually seeking the declaration of nullity of her marriage to respondent based on the latter's psychological incapacity to comply with his marital obligations of marriage under Article 36 of the Family Code.

Petitioner attributes the filing of the erroneous Complaint before the RTC to her former counsel's mistake or gross ignorance.^[19] But even said reason cannot save petitioner's Complaint from dismissal. It is settled in this jurisdiction that the client is bound by the acts, even mistakes, of the counsel in the realm of procedural technique.^[20] Although this rule is not a hard and fast one and admits of exceptions, such as where the mistake of counsel is so gross, palpable and inexcusable as to result in the violation of his client's substantive rights,^[21] petitioner failed to convince us that such exceptional circumstances exist herein.

Assuming for the sake of argument that we can treat the Complaint as one for declaration of nullity based on

Article 36 of the Family Code, we will still dismiss the Complaint for lack of merit, consistent with the evidence presented by petitioner during the trial.

Article 36 of the Family Code provides:

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.

In *Santos v. Court of Appeals*,^[22] the Court declared that "psychological incapacity" under Article 36 of the Family Code is not meant to comprehend all possible cases of psychoses. It should refer, rather, 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. Psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability.^[23]

The Court laid down the guidelines in resolving petitions for declaration of nullity of marriage, based on Article 36 of the Family Code, in *Republic v. Court of Appeals*,^[24] to wit:

(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. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(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.

Being accordingly guided by the aforequoted pronouncements in *Republic v. Court of Appeals*, we scrutinized the totality of evidence presented by petitioner and found that the same was not enough to sustain a finding that respondent was psychologically incapacitated.

Petitioner's evidence, particularly her and her mother's testimonies, merely established that respondent left petitioner soon after their wedding to work in Saudi Arabia; that when respondent returned to the Philippines a year and a half later, he directly went to live with his parents in San Jose, Occidental Mindoro, and not with petitioner in Tondo, Manila; and that respondent also did not contact petitioner at all since leaving for abroad. These testimonies though do not give us much insight into respondent's psychological state.

Tayag's psychological report leaves much to be desired and hardly helps petitioner's cause. It must be noted that Tayag was not able to personally examine respondent. Respondent did not appear for examination despite Tayag's invitation.[25] Tayag, in evaluating respondent's psychological state, had to rely on information provided by petitioner. Hence, we expect Tayag to have been more prudent and thorough in her evaluation of respondent's psychological condition, since her source of information, namely, petitioner, was hardly impartial.

Tayag concluded in her report that respondent was suffering from Narcissistic Personality Disorder, traceable to the latter's experiences during his childhood. Yet, the report is totally bereft of the basis for the said conclusion. Tayag did not particularly describe the "pattern of behavior" that showed that respondent indeed had a Narcissistic Personality Disorder. Tayag likewise failed to explain how such a personality disorder made respondent psychologically incapacitated to perform his obligations as a husband. We emphasize that the burden falls upon petitioner, not just to prove that respondent suffers from a psychological disorder, but also that such psychological disorder renders him "truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage." [26] Psychological incapacity must be more than just a "difficulty," a "refusal," or a "neglect" in the performance of some marital obligations.

In this instance, we have been allowed, through the evidence adduced, to peek into petitioner's marital life and, as a result, we perceive a simple case of a married couple being apart too long, becoming strangers to each other, with the husband falling out of love and distancing or detaching himself as much as possible from his wife.

To be tired and give up on one's situation and on one's spouse are not necessarily signs of psychological illness; neither can falling out of love be so labeled. When these happen, the remedy for some is to cut the marital knot to allow the parties to go their separate ways. This simple remedy, however, is not available to us under our laws. Ours is a limited remedy that addresses only a very specific situation - a relationship where no marriage could have validly been concluded because the parties; or where one of them, by reason of a grave and incurable psychological illness existing when the marriage was celebrated, did not appreciate the obligations of marital life and, thus, could not have validly entered into a marriage.[27]

An unsatisfactory marriage is not a null and void marriage. As we stated in *Marcos v. Marcos*[28]:

Article 36 of the Family Code, we stress, is not to be confused with a divorce law that cuts the marital bond at the time the causes therefor manifest themselves. It 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. x x x.

