



Republic of the Philippines  
**Supreme Court**  
 Manila

SUPREME COURT OF THE PHILIPPINES  
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**SECOND DIVISION**

**PATRICIA Q. AUSTRIA- G.R. No. 222908**  
**CARREON,**

*Petitioner,* Present:

PERLAS-BERNABE, S.A.J.,  
*Chairperson,*

HERNANDO,  
 INTING,  
 GAERLAN,\* and  
 DIMAAMPAO,\*\* JJ.

- versus -

**LUIS EMMANUEL G. CARREON**  
**and REPUBLIC OF THE**  
**PHILIPPINES,**

*Respondents.*

Promulgated:

**DEC 06 2021**

X-----X

**D E C I S I O N**

**INTING, J.:**

This Petition for Review and Original Action for *Certiorari*<sup>1</sup> under Rule 45 and 65 of the Rules of Court assails the Decision<sup>2</sup> dated August 27, 2014 and the Resolution<sup>3</sup> dated February 9, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 97642. The CA reversed and set aside the Decision<sup>4</sup> dated November 8, 2010 of Branch 89, Regional Trial Court (RTC), Bacoor, Cavite, which declared the marriage of Patricia Q. Austria-Carreon (petitioner) with Luis Emmanuel G. Carreon (respondent) null and void.

\* On official leave.

\*\* On official leave.

<sup>1</sup> *Rollo*, pp. 3-22.

<sup>2</sup> *Id.* at 34-40; penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) with Associate Justices Rebecca C. De Guia-Salvador and Leoncia Real-Dimagiba, concurring.

<sup>3</sup> *Id.* at 262.

<sup>4</sup> *Id.* at 25-32; penned by Executive Judge Eduardo Israel Tanguanco.

*AM*

### *The Antecedents*

On February 29, 2008, petitioner filed a Petition for Declaration of Absolute Nullity of Marriage<sup>5</sup> that sought to have her marriage with respondent declared null and void.<sup>6</sup> Anchoring her petition on Article 36 of the Family Code, petitioner alleged that she and respondent are both psychologically incapacitated to comply with their essential marital obligations.<sup>7</sup>

Sometime in 1992, she was introduced to respondent by a common friend. At that time, petitioner worked as a cargo supervisor with an airline company. Respondent, on the other hand, also worked as a cargo agent assigned in her flight operations. Thereafter, they became sweethearts. Petitioner and respondent hardly went out on dates because respondent's mother would only allow respondent to go out once a month. Respondent's mother openly showed a dislike for her.<sup>8</sup>

After two years of being in a relationship, they planned to get married. However, before any preparations could be made, petitioner got pregnant. Surmising that respondent might not be ready for a married life, petitioner did not oblige respondent to marry her. On the other hand, respondent, desirous to release himself from his parents' strict parental authority, insisted on their marriage.<sup>9</sup>

On October 22, 1994, petitioner and respondent got married at St. Therese of the Child Jesus Church in Villamor Air Base, Pasay City.<sup>10</sup> She solely shouldered most of the expenses as respondent's family did not contribute any share in the expenses. They initially stayed with petitioner's mother in Makati City for several months. Later on, they transferred to Merville Park, Paranaque City and stayed at the house lent by petitioner's mother. During their marriage, they did not acquire any conjugal property to their name. On March 26, 1995, petitioner gave birth to their son, Jeremy Austria Carreon.<sup>11</sup>

<sup>5</sup> *Id.* at 123-131.

<sup>6</sup> *Id.* at 130.

<sup>7</sup> *Id.* at 129.

<sup>8</sup> *Id.* at 124.

<sup>9</sup> *Id.*

<sup>10</sup> See Certificate of Marriage, *id.* at 121.

<sup>11</sup> *Id.*

During their cohabitation, respondent failed to voluntarily give her any financial support. She always had to remind him of his financial obligations. She paid for everything in the household, including respondent's personal needs. Respondent admitted that he only wanted to get married a year or two after she got pregnant.<sup>12</sup> Petitioner felt that respondent was drifting away from her. At home, respondent would rather be alone watching television than talk to her. Everytime she would ask what was bothering him, he would always answer that nothing was wrong.<sup>13</sup> Respondent's behavior worsened. On several occasions, petitioner caught respondent having extramarital affairs. As she was going through a personal crisis of her own wherein she was disowned by her siblings, petitioner proposed to respondent their separation. In 2000, they separated. Petitioner and their son transferred to a rented townhouse in Carmona, Cavite.<sup>14</sup>

