



Republic of the Philippines

Supreme Court

Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

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MA. VIRGINIA D.R. HALOG,
Petitioner,

G.R. No. 231695

Members:

-versus-

GESMUNDO, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, M., and
LOPEZ, J., JJ.

WILBUR FRANCIS G. HALOG
and the REPUBLIC OF THE
PHILIPPINES,

Respondents.

Promulgated:

OCT 06 2021

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DECISION

LAZARO-JAVIER, J.:

The Case

This petition for review on *certiorari* assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 105246 entitled *Ma. Virginia del Rosario-Halog v. Wilbur Francis G. Halog*:

- 1) **Decision**¹ dated January 31, 2017 reversing the grant of the petition for declaration of nullity of marriage of petitioner Ma. Virginia D.R. Halog with respondent Wilbur Francis G. Halog; and
- 2) **Resolution**² dated May 12, 2017 denying Ma. Virginia's motion for reconsideration.

¹ Penned by Associate Justice Stephen C. Cruz and concurred in by now Supreme Court Justices Jose C. Reyes, Jr. (ret.) and Ramon Paul L. Hernando; *rollo*, p. 33.

² Penned by Associate Justice Stephen C. Cruz and concurred in by now Supreme Court Justices Jose C. Reyes, Jr. (ret.) and Ramon Paul L. Hernando; *id.* at 51.

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Antecedents

In her verified petition, Ma. Virginia sought to have her marriage with Wilbur declared *void ab initio* on the ground that they were both psychologically incapacitated.³ Wilbur failed to file his answer.⁴

Ma. Virginia testified that she and Wilbur met through a mutual friend. They started as phone pals until they eventually became sweethearts. The first few years of their relationship went smoothly. She was happy that she found someone who provided her with special attention. But later on, the intimacy died down. Frequent misunderstandings ensued between them and Wilbur became temperamental whenever she could not meet his demands.⁵

They got married on June 12, 1993. While preparing for their wedding, she discovered that Wilbur was having an affair with another woman. But she decided to push through with the wedding to spare her family from the shame and scandal. She stuck to their relationship as she was blinded by her eagerness to maintain what they had, holding onto the hope that Wilbur would change and mend his ways.⁶

The early stage of their marriage was full of arguments and quarrels. Wilbur would always tell her that he regretted marrying her and that he was not ready for marriage. Being the eldest son, he still had to provide for his family.⁷

With so much resentment from Wilbur, the love and intimacy between them diminished further. Wilbur became cold and inactive in their sex life, albeit he would engage in extra-marital affairs. Whenever she confronted him about his infidelity, he would ask for forgiveness. And she would forgive him each time. But Wilbur did not change his ways. He continued having an illicit affair with his secretary.⁸

When they encountered financial difficulties, Wilbur became habitually irritable and more abusive, to the point that once he aimed his gun at her in the midst of their heated argument. He would abuse her even in the presence of their three (3) children.⁹

In 2005, Wilbur went to Qatar for work so he entrusted to her his network business. Their relationship improved at first and they were again in constant communication. But this period of tranquility did not last. Since she was not knowledgeable of Wilbur's business, he would call her an idiot or stupid whenever she would make a mistake.¹⁰

³ *Id.* at 258.

⁴ *Id.* at 258-259.

⁵ *Id.* at 261.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.* at 262.

Eventually, Wilbur stopped showing concern for his family. When she told Wilbur that their daughter got diagnosed with dyslexia, he did not care. He even blamed her for their daughter's condition and avoided any responsibility towards their children. He also stopped providing financial support for their subsistence. Considering the many abuses she already suffered in his hands, she, too, had stopped expecting any form of love and concern from him.¹¹

In 2006, she learned that he had been cohabiting with another woman, one Wilcy Adolfo Sibulo whom he married in Doha, Qatar on December 14, 2006. The Philippine Embassy in Doha, Qatar issued a report of their marriage and the birth of their child.¹² She and Wilbur had since gotten separated.

Petitioner's eldest brother **Joseph C. Del Rosario** testified that his sister had inferiority complex and low self-esteem. She preferred to be alone and isolated because she felt she was the least smart and least favored child of her parents. As a brother, he reached out to her so she eventually became comfortable with him. Their parents tolerated Virginia's attitude and followed her wishes most of the time.¹³

After petitioner and Wilbur got married, he would only see Ma. Virginia once or twice a month and during special occasions. Whenever they met, they would talk about their respective families, including Ma. Virginia's problems with Wilbur. She confided to him about Wilbur's physical abuses, authoritative treatment, temperament, and infidelities. He saw bruises and dark marks on her face and body so he consoled and advised her to be strong. She also confided to him that as a couple, she and Wilbur frequently quarreled about Wilbur's philandering, and how scared and traumatized she was when Wilbur poked a gun at her. But despite Ma. Virginia's complaints, she tolerated her relationship with Wilbur. She chose to be subservient to him to avoid conflict.¹⁴

Jessica Curry Josef testified that she is Ma. Virginia's close friend and confidant. She knew Virginia and Wilbur even before they got married. Virginia would confide her relationship problems to her, including Wilbur's philandering and physical abuses. She corroborated Ma. Virginia's testimony on material points.¹⁵

Dr. Melchor C. Gomintong issued his Psychiatric Evaluation Report¹⁶ on Ma. Virginia and Wilbur. He personally examined Virginia and found her to be suffering from Avoidant Personality Disorder. He tried to contact Wilbur for an examination but his efforts proved futile. He nonetheless did a collateral interview with Joseph and Jessica on separate occasions. Finding the

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.* at 263.

¹⁶ *Id.* at 107.

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information he gathered from them adequate, he diagnosed Wilbur with Anti-Social Personality Disorder. Both Ma. Virginia and Wilbur, therefore, were psychologically incapacitated to perform their marital obligations.¹⁷

Wilbur did not present evidence.

The Ruling of the Trial Court

Under Decision¹⁸ dated January 26, 2015, the Regional Trial Court – Branch 261, Pasig City granted the petition on ground of Wilbur's alleged psychological incapacity.

It found that contrary to the assessment of Dr. Gomintong, Ma. Virginia was not suffering from any psychological incapacity. There is nothing wrong with her behavior as her actions only manifested her genuine commitment to Wilbur and her love for their family.¹⁹

Wilbur, on the other hand, is clearly psychologically incapacitated to perform his marital obligations. He failed to give his moral, emotional, and sexual commitment to Ma. Virginia. He never compromised his personal preferences, never accepted responsibilities, nor yielded some privacy and independence. Thus, he was unable to connect with Virginia in any meaningful way. This led to their failure to form a family founded on love, respect, fidelity, and mutual help. The trial court was therefore convinced that their marriage was a nullity.

