



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

LEILANI<sup>1</sup> LIM GO,  
*Petitioner,*

G.R. No. 258095

Members:

LEONEN, *SAJ.*, *Chairperson*  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., *JJ.*

-versus-

HENDRICK N. GO<sup>2</sup> and  
REPUBLIC OF THE  
PHILIPPINES,  
*Respondents.*

Promulgated:

DEC 07 2022

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DECISION

LAZARO-JAVIER, *J.*:

The Case

This Petition for Review on *Certiorari*<sup>3</sup> seeks to reverse and set aside the following dispositions of the Court of Appeals in CA-G.R. CV No. 114209:

<sup>1</sup> Referred to as "Leilanie" in some parts of the rollo.  
<sup>2</sup> Referred to as "Hendrick S. Go" in some parts of the rollo.  
<sup>3</sup> *Rollo*, pp. 8-32.

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- 1) Decision<sup>4</sup> dated December 17, 2020 denying the petition for declaration of nullity of marriage of Leilani Lim Go (Leilani) with respondent Hendrick N. Go (Hendrick); and
- 2) Resolution<sup>5</sup> dated November 3, 2021 denying Leilani's motion for reconsideration.

### Antecedents

On July 19, 2011, Leilani filed a petition for declaration of nullity of her marriage with Hendrick based on Article 36<sup>6</sup> of the Family Code. The case was docketed as Civil Case No. R-PSY-14-17782-CV and raffled to the Regional Trial Court (RTC)-Branch 113, Pasay City.<sup>7</sup> She essentially averred:

On August 7, 1999, she and Hendrick were married in church rites at St. Augustine Church in Intramuros, Manila. They had two children, namely, Lance Harvey and Heiley Louise.<sup>8</sup>

She and Hendrick first met sometime in December 1996 in Hong Kong. Their second encounter was in March 1997 at De La Salle-College of St. Benilde. He asked for her phone number. She initially refused but later on relented when she realized he was a nice person.

This led to courtship. He gave her flowers and found time to travel from his house in Pasay City to her residence in Quezon City just to see her. They became sweethearts in 1998 and eventually engaged in pre-marital sex.

A year later, she got pregnant and was advised by her parents to marry Hendrick as it was allegedly the right thing to do. He, however, said he was not prepared to **get married yet and that they should consider an abortion**. He **even asked her if he was indeed the father of the child she was carrying**. She consequently became enraged and would have cancelled their wedding plans were it not in consideration of her parents.<sup>9</sup>

After their wedding, they lived in the house of Hendrick's parents. For this, Hendrick was very grateful 'as he no longer had to endure the long trip going to her house in Quezon City. Meanwhile, **she found it difficult living**

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<sup>4</sup> Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Japar B. Dimaampao (now a member of this Court) and Alfredo D. Ampuan; *id.* at 37-60.

<sup>5</sup> *Id.* at 76-77.

<sup>6</sup> Article 36, 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.

<sup>7</sup> *Rollo*, p. 38.

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

<sup>9</sup> *Id.* at 39.

**with her parents-in-law.** Hendrick's mother would often viciously comment that she was not really the type of woman her son wanted to marry.<sup>10</sup>

Sometime in 1999, she and Hendrick went to Guam for a vacation. She gave birth to their first child there. Then, breastfeeding became an issue between her and Hendrick. **One time, even when she felt already too weak to breastfeed her baby, Hendrick still insisted she must.**<sup>11</sup>

In 2000, she caught **Hendrick having a phone conversation with his former girlfriend Kristine.** Feeling jealous and suspicious that her husband was engaging in extra-marital affairs, she did a covert investigation by herself.<sup>12</sup>

She learned from the sales personnel at Hendrick's office that he was often seen happily speaking with someone over the phone. **She discovered from Hendrick's mobile phone that he had been seeing and constantly communicating with Kristine.** Immediately, she felt like losing her mind especially after reading **this text message: "Love, we may not be together now, but love I know we will be together in the end."** She got so deeply hurt that she just slept on the couch for about a week. When she later on confronted Hendrick about his illicit affair, he asked for forgiveness and promised to stop communicating with Kristine. But he never did. **His infidelity eventually took a toll on their marriage as they grew cold toward each other.** She expected him to open up to her, but he was not that type of person. **He did not exert any effort to fix their marriage. Neither did she, though she hoped she did.**<sup>13</sup>

She complained too about his failure to work hard and earn enough money to provide a better life for their family. **He was content with his small business and made basketball his priority.** He refused to go on vacation with her and their children due to lack of funds. She expected him to take them on a vacation abroad at least once a year but he always told her he had no money.<sup>14</sup>

She focused on her work, helping out in her father's business. She also provided for the needs of their children and paid for the salary of their *kasambahay*. As for Hendrick, he was always missing. He barely spoke to her. He did not tell her how his day went. She tried to express her thoughts and feelings to him but **he always ignored her.** Nonetheless, she continued to support him. She took care of his needs especially when he suffered from epilepsy in 2006.<sup>15</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 80.

