



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

Mis-DC Batt
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

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SUPREME COURT OF THE PHILIPPINES
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GERARDO A. ELISCUPIDEZ,
Petitioner,

G.R. No. 226907

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, JJ.

- versus -

Promulgated:

GLENDAC. ELISCUPIDEZ,
Respondent.

July 22, 2019

Mis-DC Batt

X-----X

DECISION

PERALTA, J.:

This is a Petition for Review on *Certiorari* under Rule 45 seeking to reverse and set aside the Decision¹ dated May 31, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 103268, and the Resolution² dated September 2, 2016 which denied petitioner’s motion for reconsideration. The Decision of the CA reversed and set aside the Decision³ of the Regional Trial Court (RTC), Branch 163 of Taguig City, dated November 5, 2013, which declared the marriage between petitioner Gerardo A. Eliscupidez (*petitioner*) and respondent Glenda C. Eliscupidez (*respondent*) void *ab initio* on the ground of the latter’s psychological incapacity.

Petitioner and respondent first met in 1986. They eventually became lovers, maintaining an “on-and-off” relationship as respondent would still

¹ Penned by Associate Justice Leoncia Real-Dimagiba, with Associate Justices Ramon R. Garcia and Jhosep Y. Lopez concurring; *rollo*, pp. 45-54.

² *Id.* at 56-57.

³ Penned by Judge Leili Cruz Suarez; *id.* at 58-65.

entertain her other admirers, until they finally exchanged marital vows on November 20, 1990. They begot two children.⁴

On March 13, 2012, petitioner filed before the RTC of Taguig City a Petition for Declaration of Nullity of Marriage under Article 36 of the Family Code. Attempts to personally serve summons on the respondent failed as she could not be located in her last known address. On petitioner's motion, the trial court allowed service of summons by publication.

In compliance with an Order⁵ of the RTC dated August 3, 2012, the public prosecutor conducted an investigation to determine if there was collusion between the parties and found that there was none.

During trial, petitioner presented the following testimony which was adopted by the trial court: petitioner and respondent, while living with petitioner's parents in Manila so as to save money, would have frequent fights, with respondent having a habit of throwing things at petitioner; respondent allegedly tried to avoid getting pregnant, with her repeatedly asking their househelp to buy abortifacient medicines and to accompany her to a *manghihilot*, with respondent eventually suffering a miscarriage with their supposed first child; respondent forbade petitioner from looking at other females, from meeting up with his friends and relatives, and from wearing nice clothes, so that he could not flirt with other women; respondent asked petitioner to resign from his work to avoid meeting other people; on one occasion, respondent allegedly hit petitioner with a knife, injuring his right arm, just because respondent did not want him to attend to his assigned work project; petitioner was once admonished by his superior after respondent, thinking that petitioner was having an affair, went to his office, made a scene in front of his colleagues; respondent would often insult and berate the petitioner because of the latter's meager income, but despite the petitioner giving the respondent all his salary, respondent still incurred debts from their co-workers, the employees' cooperative, and from her credit cards; while petitioner was working in Milan, Italy, respondent neglected her responsibilities to their children; respondent engaged in an illicit affair with another man, with whom she lived together and begot two children; to save their marriage, petitioner repeatedly asked respondent to live with him, but the latter refused; in 2002 or 2003, respondent worked overseas where she had another affair with a married man.⁶

Petitioner presented as his witness Irene V. Oro (*Oro*) who worked as *kasambahay* for him and respondent when the two of them were still living together. Oro confirmed petitioner's testimony that respondent was irritable, was a "war freak," and that whenever petitioner and respondent would quarrel,

⁴ *Id.* at 46.

⁵ Records, p. 60.

⁶ *Rollo*, pp. 46-47.

respondent would throw things at the petitioner. Oro further claimed that the couple had a heated argument when petitioner found out that respondent had taken abortion pills. Oro added that the petitioner would be hurt whenever the couple fought with each other. She was, thus, forced to leave her work out of fear for her life, as petitioner and respondent's quarrels were becoming more frequent.⁷

Petitioner, likewise, presented the Psychological Evaluation Report (*Report*) of clinical psychologist Dr. Nedy L. Tayag. Dr. Tayag conducted her psychological evaluation of petitioner through personal examination while her assessment of the psychological behavior of respondent was based on her interviews of petitioner, Oro, and Vilma Cascabel Viernes (*Viernes*), the respondent's sister.⁸ A portion of the Report reads:

REMARKS:

After a careful assessment of the data presented, along with the results of the psychological tests administered, the undersigned psychologist arrives to a firm opinion that the collapse of the marriage between the herein couple was triggered by the psychological incapacity of the Respondent to assume and properly discharge her essential roles and obligations in marriage. Meanwhile, Petitioner, Gerardo, had shown a strong-willed and committed approach to his marital and family life with his spouse, child and in-laws so that he was able to fulfill his share of obligations and duties, which are essential to make his marriage a lasting one. He was likewise able to perform his gender role so that he was perceived as a good family man to his wife and child. Even upon exposure to the challenges and demands of being a career-oriented man and at the same time Head of his family, he had shown patience and understanding as well as extreme tolerance towards his irresponsible and abusive wife. For the sake of his child, he continuously strives to uphold his duties and responsibilities[,] thus, enabling him to meet the essential requirements of marriage and family life.