On behalf of the State, the Office of the Solicitor General (OSG) moved for reconsideration which got denied by Order²⁰ dated April 23, 2015.

Proceedings before the Court of Appeals

On appeal, the OSG²¹ harped on Ma. Virginia's supposed failure to establish Wilbur's psychological incapacity in accordance with the guidelines set forth by the Court in *Republic v. Molina*.²²

First. Dr. Gomintong's findings as regards Wilbur's psychological condition were purely speculative. They were based solely on the interviews of Ma. Virginia, her brother, and her friend whose allegations were self-serving and hardly impartial. No other concrete evidence was offered to establish that Wilbur was suffering from a dysfunctional personality.²³

¹⁷ *Id.* at 259.

¹⁸ Penned by Judge Florian Gregory D. Abalajon; *id.* at 258.

¹⁹ *Id.* at 264.

²⁰ *Id.* at 247.

²¹ *Id.* at 234.

²² 335 Phil. 664 (1997).

²³ *Rollo*, p. 242.

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Second. Dr. Gomintong failed to mention the root causes of respondent's purported condition as required in *Molina*. His findings are therefore inadequate to declare petitioner's marriage to Wilbur a nullity.²⁴

Finally. Dr. Gomintong's evaluation failed to clearly specify Wilbur's actions which are indicative of psychological incapacity. More, there was no established medical link between Wilbur's alleged disorder and his acts.²⁵

All told, Ma. Virginia failed to prove that Wilbur's irresponsible ways and infidelity are symptomatic of a grave psychological disorder. Too, the couple's frequent marital disagreements do not constitute a ground for declaring their marriage void. Though their marriage may have already failed beyond reconciliation, the remedy is not to have it declared a nullity.²⁶ At best, the evidence presented refers only to grounds for legal separation.²⁷

On the other hand, Ma. Virginia essentially countered:²⁸ Dr. Gomintong's report remained competent and credible evidence though he did not personally examine Wilbur. The Court had invariably held that personal examination of the party alleged to be psychologically incapacitated is not a mandatory requirement for declaring a marriage void under Article 36 of the Family Code.²⁹ More, Dr. Gomintong's conclusions were drawn from collateral interviews with people who personally knew Wilbur, including herself who has been married to Wilbur for more than twenty (20) years. Her responses to the questions of Dr. Gomintong were based on her own personal experiences with Wilbur. Surely, she is in the best position to talk to Dr. Gomintong about Wilbur's pattern of behavior.³⁰

The totality of evidence proved that both she and Wilbur are psychologically incapacitated to perform their essential marital obligations to each other. Their conditions are grave, incurable, and existing when they celebrated their marriage.³¹

Contrary to the OSG's assertion, Dr. Gomintong identified the root causes her psychological incapacity and that of Wilbur. After a series of tests and interviews, Dr. Gomintong traced her Avoidant Personality Disorder to her inferiority complex and low self-esteem, being the less favored, least attractive, and least brainy child in the family. As for Wilbur's Antisocial Personality Disorder, this was caused by his upbringing and the fact that he grew up a spoiled brat.

Her Avoidant Personality Disorder manifested in the way she identified herself: socially inept, personally unappealing, and inferior to others. Because

²⁴ *Id.* at 242.

²⁵ *Id.* at 242-243.

²⁶ *Id.* at 243.

²⁷ *Id.* at 244.

²⁸ *Id.* at 267.

²⁹ *Id.* at 274.

³⁰ *Id.* at 275.

³¹ *Id.* at 276.

of her low self-esteem, she tolerated Wilbur's behavior, avoided conflict, was restrained by her relationships, chose to be passive, and failed to stand her ground.³² Meanwhile, Wilbur's Antisocial Personality Disorder manifested in his failure to conform to social norms, his sexual infidelity, his verbal and physical abusiveness, his lack of remorse for his illicit affairs, and his failure to show concern for his family through financial support despite his gainful employment.³³

Thus, relying on Dr. Gomintong's report and the testimonies in favor of the petition, Ma. Virginia urged the Court of Appeals to sustain the trial court's ruling.³⁴

The Ruling of the Court of Appeals

Through its assailed Decision³⁵ dated January 31, 2017, the Court of Appeals reversed. It held that Dr. Gomintong's report was insufficient to establish Wilbur's psychological incapacity. For his conclusions were solely based on information fed to him by only one of the parties. He did not use independent evidence to show Wilbur's incapacity; only the allegations of Ma. Virginia, her brother, and her friend were used, albeit the same were merely collateral and hardly objective.³⁶ Citing the Court's ruling in *Toring v. Toring*,³⁷ the Court of Appeals took a negatively critical stance against the evaluation of Dr. Gomintong, being purportedly based on one-sided sources, particularly from the spouse seeking the nullity of marriage.³⁸

The burden of proving the nullity of the marriage rested on Ma. Virginia. Considering that Dr. Gomintong did not personally examine Wilbur, the burden became even greater. Hence, Ma. Virginia should have endeavored to submit further independent and relevant evidence to wipe out any cloud of doubt on the partiality of Dr. Gomintong's conclusion.³⁹

At any rate, the alleged failure of Wilbur to assume his duties as father and husband, including his irresponsibility and lack of respect and infidelity toward his wife did not rise to the level of psychological incapacity as to justify the nullification of his marriage with Ma. Virginia. Sexual infidelity and abandonment do not, by themselves, constitute grounds for declaring a marriage void. Likewise, Wilbur's irresponsibility, his "difficulty," his "refusal" or his "neglect" in the performance of marital obligations did not equate to "incapacity" rooted in some psychological condition or illness.⁴⁰

³² *Id.* at 277.

³³ *Id.*

³⁴ *Id.* at 280.

³⁵ *Id.* at 33.

³⁶ *Id.* at 43-44.

³⁷ 640 Phil. 434 (2010).

³⁸ *Rollo*, p. 45.

³⁹ *Id.* at 44.

⁴⁰ *Id.* at 47.

The Court of Appeals subsequently denied Ma. Virginia's motion for reconsideration.⁴¹

The Present Petition

Ma. Virginia now seeks the Court's discretionary appellate jurisdiction to reverse the assailed rulings of the Court of Appeals. She basically faults the Court of Appeals for not according credence to Dr. Gomintong's psychiatric report.