<sup>12</sup> *Id.* at 39.

<sup>13</sup> *Id.* at 40.

<sup>14</sup> *Id.* at 39-40.

<sup>15</sup> *Id.* at 40.

In 2007, she got pregnant with their third child. Unfortunately, she lost the baby on her tenth week of pregnancy. She got depressed. **She resented her husband's nonchalance towards her ordeal.** But she wanted another child. Her children gave her comfort in the midst of Hendrick's indifference.<sup>16</sup>

To her dismay, he refused to have another child saying "*gastos lang yan.*" She initiated physical intimacy but **he was always not interested.** In 2009, they had sexual intercourse for six times only. True to form, in his Facebook account, he identified himself as a single person and kept a secret chat box with Kristine.<sup>17</sup>

On their tenth wedding anniversary, she expected him to make her feel special, but she only got frustrated. They only had what she called a casual dinner. **The lack of blandishments and sweet nothings coming from her husband on that special occasion made her feel unloved.** It then dawned on her that **they were only together for the sake of their children.** As days passed, she felt extremely lonely.<sup>18</sup>

In 2013, she began to sleep in her parents' house during weekends and brought their children with her. This was the start of their separation. Whenever they were together, **they did nothing but argue and quarrel.** He blamed her for the love lost between them.<sup>19</sup>

She faulted his unending devotion to Kristine, whom he had described as his "*first girlfriend, first kiss, prom date, first sex, and first in everything.*" As a way of escaping depression, she kept herself busy with a new business venture. But everything he did to her kept haunting her. She consequently decided to seek psychiatric help and was prescribed antidepressants. As a last resort, she suggested to Hendrick that they undergo marriage counselling together but he was dismissive. **He even arrogantly retorted "*mas magaling pa ako sa counsellor.*"**<sup>20</sup>

In 2014, they completely separated. Not long after, she filed the petition for nullity of marriage. She deeply felt that their marriage was no longer founded on love, respect, honor, and commitment.<sup>21</sup>

She eventually realized, however, that their separation has actually brought them peace. She regained her respect for him. They have become better parents to their children; and amiable to each other. As a result, they have been harmoniously co-parenting their children. They have joint custody of them. During weekends, the children stay with her, while during school

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<sup>16</sup> *Id.* at 13.

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

<sup>18</sup> *Id.* at 41.

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

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 42.

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days, they stay with him. He has also provided for their tuition fees and school needs.<sup>22</sup>

Jennel See (Jennel) is Leilani's close friend and the spouses' schoolmate since grade school. Jennel described Leilani as a sweet person who would trade her own happiness just to please people. Leilani was easily disappointed or hurt if things did not go her way. Jennel knew Leilani to be a popular campus figure due to her physical beauty. Leilani's parents, though, were strict, and they did not allow her to go out on "gimmicks."<sup>23</sup>

Jennel was Leilani's confidante about the latter's marriage and family life. Leilani shared with Jennel updates about Hendrick's infidelity and showed Jennel screenshots of his conversations with Kristine. Jennel often visited Leilani's household, often slept in their home, and went with them on out of town trips. During these occasions, Jennel was able to observe their behavior toward each other.<sup>24</sup> Jennel noticed Hendrick's lack of affection towards Leilani. Jennel learned too from Leilani that he never minded his wife's situation whenever he was out of town for work.<sup>25</sup>

She also learned from Leilani that Hendrick was extremely dependent on his parents for support and decision-making. She confirmed though that she never witnessed the couple engage in any physical fight.<sup>26</sup>

Clinical Psychologist Nedy L. Tayag did a psychological evaluation of the couple. She based her evaluation on the information gathered from her interviews with Leilani and Jennel, and the results of Leilani's psychological tests. The Clinical Psychologist sent an invitation dated August 30, 2014 to Hendrick for psychological testing and clinical interview, but he ignored it.<sup>27</sup>

She testified that, on a clinical perspective, Leilani was suffering from Passive Aggressive Personality Disorder with features of Narcissistic Personality Disorder while Hendrick was suffering from Avoidant Personality Disorder with features of Antisocial Personality Disorder.<sup>28</sup>

The Psychological Evaluation Report<sup>29</sup> noted that throughout their marriage, Leilani complied with her marital obligations. She did so out of what she believed was culturally expected of her. She also did not want others to blame her for their failed marriage.<sup>30</sup>

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<sup>22</sup> *Id.* at 41-42.

<sup>23</sup> *Id.* at 42.

<sup>24</sup> *Id.* at 85.

<sup>25</sup> *Id.* at 42.

<sup>26</sup> *Id.*

<sup>27</sup> *Id.* at 90.

<sup>28</sup> *Id.* at 42-45.