On the other hand, Glenda, respondent was seen to be harboring traits of a personality deficit classified as HISTRIONIC PERSONALITY DISORDER with Anti Social Personality Traits. She manifests a colorful, dramatic, extroverted behavior. She is usually adventurous so that she is too involved with her friends and the opposite sex to the extent of neglecting her family. She is also excitable and emotional because she allows her emotions to overrule her decisions such that she is impulsive when it comes to her decisions and actions. She may at times exaggerate while expressing her thoughts and feelings to the extent of being abusive and temperamental to her spouse, thus, humiliating him in front of other people with her nagging ways, fabricated stories and indiscretions. Similarly, she is known as hysterical for she easily reacts to people and situations even with trivial matters and setbacks since she is also prone to insecurities and aggressive outbursts of emotions. She has a high degree of attention-seeking behavior and prefers an extravagant way of life since she is pleased whenever she becomes the center of others' attention and support[,] and also tends to

⁷ *Id.* at 47-48.

⁸ *Id.* at 48.

display tantrums and tears whenever she fails to get what she wants or when she experiences problems within [her] marriage. More so, she endlessly needs reassurance from other people. She always attempts to gain her husband's forgiveness and continued loyalty even though she continuously betrayed his trust. Meanwhile, she is basically irresponsible and consistently fails to honor her sexual roles and obligations within their marriage such as taking care of her spouse and remaining faithful to their relationship. She also lacks remorse such that she never was truly guilty of what she did and up to present continues with irresponsible disposition against her spouse since she engaged in extra-marital relations since she wants to maintain her lifestyle of being single. She also abandoned her family in order to cohabit with her paramour.

Evidently, Respondent's flawed personality is a result of the lack of sufficient guidance and discipline from her upbringing as well as poor role models such as her parents and siblings' faulty lifestyle and relationships so that within the family, there was insufficient bonding, closeness and support. Hence, she has a greater need for reassurance, security and affection from others so that she learned to use her charm/good looks and assets in order to obtain such. x x x.

x x x x

The psychological incapacity of the Respondent is characterized by juridical antecedence, as it already existed long before she entered into marriage with the Petitioner. Since it started early in life, it has been deeply embedded within her system and becomes an integral part of her personality structure, thereby rendering such to be permanent and irreversible.

As based on the context mentioned above, the undersigned recommends that their marriage be declared null and void.⁹

On November 5, 2013, the RTC rendered a Decision in favor of petitioner. It disposed, thus:

WHEREFORE, premises considered, judgment is hereby rendered:

1. Declaring the marriage of petitioner and respondent *void ab initio* under Article 36 of the Family Code of the Philippines on the ground of respondent's psychological incapacity to perform her essential marital obligations.

2. Ordering the Local Civil Registrar of Oriental Mindoro as well as the National Statistics Office to cancel from their Book of Marriages the entries on the marriage of petitioner and respondent.

The Decree of Absolute Nullity shall be issued by the Court only after the Entry of Judgment shall have been registered with the Local Civil Registrar (LCR) of Oriental Mindoro where the parties' marriage was celebrated and with the LCR of Taguig City, conformably with Section 22 of A.M. 02-11-10-SC.



⁹ *Id.* at 20-23.

Furnish the Office of the Solicitor General, the Public Prosecutor and the herein parties with a copy of this decision.

SO ORDERED.¹⁰

The Office of the Solicitor General (*OSG*) moved to reconsider, but the RTC denied its motion in an Order dated June 24, 2014.¹¹

The OSG filed an appeal before the CA. It argued that the totality of the evidence presented by the petitioner failed to prove that the respondent was suffering from psychological incapacity. It added that the reliance of the RTC on the findings and conclusions of Dr. Tayag was without merit considering that her psychological evaluation of respondent was based only on the information given to her by petitioner, Oro, and Viernes.¹²

In its assailed Decision, the CA found merit in the appeal of the OSG.