Invoking *Suazo v. Suazo*⁴² and *Camacho-Reyes v. Reyes*,⁴³ she argues that personal examination of the party alleged to be psychologically incapacitated is not a mandatory requirement for the declaration of nullity of marriage under Article 36 of the Family Code. While such personal examination may be desirable, it may not be practical when parties are in estranged relations, as here.⁴⁴

More, Dr. Gomintong's findings were based on psychological tests and interviews with witnesses who gave their personal accounts, observations, perceptions and experiences with her (Ma. Virginia) and Wilbur. These witnesses had actual interactions with Wilbur, giving them an opportunity to observe and assess his behavior.⁴⁵ The data he gathered allowed Dr. Gomintong to diagnose her and Wilbur's psychological disorder and to trace the root causes thereof. Dr. Gomintong, too, identified how their conditions manifested throughout their marriage and even prior to its celebration.⁴⁶

The trial court propounded questions on Dr. Gomintong to test his credibility and inquire further about her and Wilbur's psychological conditions. It made a painstaking assessment of the evidence presented and determined the existence of Wilbur's psychological incapacity when they celebrated their marriage, as well as its gravity and incurability.⁴⁷ Its findings, therefore, should not have been easily brushed aside by the Court of Appeals.

In its comment,⁴⁸ the OSG defends the validity of Ma. Virginia's marriage with Wilbur. It maintains that Ma. Virginia failed to establish that their marriage is void due to Wilbur's psychological incapacity. For other than the testimonies of Ma. Virginia and her biased witnesses, no other evidence – testimonial or documentary such as personal papers, letters, diaries, and medical records – was presented to substantiate Dr. Gomintong's findings as regards Wilbur's state of mind.⁴⁹ In the absence of evidence that clearly

⁴¹ *Id.* at 51.

⁴² 629 Phil. 157, 182 (2010).

⁴³ 642 Phil. 603, 627 (2010).

⁴⁴ *Rollo*, p. 19.

⁴⁵ *Id.* at 20.

⁴⁶ *Id.* at 21-22.

⁴⁷ *Id.* at 21.

⁴⁸ *Id.* at 307.

⁴⁹ *Id.* at 314-316.

reveals a situation where the spouses or at least one of them, by reason of a grave and incurable psychological illness existing at the time the marriage was celebrated, was incapacitated to fulfill the obligations of marital life, the indissolubility of marital tie should be upheld.⁵⁰ The proper remedy for Ma. Virginia, therefore, is legal separation.⁵¹

Issue

Did the evidence on record sufficiently support the petition of Ma. Virginia D.R. Halog for declaration of nullity of her marriage with Wilbur Francis G. Halog on ground of psychological incapacity?

Ruling

We grant the petition.

Psychological incapacity as ground for nullity of marriage

Article 36 of the Family Code recognizes the psychological incapacity of a spouse as a ground for declaration of nullity of marriage, thus:

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 jurisprudence past, psychological incapacity referred to a mental incapacity which causes a party to be incognitive of the basic marital covenants that must be assumed and discharged by spouses. It pertained to the most serious cases of personality disorders which clearly demonstrate utter insensitivity or inability to give meaning and significance to the marriage.⁵² In determining whether a spouse's psychological condition warranted the nullity of his or her marriage, the Court set guidelines in the landmark case of *Republic v. Molina*,⁵³ thus:

(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.** Article 36 of the Family

⁵⁰ *Id.* at 318.

⁵¹ *Id.*

⁵² See *Republic v. Tecag*, G.R. No. 229272, November 19, 2018.

⁵³ 335 Phil. 664, 676-678 (1997).

Code requires that the incapacity must be psychological — not physical, although its manifestations and/or symptoms may be physical. 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.

(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. 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.** 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.

(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. x x x.

Twenty four (24) years later, in the recent case of *Tan-Andal v. Andal*,⁵⁴ the Court had the golden opportunity to re-examine the concept of “psychological incapacity” *vis-à-vis* the intent underlying Article 36 and accordingly recast the guidelines on how it ought to be established, thus:⁵⁵

To recall, the term “psychological incapacity” was first defined by this Court in *Santos* as a “mental (not physical) incapacity” to comply with essential marital obligations. In the same vein, the Court confined the term to “the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. This characterization became the basis of the second guideline in *Molina*, where parties to a nullity case are required to present evidence of the root cause of the psychological incapacity. In particular, this root cause must be medically or clinically identified and sufficiently proven by experts.

By equating psychological incapacity to a “mental incapacity” and to “personal disorders,” this Court went against the intent behind Article 36. The Family Code Revision Committee (hereinafter, “Code Committee”) was clear that psychological incapacity is not a mental incapacity. Among the earlier wordings of the provision on psychological incapacity included “mentally incapacitated,” and “mentally” is obviously absent in the present Article 36. This means that for the Code Committee, “mental” is not synonymous with psychological.”

⁵⁴ G.R. No. 196359, May 10, 2021.

⁵⁵ *Id.*



The reason for deleting "mental" was given by Justice Eduardo P. Caguioa, a member of the Code Committee. He said that "mental" will give the wrong impression of psychological incapacity being a vice of consent. If psychological incapacity was not to be an acceptable alternative to divorce, as was intended by the Code Committee, psychological incapacity cannot be a mere vice of consent. The psychological incapacity must consist of a lack of understanding of the essential obligations of marriage, in which case, the marriage is void *ab initio*.

Psychological incapacity is also not a personality disorder, as explained by Amicus Curiae Dean Sylvia Estrada-Claudio. Psychological incapacity cannot be found in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-V), the authoritative listing of various mental, including personality, disorders recognized by the scientific community. Yet to comply with the second *Molina* guideline, psychologists and psychiatrists, when serving as expert witness, are forced to assign a personality disorder and pathologize the supposedly psychologically incapacitated spouse. This cruelty could not have been the intent of the Code Committee.

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In light of the foregoing, the Court clarifies the second *Molina* guideline. **Psychological incapacity is not only a mental incapacity nor only a personality disorder that must be proven through expert opinion. There may now be proof of the durable aspects of a person's personality, called "personality structure," which manifests itself through clear acts of dysfunctionality and undermines the family.** The spouse's personality structure must make it impossible for him or her to understand and, more importantly, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not only 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.

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Difficult to prove as it may be, **a party to a nullity case is still required to prove juridical antecedence because it is an explicit requirement of the law.** Article 36 is clear that the psychological incapacity must be "existing at a the time of the celebration [of the marriage] . . . even if such incapacity becomes manifest only after its solemnization." This distinguishes psychological incapacity from divorce where the latter severs a marital tie even for causes, psychological or otherwise, that may have developed after the marriage celebration.