<sup>29</sup> *Id.* at 42-43.

<sup>30</sup> *Id.* at 42-47.

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Leilani's passivity persisted, though she had been terribly frustrated with her marital woes. She derived self-identity and self-worth from being a passive spouse. On the flipside, she harbored a lot of resentment due to Hendrick's failure to reciprocate her efforts.<sup>31</sup>

She confided that "*malungkot kasi ako at very emotional na tao, gusto ko lagi kami nag-uusap, nagkukwentuhan, gusto ko sabihin sa kanya everything that's on my mind pero hindi kami ganon, usap namin, isang tanong, isang sagot.*" She was desperately waiting and hoping for him to reciprocate the love and affection she had given him.<sup>32</sup>

When her frustration worsened, she became hostile towards him. She confided "*alam niya nagseselos ako, pero wala lang, kung ikaw ang husband, assure mo wife mo na siya lang sa buhay mo, wala nang iba, lalambingin ka niya, ipafeel niya sana important ako sa buhay niya, and mahal niya ako, ayaw ko ma-feel insecure.*"<sup>33</sup>

According to the Clinical Psychologist, Leilani was a very emotionally dependent woman. She valued her worth through the appreciation and recognition she received from other people. Highly vulnerable to social criticisms and feedback, she did her best to be socially acceptable. She was more than willing to trade social acceptance with her own true happiness and self-worth. Criticism from others destroyed her self-worth. She was happy with her accomplishments, but these should be recognized. Her depression came from others' non-recognition of her worth.<sup>34</sup>

Leilani lived her life banking on her ideals and opinions rather than coming to terms with the day to day vicissitudes. Hence, during their wedding anniversaries, she was often disappointed by Hendrick's lack of reciprocation. He refused to give her flowers because they were expensive and "*di na kailangan.*" Her lofty views being unmet, she fell into deep depression over her self-worth.<sup>35</sup>

In the Clinical Psychologist's opinion, Leilani manifested personality aberration as a result of the strained familial environment she grew up in.<sup>36</sup> She had a kind-hearted father — too kind that people tended to take advantage of him. She emulated this kind of passive kindness which contributed to her present psychopathology. As a child, she also experienced scolding and spanking which made her obey her primary caregivers all the time. Obedience was the only way for her to gain parental approval and favor. Growing up, she

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<sup>31</sup> *Id.* at 43–44.

<sup>32</sup> *Id.* at 43.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* at 43–45.

<sup>35</sup> *Id.* at 43.

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

had been so accustomed to following her parents' lead, which she had difficulty going against. She developed a high need to please people which consequently undermined her level of confidence. She also developed a faulty perception of intimate relationships making her pathologically passive and tolerant of irregularities even over a long period of time just to ensure a continuous sense of attachment and belongingness. Because of her deep-seated need for nurturing and love, she hung on and stayed in her relationship with Hendrick, although such relationship was unable to satisfy her emotional longings.<sup>37</sup>

On the other hand, the Clinical Psychologist found Hendrick to be suffering from Avoidant Personality Disorder with features of Antisocial Personality Disorder. The flawed behavioral patterns showed him to be a pleasure-oriented and self-centered individual. His only mental preoccupation was the immediate satisfaction of his self-interest. His egocentrism meant he was only thinking of himself and his best interests. He thus flaunted his amorous relationships with women. As he lived only to please himself and gratify his urges, he was non-committal. He lacked depth towards his marital commitments, emotionally manipulating his wife to achieve only his comfort. This explained his lack of meaningful communication with his wife.<sup>38</sup>

He was irresponsible and reckless. He did not think of the foreseeable consequences of his actions. He did not strive hard for his family. He left the responsibility for their family entirely to Leilani. He could have exerted more effort to augment his meager income but he was simply content with what he earned despite the increasing needs of his family.<sup>39</sup>

So ingrained was his self-absorption and self-worship that he never felt even a tinge of guilt or remorse for any of his transgressions. The best he could offer as an apology was transactional superficial repentance. He sought forgiveness when it served his interests. He could not accept responsibility much less blame for any failures.<sup>40</sup>

The Clinical Psychologist further opined that Hendrick's personality deviation originated from his faulty familial and childrearing settings. The Clinical Psychologist pictured Hendrick's father as the type of man who wanted to be followed at all times, "*gusto lagi siya nasusunod.*" He was typically patriarchal. His father, however, was negatively described as "*maraming kaaway, matapobre, lagi galit.*"<sup>41</sup>

On the other hand, the Clinical Psychologist described Hendrick's mother as being blindly disposed to compare people's statuses and standings.

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<sup>37</sup> *Id.* at 44-45.

<sup>38</sup> *Id.* at 45-47.

<sup>39</sup> *Id.* at 45-46.

<sup>40</sup> *Id.* at 46.

<sup>41</sup> *Id.* at 45-46.