In 2001, petitioner decided to reconcile with respondent. However, their relationship lacked personal intimacy. They realized that they were only living with each other for the sake of their son. Petitioner always recalled respondent's incidents of infidelity, which continued to bother her despite having forgiven him.<sup>15</sup>

In 2007, she accidentally read an SMS text message on respondent's phone coming from his girlfriend. She also saw some pictures of the woman on his phone. Petitioner immediately confronted respondent and told him to leave their house. Respondent then left their conjugal dwelling. Respondent occasionally visited their son to spend time with him.<sup>16</sup>

For failure of respondent to file any responsive pleading, the RTC designated Prosecutor Hilario B. Dumauual, Jr. to determine whether collusion existed between the parties. Finding none, the RTC set the trial on the merits.<sup>17</sup>

In support of her petition, petitioner invoked the Psychological Evaluation Report<sup>18</sup> issued by Dr. Julian R. Montano (Dr. Montano), who

<sup>12</sup> *Id.* at 27, 125.

<sup>13</sup> *Id.* at 27.

<sup>14</sup> *Id.* at 125.

<sup>15</sup> *Id.* at 126.

<sup>16</sup> *Id.* at 27.

<sup>17</sup> *Id.* at 25.

<sup>18</sup> *Id.* at 133-146.

found both parties to be psychologically incapacitated to comply with their essential marital obligations. Dr. Montano evaluated petitioner and respondent to be suffering from “Personality Disorder Not Otherwise Specified” demonstrative of Dependent and Depressive Personality Disorders and Narcissistic Personality Disorder, respectively.<sup>19</sup>

Dr. Montano explained that petitioner had difficulty expressing disagreements with others because of fear of disapproval. She would usually go excessive lengths to obtain nurturance and support. She would feel uncomfortable or helpless when alone because of exaggerated fears that she would be unable to take care of herself. Dr. Montano illustrated petitioner as pessimistic, negativistic, and prone to feelings of guilt and remorse. He opined that petitioner's disorder was serious, grave, and incurable because she lacked insight about her condition and did not have the genuine commitment to seek treatment.<sup>20</sup>

On the other hand, Dr. Montano found that respondent's Narcissistic Personality Disorder was manifested by his grandiose sense of self-importance; exaggerated achievements and talents; and pre-occupation with fantasies of unlimited success, power, brilliance, or ideal love. Respondent believed that he was special, requiring excessive admiration. He was also interpersonally exploitative, taking advantage of others to achieve his own ends. Dr. Montano opined that petitioner's disorder was serious, grave, incurable, and could be traced from his childhood as he was raised by a disciplinarian and overly structured mother. His father was physically and emotionally absent.<sup>21</sup>

Dr. Montano illustrated that “[w]hen confronted with external sources of control that are dictated by society, [respondent] could not adjust to them in acceptable ways.”<sup>22</sup> Instead, respondent would react with “emotional immaturity, poor judgment, and poor sense of responsibility.”<sup>23</sup> Dr. Montano added that respondent's relationships with his significant others are characteristically lacking in genuineness and is one-sided, just as how he treated petitioner.<sup>24</sup>

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<sup>19</sup> *Id.* at 146.

<sup>20</sup> *Id.* at 142 and 144.

<sup>21</sup> *Id.* at 144-145.

<sup>22</sup> *Id.* at 145.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

Dr. Montano opined that the parties' personality disorders made them incapable of performing their respective essential marital obligations. He added that reconciliation would be impossible and not totally healthy. Thus, he recommended that the marriage between petitioner and respondent be nullified.<sup>25</sup>

*Ruling of the RTC*

In its Decision<sup>26</sup> dated November 8, 2010, the RTC declared the parties' marriage null and void, disposing thus:

ACCORDINGLY, judgment is rendered as follows:

- 1) Declaring and decreeing the marriage entered into between petitioner Patricia Austria Carreon and Luis Emmanuel Carreon null and void on the ground of their psychological incapacity to comply with the essential marital obligations of marriage;
- 2) Ordering the liquidation, partition, and distribution of the assets of the community property, if there be any, in accordance with Articles 50 and 51 of the Family Code;
- 3) Awarding the care and custody of their minor son Jeremy Carreon to petitioner, with visitorial rights given to the respondent without prejudice to the time and place to which the parties may agree upon; and,
- 4) Authorizing the petitioner to revert back [*sic*] to the use of her maiden name.