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Furthermore, x x x psychological incapacity is not something to be healed or cured. And even if it were a mental disorder, it cannot be described in terms of being curable or incurable. Dean Estrada-Claudio explained that the true mental disorders follow a probable course or outcome, called "prognosis," that can either be self-limited or remain

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“stable across time and consistent in situations.” If self-limited, the disorder is, in lay person’s terms, “curable.” If it has poor long-term prognosis, the disorder is said to be “incurable”

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Therefore, reading together the deliberations of the Joint Committee and our rulings in *Santos* and *Molina*, we hold that the psychological incapacity contemplated in Article 36 of the Family Code is incurable, not in the medical, but in the legal sense; hence, the third *Molina* guideline is modified accordingly. This means that the incapacity is so enduring and persistent with 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 breakdown of the marriage. X X X

With respect to gravity, the requirement is retained, not in the sense that the psychological incapacity must be shown to be a serious or dangerous illness, but that “mild characterological peculiarities, mood changes, occasional emotional outbursts” are excluded. The psychological incapacity cannot be mere “refusal, neglect or difficulty, much less ill will.” In other words, it must be shown that the incapacity is caused by a genuinely serious psychic cause.

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Molina provides that the essential marital obligations are “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

X X X X

But it is not all kinds of failure to meet their obligations to their children that will have the effect of nullifying the vinculum between the spouses. In each and every case, it must clearly be shown that it is of such grievous nature that it reflects on the capacity of one of the spouses for marriage. The easy cases are when one of the spouse sexually abuses one of their children; or when unknown to the other spouses, a child is subjected to domestic violence; or when due to the refusal to go through counselling or rehabilitation, the substance abuse of one spouse puts a child through a situation of neglect or outright danger. As in all cases, the context of the whole case shown by clear and convincing evidence should be taken into consideration.

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To summarize, psychological incapacity consists of clear acts of dysfunctionality that show a lack of understanding and concomitant compliance with one’s essential marital obligations due to psychic causes. It is not a medical illness that has to be medically or clinically identified; hence, an expert opinion is not required.

As an explicit requirement of the law, the psychological incapacity must be shown to have been in existence at the time of the celebration of the marriage, and is caused by a durable aspect of one’s personality structure, one that was formed before the parties married.

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To prove psychological incapacity, a party must present clear and convincing evidence of its existence. (emphases added, citations omitted)

Verily, *Tan-Andal* clarified that “psychological incapacity” should be understood as a legal concept rather than a medical one. Consequently, it does not require clinical diagnosis to be established. 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.

As for the three (3) main criteria for psychological incapacity – gravity, incurability and juridical antecedence, *Tan-Andal* set new parameters in appreciating these elements. As stated, “gravity” still has to be established, if only to preclude spouses from invoking mild characterological peculiarities, mood changes, occasional emotional outbursts as ground for nullity. Meanwhile, “incurability,” too, should be understood in the legal sense. So long as couple’s respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable breakdown of the marriage, the psychological incapacity of a spouse or both spouses is deemed “incurable.” Finally, “juridical antecedence” or the existence of the condition prior to the celebration of marriage, is a statutory requirement which must be proven by the spouse alleging psychological incapacity.

Tan-Andal likewise set the quantum of proof in nullity cases. While there is opinion that nullity cases under Article 36 of the Family Code is like any civil case which requires preponderance of evidence, the Court categorically pronounced in *Tan-Andal* that the plaintiff-spouse must prove his or her case with clear and convincing evidence. Notably, this quantum of proof requires more than preponderant evidence but less than proof beyond reasonable doubt.⁵⁶

At any rate, the Court has repeatedly cautioned even before *Tan-Andal* that judgments in cases involving the alleged psychological incapacity of a spouse should be based on the **totality of evidence** adduced during the course of the proceedings.⁵⁷ Each case must be resolved based on its particular set of facts and Article 36 of the Family Code, applied on a case-to-case basis. Similar to *Molina*, *Tan-Andal* was not meant to strait-jacket lower courts, forcing them to apply the guidelines in nullity cases of all shapes and sizes.⁵⁸

Ma. Virginia sufficiently established that her marriage with Wilbur should be nullified on ground of the latter’s psychological incapacity

⁵⁶ *Spouses Manalo v. Roldan-Confesor*, 290 Phil. 311 (1992).

⁵⁷ *Republic v. Tabora-Tionglico*, 823 Phil. 672, 680 (2018).

⁵⁸ See *Ngo Te v. Yu Te*, 598 Phil. 666, 695-696 (2009).

Here, there is clear and convincing evidence that Wilbur is psychologically incapacitated from discharging his duties as husband to Ma. Virginia and father to their three (3) children. His condition was present even before he celebrated his marriage to Virginia, rendering their marital union void *ab initio*.

a. Manifestations of Wilbur's psychological incapacity

Ma. Virginia affirmed and testified on the contents of her judicial affidavit, thus:⁵⁹

6. Q: How did you meet the respondent?
A: I met him through a common friend. We started as phone pals. We exchanged sweet talks and hearty conversations, until one time we decided to meet up for a date.
 7. Q: After you met, what happened?
A: We instantly became sweethearts, sir. There was no formal courtship that happened. Because of the enticing feelings of admiration and affection for each other, we had sexual intercourse on the day we first met. Since then, we maintained an amorous relationship.
 8. Q: Can you describe your amorous relationship during that time?
A: I was very happy then that I finally found someone who could provide me with the special attention I had always been clamoring for. I was so elated that I got a boyfriend. The first few years of our relationship was fairly well. But later on, I would often get disappointed by the lack of warmth from him. There was no more trace of intimacy that could spark our romantic relationship. The subsequent five years of our relationship was an "on and off" one.
 9. Q: Can you describe the attitude of the respondent at the time when you were dating as sweethearts?
A: As we dated, respondent displayed the tendency to get cross so easily. He would exhibit hot-temperedness whenever I could not meet his demands. Frequent misunderstandings ensued between us. There was even a time when we were preparing for our wedding that I found out that he was into another amorous affair.
 10. Q: How do you feel about this?
A: I felt so unspecial. I thought that I was giving more in our relationship than what respondent is capable to give. Nevertheless, I would always stick with our relationship. I was blinded by my eagerness to maintain our relationship, such that I did not mind the abuses I suffered from him.
- x x x x
17. Q: Can you describe your marital union with respondent?
A: It was a failure. At the early stage of our cohabitation as husband and wife, our relationship was already filled with a lot of misunderstandings. Most of the time, we argued and quarrelled.

⁵⁹ Rollo, pp. 72-78.