She was haughty, arrogant, and “*inggitera*.” She played favorites. She favored the youngest child above all her children.<sup>42</sup>

The Clinical Psychologist concluded that these flaws in familial and childrearing dynamics gave confusing signals to Hendrick. He developed a passive defiance of rules. This became part of his system and distorted his moral foundation. He embraced an immature, self-centered, and irresponsible disposition. This eventually manifested in his incapacity to discharge his marital and family obligations. His selfishness and egotism kept him away from playing meaningful roles for these duties.<sup>43</sup>

The Clinical Psychologist found the respective psychopathological conditions of the spouses to be permanent and grave. She asserted that individuals diagnosed with these personality disorders “*lack the adequate insight to their tarnished condition as such their aberrant statuses have become deeply ingrained into their system thereby making them inflexible, maladjusted, dysfunctional and beyond repair.*” Hence, no amount of intervention and psychotherapy would suffice to cure their flawed and defective nature.<sup>44</sup>

On the part of Hendrick, he testified that he is still deeply in love with his wife, albeit he admitted he did not give her the attention, love, and financial support she deserves. He had an income of ₱1,000.00 a day for tending the hardware owned by his father. Since this amount was not enough to support his family, his father augmented Hendrick’s finances. While he may not have a lot of money, he made sure he took care of his children. He brings them to the mall and allows them to eat all the food they fancied on.<sup>45</sup>

He admitted though that he could be a thoughtless spender. In 2013, despite his lack of funds, he bought a Pajero on installment basis. The ₱20,000.00 from his monthly salary of ₱28,000.00 went to the car’s monthly installments. Left with a meager amount of ₱8,000.00, his father came to his rescue and paid for his children’s tuition fees and other needs.<sup>46</sup> He also denied having an extra-marital affair with his long-time friend Kristine.

His father Go Pen Siong testified that his son had been given proper parental guidance, a good education, quality of life conducive to his physical and moral well-being, and discipline. Hendrick and Leilani were deeply in love with each other and were not forced or unduly influenced to get married. He recognized Leilani as his daughter-in-law and they lived under the same roof because his house was big enough to accommodate even Leilani’s whole family. He was proud of his son for being a dedicated worker and soon Hendrick will inherit their business. Even though Leilani and Hendrick are

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<sup>42</sup> *Id.* at 46.

<sup>43</sup> *Id.* at 46.

<sup>44</sup> *Id.* at 47.

<sup>45</sup> *Id.* at 86–87.

<sup>46</sup> *Id.* at 88.

separated in fact, they exerted efforts to rekindle their love and constantly worked on their marriage. He decried the allegation that his wife, Leilani's mother-in-law, often spewed stride comments that Leilani was not the kind of woman Hendrick deserves. On the contrary, he and his wife were kind and gentle to Leilani. He did not want the couple to separate for the sake of his grandchildren. The couple had lived together in his house for more than 15 years, yet, he had not seen them having problems.<sup>47</sup>

### The Ruling of the Regional Trial Court

By Decision<sup>48</sup> dated May 3, 2018, the trial court granted the petition and declared as void *ab initio* the marriage of Leilani and Hendrick, thus:

**WHEREFORE**, the herein petition is hereby **GRANTED**, ordering as follows:

- 1) The marriage between **LEILANIE D. LIM** and **HENDRICK N. GO** celebrated on August 7, 1999 in Manila City, is hereby declared **null and void ab-initio**;
- 2) The City Civil Registrar of Manila City and the National Statistician and Civil Registrar General of the Philippine Statistics Authority are hereby ordered to cause the annotation of this decision, on the said marriage, in the Book of Marriage, under **Registry No. 99-12470**;
- 3) The parties shall have joint care and custody over the two (2) children;
- 4) The respondent is ordered to give his children financial support until they finish college education; and
- 5) Be it noted that both parties waive their right over the 49sq.m. real property in favor of their children.

SO ORDERED.<sup>49</sup>

The trial court held that Leilani clearly and convincingly established that both she and her husband suffer from psychological disorders which are so pervasive, permanent, and incurable that these disorders rendered them incapable of harmoniously living together as husband and wife. According to the trial court, Leilani's testimony was substantially corroborated by the spouses' common friend Jennel and the Clinical Psychologist.<sup>50</sup>

According to the trial court, the seemingly one-sided diagnosis by the Clinical Psychologist was understandable since Hendrick did not participate

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<sup>47</sup> *Id.* at 48.

<sup>48</sup> Penned by Judge Caridad H. Grecia-Cuerdo; *id.* at 79-100.

<sup>49</sup> *Id.* at 100.