The Office of the Civil Registrar of Pasay City is ordered to make the necessary entries and corrections in the marriage contract of the parties.

x x x x

SO ORDERED.<sup>27</sup>

The RTC found that petitioner and respondent are psychologically incapacitated to fulfill their marital obligations. It gave weight to the findings of Dr. Montano that the psychological incapacities of the parties could be traced from how they were brought up by their respective

<sup>25</sup> *Id.* at 29.

<sup>26</sup> *Id.* at 25-32.

<sup>27</sup> *Id.* at 32.

families. The RTC held that their psychological incapacities are grave and incurable.<sup>28</sup>

The Republic of the Philippines, represented by the Office of the Solicitor General (OSG), filed a Motion for Reconsideration,<sup>29</sup> but the RTC denied it in an Order dated February 21, 2011.

The OSG then appealed to the CA.

#### *Ruling of the CA*

In the assailed Decision<sup>30</sup> dated August 27, 2014, the CA reversed and set aside the RTC Decision and dismissed the Petition for Declaration of Nullity of Marriage.

The CA found no evidence proving that one or both parties' supposed psychological incapacity is of a *serious, incurable, and medical nature*. It was not convinced that petitioner or respondent was suffering from a psychological infirmity "rooted in medical causes" that incapacitated them from complying with their basic marital obligations.<sup>31</sup>

The CA ruled that respondent's lack of communication skills and financial resources to support his family in a manner to which petitioner was accustomed to, as well as his alleged infidelity and immaturity, were not of a psychological nature that would warrant the nullification of the parties' marriage.<sup>32</sup>

The CA disposed, thus:

WHEREFORE, the Decision, dated 8 November 2010, of the Regional Trial Court, Branch 89, Bacoor, Cavite in Civil Case No. BCV-2008-23 for Declaration of Nullity of a Void Marriage (under Article 36 of the Family Code), declaring the marriage of Patricia and Luis Emmanuel Carreon *void ab initio* is REVERSED and SET ASIDE. The petition for Declaration of Nullity of Marriage is DISMISSED.

<sup>28</sup> *Id.* at 31.

<sup>29</sup> *Id.* at 162-167.

<sup>30</sup> *Id.* at 34-40.

<sup>31</sup> *Id.* at 36-38.

<sup>32</sup> *Id.* at 38.

SO ORDERED.<sup>33</sup>

In an Entry of Judgment<sup>34</sup> dated December 15, 2015, the CA Decision dated August 27, 2014 had become final and executory on April 12, 2015.

Petitioner claimed that she never received a copy of the CA Decision dated August 27, 2014. In December 2015, petitioner allegedly told her counsel to follow up the case with the CA. Upon learning of the adverse Decision, petitioner filed a Formal Entry of Appearance with Motion for Reconsideration.<sup>35</sup>

In the assailed Resolution<sup>36</sup> dated February 9, 2016, the CA denied petitioner's Formal Entry of Appearance with Motion for Reconsideration, treating it as a second motion for reconsideration.

Hence, the petition.

#### *Issues*

- 1) Whether the CA committed reversible error in treating petitioner's Formal Entry of Appearance with Motion for Reconsideration as a second motion for reconsideration, and denying the same.
- 2) Whether the CA committed reversible error in dismissing petitioner's Petition for Declaration of Nullity of Marriage.

#### *The Court's Ruling*

The Court denies the petition.

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<sup>33</sup> *Id.* at 39-40.

<sup>34</sup> *Id.* at 250.

<sup>35</sup> *Id.* at 44-54.

<sup>36</sup> *Id.* at 262.

*On The Procedural Matter Of  
The Case*

In the petition before the Court, petitioner claims that she never received a copy of the CA Decision; thus:

This DECISION of the Honorable Court of Appeals was never received by the petitioner as she had moved out of her address on record prior to receiving any notices. In addition, her former counsel had withdrawn from the case also prior to elevation of the records to the Court of Appeals.

In December of 2015, petitioner requested undersigned counsel to follow-up this case with the Honorable Court of Appeals. On December 28, 2015, undersigned counsel, for and on behalf of the petitioner, received the DECISION of the Honorable Court of Appeals in CA G.R. CV No. 97642. On January 12, 2016, and within the fifteen (15) day period allowed by the rules, petitioner, through counsel, filed a MOTION FOR RECONSIDERATION of the DECISION.