18. Q: During your marital squabbles, what did the respondent nag about you?
A: Whenever we argue, respondent would always tell me that he was regretful of marrying me. He would always tell me that he was not yet ready to enter into marriage because he still wanted to help his family being the eldest son.
19. Q: And how would you characterize your marriage with respondent?
A: I felt that the love and intimacy that we had for each other gradually diminished. He became cold and inactive in our sex life. His cold treatment is attributed to his illicit affairs with other women.
20. Q: After you discovered respondent's infidelity, what did you do?
A: Respondent asked for forgiveness, so I accepted his apology and gave him another chance. I even gave up my business, my bread and butter for almost 10 years, so that he will not leave me. I decided to stay at home and start a Van Rental Business instead.
21. Q: Did respondent change?
A: No sir.
22. Q: Why did you say that respondent did not change?
A: While I was busying running our business, respondent was also busy pursuing his affair with his secretary. More arguments ensued between us, oftentimes about money matters. Respondent neglected his business until it totally broke down.
23. Q: What happened when the business broke down?
A: We encountered financial difficulties. There was even a time when we mortgaged our real properties which we inherited from our parents and were not able to redeem them. Respondent became habitually hot-tempered, irritable and more assaultive to the point that he once aimed a gun at me in the midst of a heated altercation. What is more intolerable is that respondent preferred to fight with me in front of our children.

x x x x

25. Q: Can you describe your relationship with the respondent while he was in Qatar?
A: During his first year in Qatar, our relationship improved a little. We communicated. Our children and I visited him there. But that peace and tranquility in our relationship did not last long. When he left for Qatar, he entrusted to me the management of his network business which I am not knowledgeable of. Eventually, it again became a cause of our frequent misunderstanding because he would often call me idiot and stupid. Later on, I discovered that he was having an affair with another woman abroad.
26. Q: How did the respondent help you in raising your children and attending to their needs?
A: When he left for Qatar, I was the only one attending the needs of our Children. When our daughter was diagnosed with Dyslexia, I informed him of her condition and discussed how to have her treated. Instead of showing concern to the condition of our child, he



blamed me as if he was avoiding his responsibilities as a father. From then on I stopped updating him about the situation of our children.

x x x x

30. Q: How long have you and respondent been separated?
A: We have been separated for seven (7) years now. Also, he is now cohabiting with another woman whom he married, sir.

x x x x

32. Q: What is your proof?
A: The Report of Marriage from the Philippine Embassy in Doha, Qatar. The report disclosed that respondent married Wilcy Adolfo Sibulo on December 14, 2006 in Doha, Qatar.

Hereto attached is copy of the Report of Marriage.

33. Q: Did respondent and Wilcy A. Sibulo beget a child?
A: Yes sir, I have a copy of Report of Birth of a Child Born Abroad of Philippine Parents issued by the Foreign Service of the Philippines.

Hereto attached is a copy of the Report of Birth.

x x x x

Ma. Virginia's brother Joseph corroborated her testimony. He testified that he meets up with Ma. Virginia about twice a month and they also see each other in their parents' house during special occasions. Whenever they meet, Ma. Virginia would tell him about her marital problems with Wilbur. She would confide in him regarding the physical abuse she had been suffering in the hands of her husband. She also narrated how she got traumatized when Wilbur poked a gun at her during a heated altercation. Joseph also saw bruises and dark marks on different parts of Ma. Virginia's face and body. When asked where she got those from, Ma. Virginia answered that they were caused by her husband Wilbur.⁶⁰

For her part, Jessica testified that Ma. Virginia shares her marital problems with her as one of the latter's confidants. She had known Ma. Virginia and Wilbur before the two got married, and was witness to their "on and off" relationship caused by frequent misunderstandings and Wilbur's womanizing. Ma. Virginia also confided in her the lack of warmth in their relationship and Wilbur's failure to give her enough attention. And just before Ma. Virginia and Wilbur's wedding, they discovered that Wilbur was having an affair with another woman. He even admitted that he was in love with his paramour. After the two got married, Wilbur became habitually hot-tempered and irritable, especially when his business broke down and they were experiencing financial difficulties. Wilbur eventually left the Philippines for work in Qatar and abandoned his family. Thereafter, he stopped providing

⁶⁰ *Id.* at 120-124.

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financial support to Ma. Virginia and their children and neglected their needs.⁶¹

As it was, Ma. Virginia and her witnesses testified that Wilbur had invariably manifested his psychological incapacity in various ways: **first**, by subjecting his wife to several counts of physical and verbal abuse; **second**, by neglecting and eventually abandoning his wife and his children; and **finally**, by his repeated acts of infidelity toward his wife and their sacred vow of marriage.

b. Wilbur is psychologically incapacitated in the legal sense

We now proceed to determine whether these manifestations rise to the level of psychological incapacity in the legal sense so as to warrant the nullity of Ma. Virginia's marriage to Wilbur. For this purpose, we refer to the three (3) earlier stated criteria for psychological incapacity – juridical antecedence, gravity, and incurability, as recalibrated in *Tan-Andal*.

First - Juridical Antecedence (*i.e. the condition existed prior to the celebration of marriage*):

Wilbur's condition has juridical antecedence since his philandering ways were manifest even before the celebration of his marriage with Ma. Virginia. While he and Ma. Virginia were already in a boyfriend – girlfriend relationship, he too had a similar affairs with other women. In fact, just before they, got married, he engaged in a last minute amorous affair. But what he did while working in Qatar beginning 2005 was the worst form of infidelity. He married another woman in December 2006.

Too, Jessica corroborated Ma. Virginia's testimony regarding her on and off relationship with Wilbur which was caused by their frequent misunderstandings. Subsequently, when the two got married, Wilbur's attitude took a turn for the worse. He became more temperamental and started verbally and physically assaulting Ma. Virginia. Joseph, too, bore witness to the bruises on his sister's face and body from the beatings she suffered in the hands of her husband. Clearly, Wilbur's argumentative and quarrelsome, nay, violent behavior and tendencies were already present before he married Ma. Virginia:

Second – Gravity (*i.e. the condition cannot be categorized as mild characterological peculiarities, mood changes, and occasional emotional outbursts*):

Wilbur resented Ma. Virginia and it showed. He never accorded her the love and respect that was due to her as his wife and partner. He was even vocal about it. Thus, at the early stage of their marriage, Wilbur would always

⁶¹ *Id.* at 125-127.

tell Ma. Virginia how he regretted marrying her. He too would repeatedly get caught cheating on his wife with another woman. By poking a gun at Ma. Virginia, Wilbur, too, showed utter disregard to the life of his wife and mother of their children. Finally, the fact that he was willing to marry another woman and have a child with her only about a year after he left for Qatar speaks volumes of his eagerness to sever his relationship with Ma. Virginia and their children, leaving them in the past. Surely, we cannot, by any means, consider Wilbur's condition a mild characterological peculiarity.