<sup>50</sup> *Id.* at 94.

in the psychological assessment she conducted. At any rate, the totality of the evidence could more than make up for his non-participation.<sup>51</sup>

The motion for reconsideration of the Office of the Solicitor General was denied under Order dated August 17, 2018.<sup>52</sup>

### **The Ruling of the Court of Appeals**

On appeal, the Office of the Solicitor General faulted the trial court for granting the petition for nullity of marriage. It argued that the totality of evidence failed to prove Hendrick's psychological incapacity to comply with his marital obligations. Leilani allegedly failed to show that her husband's imputed disorders are grave and incurable.<sup>53</sup>

In its assailed Decision<sup>54</sup> dated December 17, 2020, the Court of Appeals reversed. It ruled that the totality of evidence on record failed to establish Hendrick's psychological incapacity to comply with his marital obligations. His emotional immaturity, irresponsibility, and infidelity did not necessarily equate to psychological incapacity. It did not give credence to the findings of the Clinical Psychologist pertaining to Hendrick's dysfunctional personality traits and behavioral aberrations. Leilani's psychological incapacity, too, was not duly established as she merely narrated her married life in court.

Finally, the Court of Appeals found that since the Clinical Psychologist relied solely on the information gathered from Leilani and Jennel, her findings were deemed one-sided and self-serving. Hendrick had not been personally examined.<sup>55</sup>

Under Resolution dated November 3, 2021, Leilani's motion for reconsideration was denied.<sup>56</sup>

### **The Present Petition**

Leilani now seeks affirmative relief from the Court against the assailed dispositions of the Court of Appeals. She faults the Court of Appeals for

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<sup>51</sup> *Id.* at 97.

<sup>52</sup> *Id.* at 38.

<sup>53</sup> *Id.* at 58.

<sup>54</sup> Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Japar B. Dimaampao (now a member of this Court) and Alfredo D. Ampuan; *id.* at 37–60.

<sup>55</sup> *Id.* at 58–59.

<sup>56</sup> Penned by Associate Justice Pedro B. Corales and concurred in by Associate Justices Ronaldo Roberto B. Martin and Alfredo D. Ampuan; *id.* at 76–77.

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disregarding the expert findings of the Clinical Psychologist just because no prior personal examination and interview of Hendrick were done.<sup>57</sup>

For its part, the Office of the Solicitor General reiterates that the totality of evidence presented by Leilani was insufficient to prove that she and Hendrick are psychologically incapacitated to perform the essential obligations of marriage.<sup>58</sup>

Hendrick failed to file his Comment on the petition.

### Issue

Should the marriage between Leilani and Hendrick be set aside for being a nullity under Article 36 of the Family Code?

### Our Ruling

We **GRANT** the petition.

Article 36 decrees:

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 the past, psychological incapacity under Article 36 of the Family Code had been consistently confined to the “*most serious cases of personality disorders,*” *clinically* or *medically* identified, as the root cause of the spouse’s or the spouses’ clear demonstration of an utter insensitivity or inability to give meaning and significance to the marriage.<sup>59</sup>

This however, was **re-conceptualized** in *Tan-Andal v. Andal*.<sup>60</sup> This case sets aside the focus on personality disorders and re-tools psychological incapacity as the **mutual incompatibility** and **antagonism** between the spouses arising from their respective **personality structures**, *viz.:*

**Psychological incapacity is neither a mental incapacity nor 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

<sup>57</sup> *Id.* at 8–32.

<sup>58</sup> OSG’s Comment dated August 8, 2022, pp. 1–16.

<sup>59</sup> *Calma v. Santos-Calma*, G.R. No. 242070, August 24, 2020 [Per J. Leonen, Third Division]

<sup>60</sup> G.R. No. 196359, May 12, 2021 [Per J. Leonen, *En Banc*].

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 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  
x x x .

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.

x x x x

Furthermore, not being an illness in a medical sense, psychological incapacity is not something to be cured. And even if it were a mental disorder, it cannot be described in terms of being curable or incurable.

x x x x

Reading together the deliberations of the Code 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 amended accordingly. This means that the incapacity is 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. "An 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."

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 x x x x.

x x x x

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, **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**. Furthermore, it must be shown caused by a genuinely serious psychic cause. To **prove psychological incapacity**, a party must **present clear and convincing evidence of its existence**.<sup>61</sup> (Emphasis supplied, citations omitted)

In this new concept, psychological incapacity consists of the **mutual incompatibility and antagonism** between the spouses which (1) show the lack of understanding and concomitant compliance with the spouses' essential marital obligations; and (2) undermine the unity and harmony within the family which may be traced from the spouses' **psychic or personality structures** that **clash** with one another. Because psychic or personality structures are abstract mental processes and may themselves be the products of complex factors *i.e.*, volition, predisposition, or congenital origins, **other forms of evidence** are now looked into to veer away from the focus on personality disorders and render expendable the need for expert opinion.

Through *Tan-Andal*, the courts may now consider other forms of evidence, those which are perceivable and expressible by ordinary pieces of evidence, and in turn verifiable by the lawyers' examinations thereof, *i.e.*, **clear, persistent and chronic acts, behavior, conduct, events, reputation, character, or circumstances of dysfunctionalities** that result in the state of mutual incompatibility and antagonism, which in turn undermines the family.