Resultantly, we have held in the past that mere "irreconcilable differences" and "conflicting personalities" in no wise constitute psychological incapacity.[29]

As a last-ditch effort to have her marriage to respondent declared null, petitioner pleads abandonment by and sexual infidelity of respondent. In a Manifestation and Motion[30] dated 21 August 2007 filed before us, petitioner claims that she was informed by one Jacinto Fordonez, who is residing in the same barangay as respondent in Occidental Mindoro, that respondent is living-in with another woman named "Sally."

Sexual infidelity, per se, however, does not constitute psychological incapacity within the contemplation of the Family Code. Again, petitioner must be able to establish that respondent's unfaithfulness is a manifestation of a disordered personality, which makes him completely unable to discharge the essential obligations of the marital state.[31]

It remains settled that the State has a high stake in the preservation of marriage rooted in its recognition of the sanctity of married life and its mission to protect and strengthen the family as a basic autonomous social institution. Hence, any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.[32] Presumption is always in favor of the validity of marriage. *Semper praesumitur pro matrimonio*. [33] In the case at bar, petitioner failed to persuade us that respondent's failure to communicate with petitioner since leaving for Saudi Arabia to work, and to live with petitioner after returning to the country, are grave psychological maladies that are keeping him from knowing and/or complying with the essential obligations of marriage.

We are not downplaying petitioner's frustration and misery in finding herself shackled, so to speak, to a marriage that is no longer working. Regrettably, there are situations like this one, where neither law nor society can provide the specific answers to every individual problem.[34]

WHEREFORE, the Petition is DENIED. The 24 May 2006 Decision and 28 August 2008 Resolution of the Court of Appeals in CA-G.R. CV No. 84471, which affirmed the 9 June 2004 Decision of the Regional Trial Court of Malolos City, Branch 85, dismissing petitioner Veronica Cabacungan Alcazar's Complaint in Civil Case No. 664-M-2002, are AFFIRMED. No costs.

SO ORDERED.

Carpio, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Penned by Associate Justice Magdangal de Leon with Justices Conrado M. Vasquez, Jr. and Mariano C. del Castillo (now a member of this Court) concurring; rollo, pp. 18-24.

[2] Records, pp. 3-5.

[3] Id. at 10.

[4] Id. at 75

- [5] Id. at 12.
- [6] Id. at 13.
- [7] Rollo, pp. 67-68.
- [8] Records, p. 69.
- [9] Id. at 80.
- [10] Id. at 91-95.
- [11] Id. at 96.
- [12] Rollo, p. 24.
- [13] 335 Phil. 664 (1997).
- [14] Rollo, p. 27.
- [15] Id. at 6.
- [16] Alicia V. Sempio-Dy, Handbook on the Family Code of the Philippines, p. 58.
- [17] Melencio S. Sta. Maria, Jr., Persons and Family Relations Law (2004 Edition,) p. 278.
- [18] Id. at 279.
- [19] Rollo, p. 8.
- [20] Tan Hang v. Paredes, 241 Phil. 740 (1988).
- [21] Heirs of Pael and Destura v. Court of Appeals, 382 Phil. 222, 244-245 (2000).
- [22] 310 Phil. 21, 30 (1995).
- [23] Id.; Marcos v. Marcos, 397 Phil. 840, 850 (2000).
- [24] Supra note 13 at 676-678.
- [25] TSN, 21 January 2004, p. 6
- [26] Santos v. Court of Appeals, supra note 22.
- [27] Renato Reyes So v. Valera, G.R. No. 150677, 5 June 2009.
- [28] Marcos v. Marcos, supra note 23 at 851.
- [29] Republic v. Court of Appeals, supra note 13.
- [30] Rollo, pp. 41-43.
- [31] Santos v. Court of Appeals, supra note 22; Hernandez v. Court of Appeals, 377 Phil. 919, 931-932 (1999); Dedel v. Court of Appeals, 466 Phil. 226, 233-232 (2004).
- [32] Carating-Sia yngco v Sia yngco, 484 Phil. 396, 412 (2004).
- [33] Id.
- [34] Dedel v. Court of Appeals, supra note 31.

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