Finally – Incurability (i.e., the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable breakdown of the marriage):

Wilbur's condition is also "incurable" in the legal sense since he consistently failed to commit to his relationship with Ma. Virginia. Though Ma. Virginia was aware of Wilbur's affairs and confronted him each time, he always succeeded in making her believe that he would change his ways, but never did. He continued having extramarital relations with women, including his secretary. In the end, he abandoned his wife and children for another woman.

As for Wilbur's abusive behavior, this seemingly subsided when he started working in Qatar. Ma. Virginia was able to communicate with him and she and her children even got the chance to pay him a visit. But this moment of tranquility was short-lived. Later, Wilbur would berate Ma. Virginia whenever she would commit mistakes in handling their family business. He would call her an "idiot" and "stupid", and even blamed her when their daughter got diagnosed with dyslexia. He was therefore nothing but consistent in his treatment of Ma. Virginia. Hence, the only result of their union was the inevitable breakdown of their marriage.

True, physical and verbal abuse, neglect and abandonment of spouse and children, or acts of infidelity including adultery or concubinage, each constitutes a ground for legal separation. But where each one of these grounds or a combination thereof, at the same time, manifest psychological incapacity that had been existing even prior to marriage,⁶² the court may void the marriage on ground of psychological incapacity under Article 36 of the Family Code.

Thus, in *Tan-Andal*, the Court pronounced that while drug addiction is a ground for legal separation, the same will not prevent the Court from voiding the marriage where drug addiction is likewise a veritable manifestation of one's psychological incapacity:⁶³

That drug addiction is a ground for legal separation will not prevent this Court from voiding the marriage in this case. A decree of legal separation entitles a spouse to live separately from each other without

⁶² *Tan-Andal v. Andal*, supra note 54.

⁶³ *Id.*

severing their marriage bond. However, no legal conclusion is made as to the validity of the marriage. **Therefore, it is possible that the marriage is attended by psychological incapacity of one or both of the spouses, with the incapacity manifested in ways that can be considered as grounds for legal separation. At any rate, as long as a party can demonstrate that the drug abuse of is a manifestation of psychological incapacity existing at the time of the marriage, this should be enough to render the marriage void under Article 36 of the Family Code.** (emphasis added, citations omitted)

Here, Wilbur's acts of infidelity, abuse, neglect and abandonment singly or collectively manifest psychological incapacity in the legal sense. They satisfy the criteria of juridical antecedence, gravity and incurability. Wilbur's behavioral pattern, his personality structure, clearly shows that he is psychologically incapacitated from fulfilling his obligations as husband and father to Virginia and their children.

c. The findings of Dr. Gomintong support the above conclusion

The above findings are bolstered by Dr. Gomintong who confirmed that based on his study, Wilbur is indeed psychologically incapacitated.

To emphasize though, *Tan-Andal* categorically declared that the testimony of a medical expert is no longer required for purposes of establishing psychological incapacity as a legal concept. We no longer look at psychological incapacity as a medical condition or personality disorder the root cause of which has to be identified. Instead, courts may rely on the testimonies of ordinary witnesses for purposes of determining whether a spouse is psychologically incapacitated. Hence, whether Dr. Gomintong's testimony deserves weight and credence is beside the point. For the testimonies of Virginia and her witnesses were sufficient to duly establish Wilbur's condition.

In any event, *Tan-Andal* discussed the parameters for determining the sufficiency of a report rendered by a psychologist or psychiatrist without personally examining the supposed psychologically incapacitated spouse, viz.:⁶⁴

It is true that expert opinion – **which, we reiterate, is no longer required** but is considered here given that the case was filed during the effectivity of *Molina* – was made by Dr. Garcia without having to interview Mario. Even Dr. Garcia herself admitted during cross-examination that her psychiatric evaluation would have been more comprehensive had Mario submitted himself for evaluation. However, the Court of Appeals erred in discounting wholesale Dr. Garcia's expert opinion because her methodology was "unscientific and unreliable."

x x x x

⁶⁴ *Id.*

x x x According to the Court, opinions are products of personal interpretation and belief and, therefore, they are inherently subjective and generally inadmissible in evidence. Thus, **to qualify as an expert and the opinion admitted as expert opinion, the witness must be shown to possess special knowledge, skill or training relevant to the matter he or she is testifying on, and that the opinion was rendered on the basis of any of these special criteria.** This is apart from the requirement that **the testimony, in itself, be credible, that is, based on “common experience and observation... as probable under the circumstances.”**

x x x x

x x x [T]he rule [on admissibility of expert opinion] requires the following. First, that the “knowledge” testified on must be “scientific,” that is, it must be “more than subjective belief or unsupported speculation.” Second. The specialized knowledge be of such character that the trial judge be “able to understand the evidence or to determine a fact in issue.” Third, the trial judge, like a “gatekeeper,” takes a firsthand look on “the scientific validity...[or] the evidentiary relevance or reliability... of the principles that underlie” the testimony being offered as expert opinion. **“The focus...must solely be on the principles and methodology, not on the conclusions they generate.”** (emphases added, citations omitted)

x x x

On hearsay, x x x they are generally inadmissible. **However, if “the expert opinion [is] based on otherwise inadmissible hearsay, [it is] to be admitted only if the facts or data are ‘of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon a subject.’”** x x x (emphases added, citations omitted)

Essentially, expert opinion, to be admissible as evidence, must come from a credible expert who is in possession of special knowledge, skill or training; it must be derived using sound “scientific” principles and methodology; and must not be based on hearsay.

Applying these parameters, the Court in *Tan-Andal* gave due credence to Dr. Valentina del Fonso Garcia’s psychological assessment of therein respondent Mario Victor F. Andal though she did not personally examine the latter. **First**, Dr. Garcia’s knowledge and experience qualified her as an expert in psychiatry. **Second**, she conducted a psychiatric clinical interview and mental status examination of the parties, methods which remain to be the principal techniques in diagnosing psychiatric disorders. **Finally**, Dr. Garcia’s assessment of Mario was not only based on collateral information but also on Mario’s personal history which he himself wrote while he was undergoing rehabilitation. The Court cautioned though that personal examination of the psychologically incapacitated spouse is not required for a declaration of nullity grounded on Article 36 of the Family Code.⁶⁵

We now apply the same parameters to the present case.