### *New guidelines in determining personality structures*

But to preclude the writing of decisions which outcomes are determined arbitrarily, if not whimsically, the Court, in the recent case of *Laroco v. Laroco*,<sup>62</sup> introduced a new set of *guidelines* on how to establish psychological incapacity on the basis of the spouses' **personality structures**, thus:

To summarize, in proving psychological incapacity, counsel must present:

- clear and convincing evidence of **acts, behavior, conduct, events, reputation, character, or circumstances of dysfunctionalities** in the lives of the spouses;
- which are clearly and convincingly indicative or illustrative of the **incompatibility and antagonism**

<sup>61</sup> *Id.*

<sup>62</sup> G.R. No. 253342, June 22, 2022 [Per J. Lazaro-Javier, Second Division].

between them and the resulting **impairment** of family harmony and unity.

The *acts, behavior, conduct, events, reputation, character, or circumstances* of **dysfunctionalities** would often revolve around or be classified as one of –

- general differences of interests and antagonistic feelings;
- loss of love;
- hostility and resentment;
- distrust;
- the inability to live harmoniously together;
- lack of concern or indifference;
- lack of common interests and goals;
- instances of violence against women and their children as defined in Republic Act No. 9262 and other laws;
- zero probability of reconciliation between the spouses; and
- failure of the spouse or the spouses to perform his, her, or their marital duties and obligations that is clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.

This list is **not** by any means exclusive. They are only illustrative.

More, the **last example** refers to the characterization *clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage*. This was once used to describe the *personality disorder* that gave rise to psychological incapacity.<sup>63</sup>

As it was, however, since *Tan-Andal* has **abandoned** the **focus on personality disorders** and expert opinions, this **last example** (*i.e.*, clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage) may now be appropriated to capture such facts as (i) *forms of addiction* demonstrative of such insensitivity or inability, (ii) *abandonment* by one spouse of the other, or (iii) *instances of mutual actual loss* of trust, love and respect for each other.

Distinctive of these and other instances of *acts, behavior, conduct, events, reputation, character, or circumstances* of **dysfunctionalities** is the **harsh reality** that spouses who are **coerced together in a meaningless marital relationship** would only **physically** or **psychologically endanger** either or both of them. They easily fall prey to isolation and depression, because they cannot move on to productive relationships. They are trapped within an in-existent and meaningless social interaction, and to get away from this blight and exchange for it beneficial interactions that humans need as humans, are forced to live double or secret lives.

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<sup>63</sup> *Republic v. Deang*, 850 Phil. 483, 489–490 (2019) [Per J. Perlas-Bernabe, Second Division].

As to whether the **incompatibility** and **antagonism** that could be inferred from the *acts, behavior, conduct, events, reputation, character, or circumstances* of **dysfunctionalities** in the lives of the spouses are **mutual**, counsel may canvass –

- whether there is still mutual concern for the emotional needs of each other;
- whether the marriage is characterized by financial difficulties, long physical separation, differences of interests, decisions, wants and values, resentment, coolness, distrust, constant bickering, and antagonistic feelings that are irreversible and demonstrate an irremediable rift; and
- whether there is an overall conflict of personalities, that is, if their conduct, actions, decisions, wants, interests or values often collide.

As regards the **potential cause** and the **truthfulness** or **reliability** and **validity** of the **claim** of **mutual incompatibility** and **antagonism**, since the *personality structure* may only be established by outward appearances, counsel may consider such factors as –

- age disparity and ages of the spouses;
- actual indiscreet or unfaithful conduct;
- suspicions of adultery or infidelity;
- charges or suspicions of child abuse;
- financial difficulties and nonsupport;
- intemperance or addiction;
- lack of marital or psychiatric counseling;
- medical problems;
- physical violence;
- problems with relations or friends;
- religious, moral, or political differences;
- lack of or unsatisfactory sexual relations;
- unsociability or refusal to speak or communicate;
- physical separation;
- verbal abuse and objectionable language, among others.

Note that the immediately preceding factors **may themselves constitute** the *acts, behavior, conduct, events, reputation, character, or circumstances* of **dysfunctionalities** in the lives of the spouses, which witnesses may testify to. (Emphases in the original.)<sup>64</sup>

*Laroco* noted further that while proof of personality disorders may help explain the cause of the dysfunctional acts, conduct or behavior as well as the ensuing incompatibility and antagonism, personality disorders are no longer the sole proof of psychological incapacity.

<sup>64</sup> G.R. No. 253342, June 22, 2022 [Per J. Lazaro-Javier, Second Division].