On February 16, 2016, petitioner, through counsel, received the Resolution, dated February 9, 2016, of the Honorable Court of Appeals, which states:

“The Formal Entry of Appearance with Motion for Reconsideration filed by the petitioner-appellee is treated as a second Motion for Reconsideration and the same is hereby DENIED pursuant to Sec. 2, Rule 52 of the 1997 Rules of Civil Procedure.”<sup>37</sup>

From the records, the Court finds that the Motion for Reconsideration referred to by the OSG in its Comment<sup>38</sup> was filed by respondent, not by petitioner. It was respondent who received a copy of the CA Decision dated August 27, 2014 on September 16, 2014, and it was respondent's counsel who filed a Motion for Extension of Period to File Motion for Reconsideration<sup>39</sup> and the Motion for Reconsideration.<sup>40</sup> In its Resolution<sup>41</sup> dated March 13, 2015, the CA denied the Motion for Extension and expunged from its record respondent's Motion for Reconsideration on the ground that they were belatedly filed.

<sup>37</sup> *Id.* at 9-10.

<sup>38</sup> *Id.* at 85-118.

<sup>39</sup> *Id.* at 235-236.

<sup>40</sup> *Id.* at 237-244.

<sup>41</sup> *Id.* at 248-249; penned by Associate Justice Ricardo R. Rosario (now a Member of the Court) with Associate Justices Mag. Jangal M. De Leon and Leoncia Real-Dimagiba, concurring.

When the CA treated petitioner's Formal Entry of Appearance with Motion for Reconsideration as a second motion for reconsideration in the assailed Resolution<sup>42</sup> dated February 9, 2016, the CA erroneously noted that it was petitioner who filed a motion for reconsideration in 2014. Thus, the CA erred in denying petitioner's Formal Entry of Appearance with Motion for Reconsideration pursuant to Section 2, Rule 52 of the 1997 Rules of Civil Procedure which provides that “[no] second motion for reconsideration of a judgment or final resolution by the same party shall be entertained.”

*Nevertheless*, the CA did not err in denying petitioner's Motion for Reconsideration.

Petitioner alleges that she was informed of the Decision dated August 27, 2014 only on December 28, 2015, when she requested her counsel to follow-up on the case. Petitioner argues that the 15-day period to move for reconsideration began to run only on December 28, 2015. She further alleges that her Formal Entry of Appearance with Motion for Reconsideration was timely filed on January 12, 2016.

Petitioner fails to persuade. The records reveal that only petitioner could be faulted for her failure to receive a copy of the CA Decision.

In the Resolution dated March 13, 2015 that denied respondent's Motion for Extension of Period to File Motion for Reconsideration,<sup>43</sup> the CA found that a copy of the Decision dated August 27, 2014, which was sent to petitioner, was returned to it on September 23, 2014 with postal notation, “RTS-moved out.”<sup>44</sup> The CA ruled that service was deemed complete pursuant to Sections 7 and 8, Rule 13 of the Rules of Court. Per verification in its Court Management Information System (CMIS), the CA noted that no motion for reconsideration had been filed by petitioner. From these premises, the CA held that its Decision dated August 27, 2014 had already become final and executory.<sup>45</sup>

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<sup>42</sup> *Id.* at 262.

<sup>43</sup> *Id.* at 235-236.

<sup>44</sup> *Id.* at 249.

<sup>45</sup> *Id.*

As early as September 13, 2012, petitioner's former counsel, Atty. Dexter A. Bihis, filed a Notice of Withdrawal with petitioner's conformity.<sup>46</sup> On January 18, 2013, the CA noted Atty. Bihis' Notice of Withdrawal and directed that all notices be sent to petitioner.<sup>47</sup> In the petition before the Court, petitioner admitted that:

In the meantime, counsel for petitioner, ATTY. DEXTER BIHIS, withdrew from the case with the consent of the petitioner. Also, the petitioner transferred residences and wasn't able to keep track of notices in this case.<sup>48</sup>

From the time of Atty. Bihis' withdrawal of appearance as petitioner's counsel on September 13, 2012, which was done with her conformity, until January 12, 2016 when petitioner's new counsel filed a Formal Entry of Appearance with Motion for Reconsideration with the CA, *petitioner did not bother to secure the services of a new counsel.* Worse, she transferred to another residence without informing the CA of her new address, which led to her failure to track the notices of the case. The records of the case also showed that petitioner no longer filed the required appellee's brief before the CA.<sup>49</sup>