The CA held that the sexual infidelity, irresponsibility, and other negative traits cited by the petitioner were not sufficient grounds to categorize respondent's condition as grave and serious so as to render her incapable of performing her essential marital obligations.¹³

The CA found that according to the records, Oro, the couple's former househelp who provided Dr. Tayag information on the latter's data gathering process with respect to behavioral, social, and emotional characteristics of the respondent, was only hired after the celebration of the marriage. The CA emphasized that while Viernes may be considered competent to provide information on the early life of the respondent, it had not been conclusively established that the alleged psychological incapacity of the respondent existed early in her life given the general information provided by Viernes. Thus, the CA held that Dr. Tayag's finding of "lack of sufficient guidance and discipline" and "poor role models" as root cause of respondent's psychological incapacity appear to be without factual basis.¹⁴ It added that the psychological impression provided by Dr. Tayag failed to explain in detail how the condition of the respondent could be characterized as grave, deeply-rooted, and incurable within the parameters of psychological incapacity.¹⁵ The appellate court found that the methodology used by Dr. Tayag did not meet the required standard of depth and comprehensiveness of examination needed to evaluate a party who is allegedly suffering from a psychological disorder.¹⁶ The dispositive portion of the CA Decision reads:

¹⁰ *Id.* at 65.

¹¹ *Id.* at 49.

¹² *Id.*

¹³ *Id.* at 52.

¹⁴ *Id.*

¹⁵ *Id.* at 52-53.

¹⁶ *Id.* at 53.



WHEREFORE, the Appeal is **GRANTED**. The Decision of the trial court dated 05 November 2013 is **REVERSED** and **SET ASIDE**. Accordingly, the petition for declaration of nullity of marriage filed by petitioner Gerardo Eliscupidez under Article 36 of the Family Code is **DISMISSED**; and the marriage of the parties remains valid and subsisting.

SO ORDERED.¹⁷

Petitioner's Motion for Reconsideration was denied by the CA in its assailed September 2, 2016 Resolution.¹⁸

Hence, this Petition raising the sole issue of whether the CA committed an error of law in reversing the Decision of the RTC which granted the Petition for Declaration of Nullity of Marriage under Article 36 of the Family Code filed by the petitioner.¹⁹

Petitioner argues that the findings of the RTC as regards the existence or non-existence of the psychological incapacity of a party should be final and binding. He also claims that his expert witness has concomitantly identified the juridical antecedence, gravity, and incurability of such psychological incapacity, and that he has presented independent evidence as to the existence of respondent's psychological incapacity and that the totality of evidence presented had duly proven the same.²⁰

The OSG, in its Comment,²¹ reiterated its arguments below, stressing that the conclusion stated in Dr. Tayag's Report could not be inferred from the statements of Viernes. The OSG maintained that the findings of "lack of sufficient guidance and discipline" and "poor role models" were, on respondent's part, contradictory to Viernes' description of her mother as strict, noting that it was stated in the Report that according to Viernes, it was because of their mother that she and respondent "were disciplined and molded to be dedicated to their studies."²²

We deny the petition.

It is axiomatic that the validity of marriage and the unity of the family are enshrined in our Constitution and statutory laws; hence any doubts attending the same are to be resolved in favor of the continuance and validity of the marriage and that the burden of proving the nullity of the same rests at

¹⁷ *Id.*
¹⁸ *Supra* note 2.
¹⁹ *Rollo*, p. 26.
²⁰ *Id.*
²¹ *Id.* at 84-102.
²² *Id.* at 95-96.



all times upon the petitioner.²³ No less than Section 2, Article XV, of the 1987 Constitution imposes upon the State the duty to protect the sanctity of marriage as a social institution and as the foundation of the family.²⁴ Because of this, the Constitution decrees marriage as legally inviolable and protects it from dissolution at the whim of the parties.²⁵

Given this constitutional inviolability of the institution of marriage, psychological incapacity as a ground to nullify the same under Article 36²⁶ of the Family Code should refer to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.²⁷ It must be a malady that is so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume.²⁸

This Court has reiterated in a number of cases²⁹ the landmark doctrine in *Santos v. Court of Appeals*,³⁰ “that psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.”

Thereafter, in *Republic v. Court of Appeals, et al.*,³¹ this Court laid down more definitive guidelines in the disposition of psychological incapacity cases, including “(t)he 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

²³ *Maria Concepcion N. Singson v. Benjamin L. Singson*, G.R. No. 210766, January 8, 2018.

²⁴ “Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.”

²⁵ *Del Rosario v. Del Rosario, et al.*, 805 Phil. 978, 987 (2017).

²⁶ 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.

²⁷ *Id.*

²⁸ *Republic of the Phils. v. Spouses Romero II*, 781 Phil. 737, 746 (2016).

²⁹ *Espina-Dan v. Dan*, G.R. No. 209031, April 16, 2018; *Yambao v. Republic of the Phils., et al.*, 655 Phil. 346 (2011); *Alcazar v. Alcazar*, 618 Phil. 616 (2009); *Ting v. Velez-Ting*, G.R. No. 166562, March 31, 2009.