Nonetheless, *Tan-Andal* has retained the rule that for mutual incompatibility and antagonism to constitute psychological incapacity, the same must be characterized by the elements of:

- (a) **gravity**, *i.e.*, it must be serious such that the spouses would be incapable of carrying out the ordinary duties required in a marriage;
- (b) **juridical antecedence**, *i.e.*, it must be rooted *and shown* in the *history* of the spouses antedating their marriage though the overt manifestations may *emerge substantially* and *significantly only after* the marriage; and
- (c) **incurability**, *i.e.*, it must not be susceptible to any cure, or even if it were otherwise, the cure would be beyond the means *and inclination* of the spouses.

Each of these elements must be proven *clearly and convincingly*.

***Applying the reconfigured concept of psychological incapacity and the new guidelines to the present case***

Applying the re-conceptualized framework in *Tan-Andal* and the set of guidelines in determining incompatible personality structures in *Laroco*, we at once find the existence and gravity of the **mutual incompatibility** and **antagonism** between spouses Leilani and Hendrick. This state of discord between them has undermined the unity and harmony in their family as shown by *their separation since 2014* and the *initiation of the present case*.

The *acts, behavior, conduct, events, reputation, character, or circumstances* of **dysfunctionalities** revolve around **conflicting personality structures** between the spouses. It has **nothing to do with** any of them being **at fault** towards the other. This is because the evidence does not prove more or less probably, let alone, clearly and convincingly, that Hendrick by any wayward acts has grievously offended Leilani. The evidence offered by Leilani was countermanded by the evidence of Hendrick and his father.

But still the fact is they **remain separated**, are **better off as parents** to their children **when apart**, and that, despite the contrary evidence offered by Hendrick, he **did not seek to reconcile and live together again** with Leilani. It is in this context that we say that the marital relationship of Leilani and Hendrick has been **wracked by mutual incompatibility and antagonism** revolving around the themes of:

- general differences of interests and antagonistic feelings;
- loss of love;
- hostility and resentment;
- distrust;
- the inability to live harmoniously together;
- lack of concern or indifference
- lack of common interests and goals; and
- zero probability of reconciliation between the spouses.

Notably, these themes have already been catalogued in the circumstances narrated above, which all boil down to a reasonable person's opinion that *Leilani and Hendrick wanted to form a family but cannot function as effective parents and family members when they are together as spouses*. It is from this **clear and convincing** inference that we conclude that their marriage is marred by mutual incompatibility and antagonism.

Interestingly, as between Leilani and Hendrick, there is **no physical age gap**. There are suspicions of infidelity, but with Hendrick's evidence, they are just that, suspicions. There are no instances of verbal or physical violence, no intemperance or addiction, no religious, moral or political differences, and no medical problems. Yet there is undeniable evidence of specific instances of behavior reflecting the themes of mutual incompatibility and antagonism.

Both causative and symptomatic of their mutual incompatibility and antagonism are Leilani's *problems with Hendrick's relations, particularly his parents, lack of or unsatisfactory sexual relations, asociability or refusal to speak or communicate, and physical separation*. But the true deep reason for their lack of ability to be together is their **incompatible personality structures**.

*Res ipsa loquitur*. The thing speaks for itself. Although used in the context of tort cases, this evidentiary principle allows us to draw the inference that there being no other reason for their separation, their efficacy as parents when apart from each other, **but for** the evidence of their respective **personality traits or disorders**, it must be and have been these **clashing personality structures** that animate the animosity between them.

In any event, whatever may be the cause of their mutual incompatibility and antagonism, since clearly and convincingly identifying it is very difficult and imprecise, we can nonetheless conclude that Leilani has proven **clearly and convincingly** the **mutual incompatibility and antagonism** between her and Hendrick. This mutual incompatibility and antagonism is the core manifestation of the re-tooled concept of psychological incapacity, and if the elements of juridical antecedence, gravity, and incurability are also shown

clearly and convincingly, then we can already rule that the marriage is void under Article 36 of the Family Code.

Based on Leilani's evidence, ironically corroborated by Hendrick and his father, their mutual incompatibility and antagonism is **grave**. It has already brought about their marital breakdown and separation as spouses.

Their mutual incompatibility and antagonism are **incurable**. Giving substantial probability to this conclusion is the Clinical Psychologist's opinion. The behavior of the spouses confirms this opinion. The spouses tried to reconcile within their means and time but failed miserably. Not to exaggerate, had they each been given a pill or a contraption to remedy their misery, they would have already taken them. Clearly and convincingly, and paradoxically too, it was their separation that brought them back together as reasonable adults and parents to their children. Being apart from each other made them a family again. Verily, the concept of family has come a long way from the traditional heterosexual relationships under one roof with offsprings to the more diverse and dynamic forms that are not just inclusive but also safe, productive, and non-discriminatory.