The general rule is that where a party is represented by an attorney in an action or proceedings in a court of record, all required notices must be given to the attorney on record.<sup>50</sup> The service of the court's order upon any person other than the counsel on record is not legally effective and binding upon the party, and it may not start the running of the corresponding reglementary period for the subsequent procedural steps that may be taken by the attorney.<sup>51</sup> Here, there was no counsel of record at the time the CA rendered the assailed Decision because petitioner's former counsel withdrew his appearance, with her conformity. As such, the CA sent all notices to petitioner's address on record. The notices were then returned unserved for the reason that petitioner had "moved out."

Indeed, petitioner cannot successfully invoke denial of due process in failing to receive the CA Decision because of her own fault. Petitioner slept on her rights: *first*, by not securing the service of a new counsel after the withdrawal of representation by her former counsel with

<sup>46</sup> *Id.* at 224; See Resolution dated January 18, 2013 of the Court of Appeals.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 9.

<sup>49</sup> *Id.* at 226.

<sup>50</sup> *Cervantes v. City Service Corp.*, 784 Phil 694, 698 (2016).

<sup>51</sup> *Id.*

her conformity; and *second*, by not informing the CA of her new address. To countenance petitioner's act would put premium on negligence, and encourage the non-termination of cases simply by not informing the courts of a new forwarding address.<sup>52</sup>

As it is not incumbent upon the court to determine the addresses of party-litigants,<sup>53</sup> the parties have the duty to inform the court of their change of address.<sup>54</sup> True, notices of the court processes are ordinarily taken care of by clerks who are naturally guided by addresses of records.<sup>55</sup> However, the court and its personnel, prior to sending out notices, are not required to continuously check the records and various addresses from which a counsel may have filed his pleadings, and to send them to such addresses instead of his or her address of record.<sup>56</sup> To do so would create confusion and intolerably burden the courts.<sup>57</sup>

Because of petitioner's failure to timely file a motion for reconsideration, the assailed CA Decision dated August 27, 2014 had already become final and executory on April 12, 2015. Thus, the CA correctly denied petitioner's Formal Entry of Appearance with Motion for Reconsideration, not because it was a second motion for reconsideration, but because it was belatedly filed.

It is a settled rule that judgments become final and executory by operation of law, and not by judicial declaration.<sup>58</sup> The finality of judgment becomes a fact upon the lapse of the reglementary period of appeal if no appeal is perfected, or if no motion for reconsideration or motion for new trial is filed.<sup>59</sup>

### *On The Merits Of The Case*

Even if the Court were to disregard the foregoing procedural infirmity, the petition would nevertheless fail on the merits.

<sup>52</sup> *Vill Transport Service, Inc. v. Court of Appeals*, 271 Phil. 25, 31 (1991).

<sup>53</sup> *Alicer and Administrator of the Intestate Estate of the Heirs of Alicer v. Compas, et al.*, 664 Phil. 722, 728 (2011).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

<sup>58</sup> *Philippine Savings Bank v. Papa*, 823 Phil. 725, 736 (2018), citing *Barrio Fiesta Restaurant v. Beronia*, 789 Phil. 520, 539 (2016).

<sup>59</sup> *Id.*

Article 36 of the Family Code provides:

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. (Italics Supplied.)

Psychological incapacity contemplates “downright incapacity or inability to take cognizance of and to assume the basic marital obligations.”<sup>60</sup>

In *Santos v. CA*,<sup>61</sup> the Court laid down the following requisites that must be complied with to prove psychological incapacity, *viz*: (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.<sup>62</sup> These parameters were reduced into definitive guidelines in *Republic of the Philippines v. Court of Appeals and Molina*<sup>63</sup> (*Molina*), as follows:

(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. x x x.

(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. x x x.

(3) The incapacity must be proven to be existing at “the time of the celebration” of the marriage. x x x.

(4) Such incapacity must also be shown to be medically or clinically permanent or *incurable*. x x x.

<sup>60</sup> *Republic of the Philippines v. Iyoy*, 507 Phil. 485, 502 (2005), citing *Republic v. Court of Appeals and Molina*, 335 Phil. 664, 678 (1997).

<sup>61</sup> 310 Phil. 21 (1995).