⁶⁵ *Id.*

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First - Dr. Gomintong testified as an expert witness:

The State does not challenge the expertise of Dr. Gomintong in the field of psychiatry. He obtained his medical degree from Our Lady of Fatima University in 1996.⁶⁶ He completed his five (5)-year Psychiatric Residency Training Program, for which, he received the award of Most Outstanding Resident. He has since 2002 practiced his expertise as a psychiatrist,⁶⁷ treating psychotic and non-psychotic patients. In line with cases for nullity of marriage, he got consulted as an expert about 360 times already.⁶⁸

Second - on the methodologies applied by Dr. Gomintong:

Specifically, Dr. Gomintong testified on the methodologies and procedures he applied in assessing Ma. Virginia and Wilbur's conditions, viz:⁶⁹

Q25: What happened during the evaluation?

A25: Martial counseling and reconciliation was explored. The anamnesis (data collection on the spouses' personal background) was extracted. Series of examinations were conducted. A probe into the extent, gravity, prognosis, permanence and the root cause of any probable psychopathology was also made.

Q26: What kind of tests is a psychological examination composed of doctor?

A26: The psychological examination was composed of IQ test, Bender Visual Motor Gestalt test, Machover Figure Drawing Test, Individual Self-Analysis Test Questionnaire, Sach's Sentence Completion Test and the Rorschach Psycho Diagnostic Test.

Q27: Can you give further details about these psychological tests that you administered to petitioner?

A27: The I.Q. Test is administered to assess the mental capacity of the examinee. The Rorschach Psycho Diagnostic test is administered to assess if there is any psychosis of the examinee and the other tests are assessed to determine any existing personality disorder, sir.

Q28: From the narration of the petitioner, briefly recount how she and Wilbur Francis before their marriage (sic)?

A28: The Petitioner used to tolerate her partner before and after marriage while respondent used to inflict harm on the petitioner and used to womanize, sir.

Q29: Tell us more about Ma. Virginia's predicament with her husband?

A29: The absence of remorse as her husband used to womanize and had no responsibility to her family, sir.

⁶⁶ *Rollo*, p. 79.

⁶⁷ *Id.* at 79-80.

⁶⁸ *Id.* at 80.

⁶⁹ *Id.* at 81-84.

Q30: Aside from petitioner, who else did you interview for the data gathering, if any?

A30: I also interviewed Mr. Joseph C. Del Rosario, the eldest sibling of the petitioner, and Mrs. Jessica Curry Josef, a friend of the spouses, sir.

x x x x

Q33: After data gathering and examinations, what did you do doctor?

A33: I analyzed the data I gathered, sir. I prepared a psychodynamic formulation that contains my diagnosis, prognosis and recommendation.

Q34: What was the result of your evaluation after conducting these interviews and the series of tests to Mrs. Halog doctor?

A34: The petitioner is suffering from Avoidant Personality Disorder sir.

x x x x

Q42: How about the respondent, doctor, what was/were your findings?

A42: The respondent's disorder is a case of Antisocial Personality Disorder sir.

Q43: How were you able to arrive at that conclusion?

A43: Based on the narrations of the petitioner and other information sir.

Q44: Can you arrive at a conclusion regarding the capacity or incapacity of. Person even without interviewing him?

A44: Yes sir, as long as there is narration or narrations of persons involved.

Q45: How were you able to do it doctor? Kindly expound?

A45: I arrived at this conclusion by examining the data I gathered and the psychodynamic formulation I prepared. We (psychiatrists), can have expert opinions based on the data gathered from the persons involved, sir.

Q46: And how reliable are your findings as regards the capacity or incapacity of a person based merely on narration by other persons?

A46: Still 100% sir even if there is no psychological examination because of the consistencies of persons involved.

Q47: What do you mean when you say that the respondent is suffering from Antisocial Personality Disorder?

A47: He exhibited the symptoms Antisocial Personality Disorder, sir.

Q48: What are the bases of the personality disorder of respondent?

A48: His failure to conform to social norms with respect to lawful behavior due to his verbal and physical assaultiveness and his having no remorse due to his repeated sexual infidelity sir.

Q49: How do you characterize the personality disorder of the respondent?

A49: It is grave and serious which means that the said disorder is incurable and it affects the relationship of the respondent to the

petitioner as his wife and father to their children and the performance of his marital and paternal obligations, sir.

Q50: Do you know when did this kind of personality disorder on the part of the respondent possibly occur as per your evaluation?

A50: Respondent's personality disorder was already present even before and at the time he married the petitioner but it only became apparent and manifest after their marriage. The symptoms had been tolerated by his parents making him a spoiled child, and environmental factors have greatly contributed. (emphases added)

Verily, aside from conducting a personal interview of Ma. Virginia and her witnesses, Dr. Gomintong also did a battery of tests to arrive at his findings.

Finally – Dr. Gomintong's findings were based on admissible evidence:

The fact alone that Dr. Gomintong was not able to personally tend to Wilbur does not render his findings inadmissible. As stated in *Tan-Andal*, expert opinion based on otherwise hearsay evidence could still be admitted if the facts are “of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon a subject.”

Here, Dr. Gomintong was unable to personally interview and perform tests on Wilbur simply because the latter ignored his invitation for psychological evaluation. Yet Dr. Gomintong still managed to draw a conclusion on Wilbur's condition based on the information which Ma. Virginia and her witnesses had given him. As held in *Tan-Andal*, this method of data collection, *i.e.* clinical interviews of patients and collaterals, remain to be a principal technique in diagnosing psychiatric disorders up to this date. Thus, the information he gathered were “of a type reasonably relied upon by experts”, hence, his expert opinion based thereon may be admitted in evidence.

At any rate, the witnesses Dr. Gomintong interviewed also gave their testimonies before the trial court. These testimonies were duly admitted in evidence. Consequently, Dr. Gomintong's expert opinion based thereon should likewise be admitted.

In another vein, we reiterate that the personal examination of the allegedly psychologically incapacitated spouse by a physician or psychologist is not a condition *sine qua non* for a declaration of nullity of marriage due to psychological incapacity. So long as the totality of evidence sufficiently proves the psychological incapacity of one or both of the spouses, a decree of nullity of marriage may be issued.

d. Wilbur's condition prevented him from complying with his marital obligations under the Family Code



The marital obligations of husband and wife between each other and in relation to their children are embodied in Articles 68 to 71, 220, 221, and 225 of the Family Code, viz.:

Art. 68. The husband and wife are obliged to live together, **observe mutual love, respect and fidelity, and render mutual help and support.**

Art. 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.

Art. 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 or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties.