Finally, Leilani's and Hendrick's mutual incompatibility and antagonism are **pre-marital**. Since their mutual incompatibility and antagonism are symptomatic of their **clashing personality structures**, as probably demonstrated by their respective **personality disorders**, this mutual incompatibility and antagonism must have been present though latent before they were married. It blew openly and out of proportion when **they began to live together**. It disappeared when **they started living apart**. Conceivably, their marriage and its concomitant requirement to be together **triggered** the ghastly manifestation of this mutual incompatibility and antagonism. All in all, there is clear and convincing evidence of **juridical antecedence**.

All told, applying Article 36 of the Family Code as revisited in *Tan-Andal* and the guidelines in determining incompatible personality structures in *Laroco*, the Court finds that there is clear and convincing evidence here to support the conclusion that Leilani and Hendrick are both psychologically incapacitated, in the legal sense, from complying with their marital obligations.

As held in *Castro v. Castro*, when a person who entered into the special contract of marital union is psychologically impaired to perform marital obligations, the law perceives the impossibility of achieving the purpose of marriage. *Tan-Andal* emphasized that choosing one's spouse is an inherent part of human dignity. Those who choose marriage deserve more care, compassion, kindness as part of the relationship. Else, there is no kind of marriage than an ill-equipped one:

In any case, inasmuch as the Constitution regards marriage as an inviolable social institution and the foundation of the family, **courts must not hesitate to void marriages that are patently ill-equipped due to psychic causes inherent in the person of the spouses.**

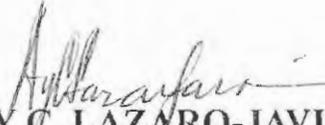
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The right to choose our intimate partners is part of our right to autonomy and liberty, an inherent part of human dignity. **Ultimately, should the State interfere with these choices, it should do so only when public interest is imperiled.** (Emphasis supplied)<sup>65</sup>

In *Santos-Gantan v. Gantan*,<sup>66</sup> the Court underscored that in dissolving marital bonds on ground of psychological incapacity of either spouse, the Court is not demolishing the foundation of families. By preventing a person incapable of complying with the essential marital obligations from remaining in that sacred bond, the Court is **actually protecting the sanctity of marriage**. In the first place, there is no marriage to speak of since it is void from the very beginning.

**ACCORDINGLY**, the Petition is **GRANTED**. The marriage of Hendrick N. Go and Leilani Lim Go is declared **VOID AB INITIO**. The Decision dated December 17, 2020 and Resolution dated November 3, 2021 of the Court of Appeals in CA-G.R. CV No. 114209 are **REVERSED**. The Decision dated May 3, 2018 and Order dated August 17, 2018 of the Regional Trial Court, Branch 113, Pasay City in Civil Case No. R-PSY-14-17782-CV, declaring the marriage between Hendrick N. Go and Leilani Lim Go void *ab initio* is **REINSTATED**.

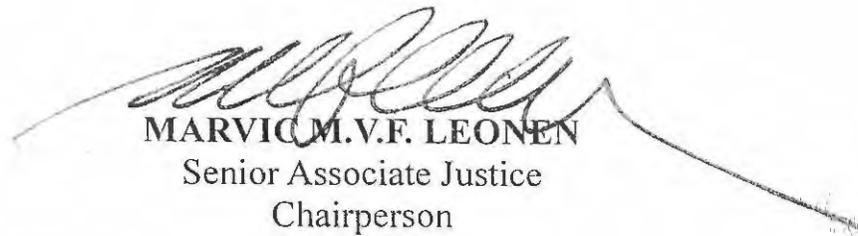
**SO ORDERED.**

  
**AMY C. LAZARO-JAVIER**  
Associate Justice

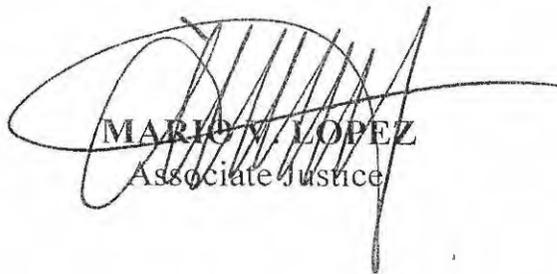
<sup>65</sup> *Castro v. Castro*, G.R. No. 210548, March 2, 2020 [Per J. Reyes, J., Jr., First Division].

<sup>66</sup> G.R. No. 225193, October 14, 2020 [Per J. Lazaro-Javier, First Division].

**WE CONCUR:**



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson



**MARIO V. LOPEZ**  
Associate Justice



**JHOSEP V. LOPEZ**  
Associate Justice



**ANTONIO T. KHO, JR.**  
Associate Justice

**ATTESTATION**

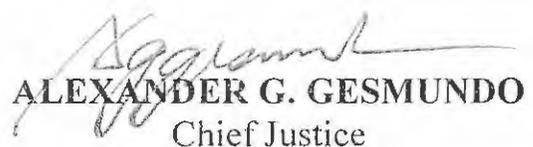
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice

**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