³⁰ *Santos v. Court of Appeals, et al.*, 310 Phil. 21, 39 (1995).

³¹ 335 Phil. 664 (1997).

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.”³²

To entitle petitioner spouse to a declaration of the nullity of his or her marriage, the totality of the evidence must sufficiently prove that respondent spouse's psychological incapacity was grave, incurable and existing prior to the time of the marriage.³³ In this case, this Court agrees with the OSG that the totality of the evidence presented by the petitioner failed to prove psychological incapacity of the respondent to comply with the essential obligations of marriage. The root cause of respondent's alleged psychological incapacity was not sufficiently proven by experts or shown to be medically or clinically permanent or incurable.

We agree with the refusal of the CA to give credence and weight to the Report of Dr. Tayag. As found by the CA, Dr. Tayag declared in her Report that her professional services were engaged by petitioner in connection with the petition for nullity of his marriage with respondent, and that the persons who provided her with information as regards her data gathering with respect to the behavioral, social, and emotional characteristics of the respondent were the petitioner himself, their former househelp Oro, and respondent's sister Viernes.³⁴ This leads to the conclusion that findings in the same were solely based on the self-serving testimonial descriptions and characterizations of respondent rendered by petitioner and his witnesses.

Moreover, the conclusion of Dr. Tayag that respondent's psychological incapacity existed early in her life were merely based on the information provided by Viernes that she and respondent were their father's second family, and that respondent was very manipulative. Dr. Tayag merely generalized her explanations as to the reason behind and the extent of respondent's alleged personality disorder. The CA correctly pointed out that Dr. Tayag's Report failed to explain in detail how respondent's condition could be characterized as grave, deeply-rooted, and incurable within the doctrinal context of “psychological incapacity.” Said the CA:

x x x It was arrived at only on the basis of the information gathered from the petitioner, whose bias in favor of his cause cannot be discounted, and the very limited information from the respondent's sister. While this circumstance alone does not disqualify the psychologist for reasons of bias, her report, testimony and conclusions deserve the application of a more rigid and stringent set of standards. The methodology employed simply cannot satisfy the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder. In short, this is not the psychological report that the Court can rely

³² *Id.* at 677. (Emphasis ours)

³³ *Mendoza v. Republic of the Phils., et al.*, 698 Phil. 241, 243 (2012).

³⁴ *Rollo*, p. 52.

[on] as basis for the conclusion that psychological incapacity exists. Verily, although expert opinion furnished by psychologists regarding the psychological temperament of parties are usually given considerable weight by the court, the existence of psychological incapacity must still be proven by independent evidence.³⁵

This Court has long been negatively critical in considering psychological evaluations, presented in evidence, derived solely from one-sided sources, particularly from the spouse seeking the nullity of the marriage.³⁶ Verily, the guidelines set forth in *Santos v. Court of Appeals*³⁷ do not require that a physician examine the person to be declared psychologically incapacitated. What is important is the presence of evidence that can adequately establish the party's psychological condition.³⁸ For indeed, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to.³⁹

In the present case, however, the totality of the evidence presented by the petitioner fails to convince this Court that respondent suffered from a psychological incapacity that is permanent or incurable, and that has existed at the time of the celebration of the marriage. Although respondent was said to have exhibited “dramatic, extroverted behavior” who was “prone to insecurities and aggressive outbursts of emotions,” these characterizations fell short of proving that she was psychologically incapacitated to assume her marital responsibilities. Thus, while this Court commiserates with petitioner’s predicament, the evidence on record does not square with the existence of psychological incapacity as contemplated by law and jurisprudence. Petitioner and respondent’s marriage cannot therefore be declared null and void under Article 36 of the Family Code.

WHEREFORE, the petition is hereby **DENIED** for lack of merit. The Decision dated May 31, 2016 and the Resolution dated September 2, 2016 in CA-G.R. CV No. 103268 are **AFFIRMED**.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

³⁵ *Id.* at 53. (Citations omitted)

³⁶ *Toring v. Toring, et al.*, 640 Phil. 434, 450 (2010).

³⁷ *Supra* note 29.

³⁸ *Marcos v. Marcos*, 397 Phil. 840, 850 (2000).

³⁹ *Id.*

WE CONCUR:

See separate dissenting opinion


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

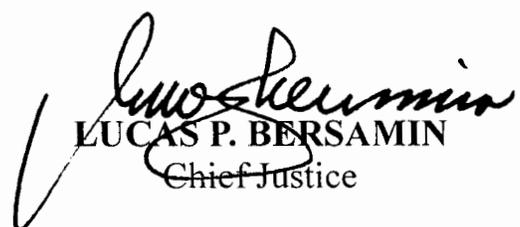
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY


LUCAS P. BERSAMIN
Chief Justice

Mis ADC Batt
MISAELO DOMENGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

SEP 24 2019