Art. 71. The management of the household shall be the right and the duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70.

x x x x

Art. 220. The parents and those exercising parental authority shall have with the (sic) respect to their unemancipated children on wards the following rights and duties:

(1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;

(2) To give them love and affection, advice and counsel, companionship and understanding;

(3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;

(4) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;

(5) To represent them in all matters affecting their interests;

(6) To demand from them respect and obedience;

(7) To impose discipline on them as may be required under the circumstances; and

(8) To perform such other duties as are imposed by law upon parents and guardians.

Art. 221. Parents and other persons exercising parental authority shall be civilly liable for the injuries and damages caused by the acts or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law.

x x x x

Art. 225. The father and the mother shall jointly exercise legal guardianship over the property of the unemancipated common child without the necessity of a court appointment. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

Where the market value of the property or the annual income of the child exceeds P50,000, the parent concerned shall be required to furnish a bond in such amount as the court may determine, but not less than ten per centum (10%) of the value of the property or annual income, to guarantee the performance of the obligations prescribed for general guardians.

A verified petition for approval of the bond shall be filed in the proper court of the place where the child resides, or, if the child resides in a foreign country, in the proper court of the place where the property or any part thereof is situated.

The petition shall be docketed as a summary special proceeding in which all incidents and issues regarding the performance of the obligations referred to in the second paragraph of this Article shall be heard and resolved.

The ordinary rules on guardianship shall be merely suppletory except when the child is under substitute parental authority, or the guardian is a stranger, or a parent has remarried, in which case the ordinary rules on guardianship shall apply.

Indubitably, Wilbur's psychological incapacity prevented him from complying with the afore-cited obligations, particularly the observance of mutual love, respect and fidelity with Ma. Virginia, and rendering help and support to his wife and children. On the contrary, Wilbur subjected them to abuse and neglect before abandoning them altogether. Surely, the grievous nature of Wilbur's omissions negates his capacity for marriage.

Indeed, Wilbur's behavior before and after his wedding with Ma. Virginia clearly manifests his psychological incapacity and shows his utter lack of willingness to properly treat Ma. Virginia as his wife. Their dysfunctional on and off relationship, though solemnized, was not salvaged by their marriage. On the contrary, their formalized union only served to trap Ma. Virginia in a perpetually loveless relationship with Wilbur, leading Ma. Virginia to a path of subservience, if not martyrdom, just so they can "fix" their marriage.

But their marriage was beyond repair. The quarrels they had when they were still boyfriend and girlfriend escalated to verbal and physical abuse, and

even to a threat to Ma. Virginia's life during their marital union. Meanwhile, Wilbur's infidelities which Ma. Virginia had tolerated if not forgiven *ad infinitum* only emboldened Wilbur to eventually abandon his wife and kids.

Clearly, there is no marriage to protect here. The martial union of Wilbur and Ma. Virginia had already failed due to Wilbur's psychological incapacity. Perforce, Virginia must be freed from the shackles of her loveless marriage in order to protect her dignity as an individual, thus:⁷⁰

Article 36 petitions are different from ordinary civil cases because they implicate an individual's right to liberty in the most intimate ways. The liberty right I talk about here, as my senior colleagues have said so eloquently so many times before, does not just involve physical bars that restrain. The gravity of the pain that the unwanted detention in a marriage brings is one that cannot be measured by simply counting the days; it is a pain that many do not see, it is a detention that the lucky couples could not understand and could also be possibly scoffing at. It is a pain that manifests in the cold stares and a death that does not end the pain but only aggravates it. The detention is not one that she or he can escape from by digging a tunnel, cutting steel bars, or driving a fast car. There is no hiding from the dying and cold, empty look.

As the Court has invariably observed, the constitutional right to liberty does not simply refer to freedom from physical restraint. This right includes the right to be free to choose to be one's own person. As now retired Associate Justice Francis H. Jardeleza once explained, "[t]his necessarily includes the freedom to choose how a person defines her personhood and how she decides to live her life. Liberty, as a constitutional right, involves not just freedom from unjustified imprisonment. It also pertains to the freedom to make choices that are intimately related to a person's own definition of her humanity. The constitutional protection extended to this right mandates that beyond a certain point, personal choices must not be interfered with or unduly burdened as such interference with or burdening of the right to choose is a breach of the right to be free." The ability to choose one's intimate partner, Justice Leonen spells out, is connected to human autonomy and dignity, and it degrades or demeans an individual when she or he is denied the right to associate or not to associate with an intimate partner, because the choice of one's intimate partner ultimately defines the individual.

All told, applying Article 36 of the Family Code as clarified in the recent landmark case of *Tan-Andal*, we find that there is clear and convincing evidence here to support the conclusion that Wilbur is psychologically incapacitated, in the legal sense, from complying with his marital obligations in relation to Ma. Virginia. Consequently, the marital union between Ma. Virginia and Wilbur is declared void *ab initio*.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated January 31, 2017 and Resolution dated May 12, 2017 in CA-G.R. CV No. 105246 are **REVERSED** and **SET ASIDE**. The Decision dated January 26,

⁷⁰ J. Lazaro-Javier, Concurring Opinion, *Tan-Andal v. Andal*, supra note 54.

2015 of the Regional Trial Court – Branch 261, Pasig City in JDRC No. 9818 is **REINSTATED**.

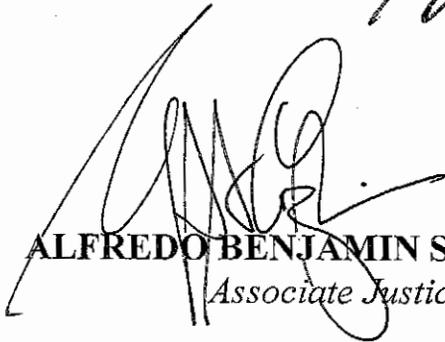
The marriage between Ma. Virginia D.R. Halog and Wilbur Francis G. Halog is declared **VOID** on ground of Wilbur's psychological incapacity. Accordingly, their property relation as husband and wife is **DISSOLVED**.

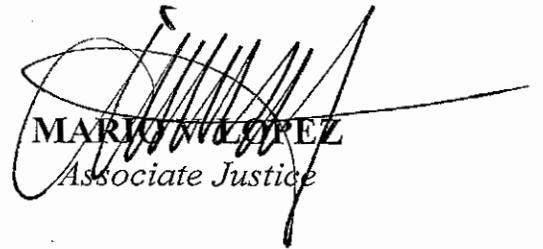
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


MARIO LOPEZ
Associate Justice


JHOSEP LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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