<sup>62</sup> *Castillo v. Rep. of the Phils.*, 805 Phil. 209, 238 (2017).

<sup>63</sup> 335 Phil. 664 (1997).

(5) Such illness must be *grave* enough to bring about the disability of the party to assume the essential obligations of marriage. x x x.

(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. x x x.

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

x 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. x x x.<sup>64</sup>

However, in the recent case of *Tan-Andal v. Andal*<sup>65</sup> (*Tan-Andal*) promulgated on May 11, 2021, the Court held that the foregoing guidelines proved to be “restrictive, rigid, and intrusive on our rights to liberty, autonomy, and human dignity.”<sup>66</sup> Observing that the stringent application of the *Molina* guidelines is antithetical to how the concept of psychological incapacity came about, the Court laid out a “comprehensive but nuanced interpretation of what truly constitutes psychological incapacity,”<sup>67</sup> modifying the *Molina* guidelines.

Notably, the second and fourth guidelines in *Molina*—that the root cause of psychological incapacity be “medically or clinically identified,” and must also be “medically or clinically incurable”—were abandoned. With the modification, psychological incapacity no longer requires that it be a mental incapacity or a personality disorder that must be proven by expert opinion:

[T]his Court now categorically abandons the second *Molina* guideline. *Psychological incapacity is neither a mental incapacity nor*

<sup>64</sup> *Id.* at 676-680. Citations omitted.

<sup>65</sup> G.R. No. 196359, May 11, 2021.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

*a personality disorder that must be proven through expert opinion. There must be proof, however, of the durable or enduring aspects of a person's personality, called "personality structure," which manifests itself through clear acts of dysfunctionality that undermines the family.* The spouse's personality structure must make it impossible for him or her to understand and, more important, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the latter contracted marriage may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse. From there, the judge will decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.

In this way, the Code Committee's intent to limit the incapacity to "psychic causes" is fulfilled. Furthermore, there will be no need to label a person as having a mental disorder just to obtain a decree of nullity. A psychologically incapacitated person need not be shamed and pathologized for what could have been a simple mistake in one's choice of intimate partner, a mistake too easy to make as when one sees through rose-colored glasses. A person's psychological incapacity to fulfill his or her marital obligations should not be at the expense of one's dignity, because it could very well be that he or she did not know that the incapacity existed in the first place.<sup>68</sup> (Italics supplied.)

As the rule now stands, expert testimony is no longer indispensable. Ordinary witnesses who may have been present in the life of the concerned spouse prior to his or her marriage may testify on his or her behaviors that they have consistently observed from the purportedly incapacitated spouse.<sup>69</sup> These testimonies would then be evaluated by the judge who will decide whether the observed behaviors, as portrayed by these witnesses, are indicative of the concerned spouses' serious incapacity to assume his or her essential marital obligations.<sup>70</sup>

Thus, under the parameter of *juridical antecedence*, psychological incapacity may now be proven by an ordinary witness who can portray the concerned spouse's past experiences or environment growing up, which may have triggered his or her particular behavior.<sup>71</sup> This modification seeks to clarify that psychological incapacity contemplated

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<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

under Article 36 should be considered as a legal concept, and not a medical one.<sup>72</sup> As underscored in *Tan-Andal*:

x x x [Psychological incapacity must be] so enduring and persistent with respect to a specific partner, and contemplates a situation where the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage. “[A]n undeniable pattern of such persisting failure [to be a present, loving, faithful, respectful, and supportive spouse] must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other.”<sup>73</sup> (Italics supplied.)

On the other hand, *gravity* does not require that the psychological incapacity be of a serious or dangerous illness. *Nevertheless*, it must be shown to have been caused by a “genuinely serious psychic cause.”<sup>74</sup> *Tan-Andal* is categorical in that “mild characterological peculiarities, mood changes, occasional emotional outbursts”<sup>75</sup> would still not amount to psychological incapacity under Article 36. Thus, mere “refusal, neglect[,] or difficulty, much less ill will” relating to the performance of essential marital obligations cannot amount to psychological incapacity as a ground to nullify a marriage.<sup>76</sup>

In this case, while the application by the CA of the previous parameter—that psychological incapacity be of a “serious, incurable and medical nature,” and one “rooted in medical causes,”—is no longer warranted, *petitioner failed to satisfy the parameter of gravity*.

As aptly found by the CA, petitioner's testimony only sought to establish respondent's immaturity and irresponsibility, *i.e.*, lack of communication skills and failure to provide financial support to their family, and that he exhibited signs of infidelity.<sup>77</sup> In her testimony, petitioner declared that: (1) respondent was drifting away from her; (2) their relationship lacked intimacy; (3) they realized that they only stayed together for the sake of their child; and (4) petitioner would always be haunted by respondent's purported acts of infidelity despite having forgiven him.<sup>78</sup> The foregoing are characteristics of what *Tan-Andal*

<sup>72</sup> *Id.*; see also Concurring Opinion of Associate Justice Henri Jean Paul B. Inting, p. 9.

<sup>73</sup> *Id.*, citing the Concurring Opinion of Senior Associate Justice Estela M. Perlas-Bernabe, p. 26.

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*, citing *Republic v. Court of Appeals and Molina*, *supra* note 63 at 678.

<sup>76</sup> *Id.*

<sup>77</sup> *Rollo*, p. 38.

<sup>78</sup> *Id.* at 125-126.

underscored as “mild characterological peculiarities” not amounting to psychological incapacity within the contemplation of Article 36. They are manifestations of mere refusal, neglect or difficulty to perform the essential marital obligations,<sup>79</sup> short of genuinely serious psychic causes, as would render respondent completely unable to discharge the essential marital obligations.

In the same vein, Dr. Roman's portrayal of petitioner as suffering from “Personality Disorder Not Otherwise Specified” demonstrative of Dependent and Depressive Personality Disorder making her “incapable of expressing unconditional love, mutual support, and genuine concern for the welfare of her spouse and his son” is not indicative of a serious psychic cause, as would make her totally incognitive of her marital obligations to respondent. Telling is the assessment itself of Dr. Roman:

*Patricia is super-dependable. She has a strong need to be of service to others. She relates well with people who need her, for example, the sick or those in need. Much satisfaction comes to her when she is taking care of the needs of another. Also for this reason, Patricia was predisposed to marry someone with strong dependency needs. As she conducts her rescue missions to save her dependent husband, as a way to satisfy her personal need of taking care of the downtrodden, Patricia experiences these missions already as attempts to reform by her husband—consequently camouflaging the serious irresponsible behaviour of her husband as trial matters and perpetuating his dependent and irresponsible behavior.*

The behavioral patterns representative of the Dependent and Depressive Personality Disorder as demonstrated by Patricia make her incapable of expressing unconditional love, mutual support, and genuine concern for the welfare of her spouse and children. x x x<sup>80</sup>  
(Italics supplied.)

Evidently, petitioner's character and behavior show that she was fully aware of her marital obligations as a wife, as well as her responsibilities as a mother to their child. This is shown by her attitude desiring to exert efforts to observe such obligations and responsibilities, amidst difficulty.

In *fine*, the Court could only commiserate with petitioner's predicament on her failed marriage with respondent and the fact that the

<sup>79</sup> *Rep. of the Phils. v. Sps. Romero*, 781 Phil. 737, 749 (2016).

<sup>80</sup> *Rollo*, pp. 273-274.

couple are already living their separate lives, albeit still tied by their marital bond. However, as the Court stated in *Marcos v. Marcos*,<sup>81</sup> “Article 36 of the Family Code [must not] be confused with a divorce law that cuts the marital bond at the time the causes therefor manifest themselves.”<sup>82</sup> Neither may the modified characterization of psychological incapacity as clarified in *Tan-Andal* be misconstrued as permitting the effects of a divorce law. While the expert opinion of Dr. Roman may be considered given that it was offered in evidence, *it is still the totality of evidence that must convince the Court of the alleged psychological incapacity of a party*. Here, the utter insufficiency of petitioner's evidence constrains the Court to affirm the CA Decision and uphold the parties' marriage.

**WHEREFORE**, the petition is **DENIED**. The Decision dated August 27, 2014 and the Resolution dated February 9, 2016 of the Court of Appeals in CA-G.R. CV No. 97642 are **AFFIRMED**.

**SO ORDERED.**

  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

On official leave  
**SAMUEL H. GAERLAN**  
*Associate Justice*

<sup>81</sup> 397 Phil. 840 (2000).

<sup>82</sup> *Id.* at 851.

On official leave  
**JAPAR B. DIMAAMPAO**  
*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.

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

**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.

  
**ALEXANDER G. GESMUNDO**  
*Chief Justice*

