



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

CONSTANCIA
ASEJO,

JAVATE-
Petitioner,

G.R. No. 247798

Present:

-versus -

JUSTINIANO ZANTUA ASEJO
AND REPUBLIC OF THE
PHILIPPINES,

Respondents.

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

Promulgated:
January 18, 2023

Misael B. Bata

X ----- X

DECISION

SINGH, J.

Before this Court is a Petition for Review on *Certiorari*,¹ under Rule 45 of the Rules of Court, assailing the Decision,² dated November 29, 2018, and the Resolution,³ dated May 8, 2019, of the Court of Appeals (CA) in CA-G.R. C.V. No. 110708 entitled “*Constancia Javate-Asejo, Petitioner-Appellee, v. Justiniano Zantua Asejo, Respondent, Republic of the Philippines, Oppositor-Appellant.*”

¹ *Rollo*, pp. 3-47.

² *Id.* at 50-66. Penned by Associate Justice Remedios A. Salazar-Fernando, and concurred in by Associate Justices Franchito N. Diamante and Ma. Luisa C. Quijano-Padilla.

³ *Id.* at 67-71.

The petitioner Constancia Javate-Asejo (**Constancia**) questions the CA Decision that granted the appeal of the oppositor-appellant, Republic of the Philippines, through the Office of the Solicitor General (**OSG**), as well as the CA Resolution denying her Motion for Reconsideration. Through its assailed pronouncements, the CA held that the marriage between Constancia and the respondent Justiniano Zantua Asejo (**Justiniano**) remains valid and subsisting.

The CA reversed the Decision of the Regional Trial Court Branch 21 (**RTC**), Santiago City, dated June 19, 2017,⁴ which earlier granted the declaration of nullity of the marriage between Constancia and Justiniano due to the latter's psychological incapacity.

The Facts

Constancia met Justiniano after she was widowed in 1987. Justiniano, a friend of Constancia's late husband, assisted her in processing her pension benefits. Constancia and Justiniano became close and later developed a "mutual understanding."⁵

During the time they were together, Constancia discovered the following about Justiniano:

a) that respondent Justiniano lives in a rowdy compound in Ugac Sur, Tuguegarao City where most of the residents therein are his relatives who are into gambling, betting, and drinking, living an easy (*sic*) go lucky lifestyle. b) that he lives with his family and being unemployed, depends on his parents and siblings for financial support; that his group of friends were known to be drug users and drunkards, and c) that he finished his studies but was never employed x x x.⁶

In 1989, Constancia got pregnant and, after being persuaded by her parents, she and Justiniano got married on December 23, 1989, at the Municipal Circuit Trial Court of Solana-Enrile, Solana, Cagayan.⁷

Thereafter, they lived with Justiniano's family. He insisted that they do so as he is unemployed and his family provided them financial support.⁸ Constancia pleaded with Justiniano to get a job, but "he could not be persuaded, refused to do so and continued to rely on their respective families for financial support."⁹ They tried to live independently, but returned to

⁴ *Id.* at 72-86. Penned by Acting Presiding Judge Ester L. Piscoso-Flor.

⁵ *Id.* at 52.

⁶ *Id.*

⁷ *Id.* at 73.

⁸ *Id.* at 52.

⁹ *Id.*



Justiniano's family compound after a month. While staying with Justiniano's family, the couple would always quarrel due to the following:

a) constant refusal of respondent Justiniano to get a job, b) he did nothing but eat and sleep all day when at home, c) he spent most of his time drinking with friends until dawn, d) he gambled and spent whatever money he had without concern for his family's needs, and e) he did not go home regularly and when asked, she was subjected to harsh verbal abuse x x x¹⁰

On April 1, 1990, the couple's only child, Clifford Javate Asejo (**Clifford**), was born.¹¹ Expenses for the childbirth were shouldered by Constancia's parents, and they continued to sustain the family's needs thereafter.¹²

In 1992, Constancia worked as a domestic helper in Hong Kong to support her son. During this time, she sent her son's allowance through her parents for fear that Justiniano will only spend it on his vices.¹³

In 1993, she went home and started working for a private company to personally take care of their son. She supported her son with the help of her parents.¹⁴ During this time, Constancia observed that Justiniano's behavior towards her became worse:

every time respondent Justiniano got drunk, he would physically and verbally abuse her and utter the words "*second hand*", "*reject*", "*malas*", and "*basura ka*"; one time, she was slapped by respondent Justiniano's sister about a simple misunderstanding and said "*dapat itapon ka sa basurahan*", but respondent Justiniano did nothing to apprehend (*sic*) the situation nor defend his wife; during his drinking sprees with friends, respondent Justiniano would often compel her to sit and entertain them likened to a Guest Relations Officer (GRO) and when she refused, he would beat her up; through all the years of their married life together, she was the only one who earned a living and financially supported their child x x x.¹⁵

In 1995, they moved in with Constancia's parents in Ilagan, Isabela. During this time, Constancia was employed in government. She rented a space in a boarding house and went home to her family twice a week in order to juggle her responsibilities.¹⁶

In 1996, they again lived with Justiniano's family, but they would keep moving back and forth to live with either Constancia's or Justiniano's family.

¹⁰ *Id.* at 52.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 52-53.

¹⁴ *Id.* at 53.

¹⁵ *Id.*

¹⁶ *Id.*



Justiniano would physically hurt their child whenever he did something he disliked.¹⁷

Still, Constanica continued living with Justiniano until the day Justiniano, who was then drunk, threw out all her personal belongings and “verbally, psychologically and physically maltreated” and “publicly scandalized” her in front of her child, Justiniano’s family, and all other people present. The incident left her “mentally shocked and physically traumatized.”¹⁸

Thereafter, Constanica left Justiniano. However, she had to leave her child with Justiniano due to his studies. She took custody of her child a year after their separation.¹⁹

On September 9, 2013, Constanica filed a Petition for Declaration of Absolute Nullity of Marriage under Article 36 of the Family Code. Summons, together with a copy of the Petition, were served and personally received by Justiniano on December 19, 2013, but he did not file any Answer to the Petition.²⁰

On October 22, 2013, the OSG, entered its appearance for the State, and authorized the City Prosecutor of Santiago City to appear in its stead.²¹

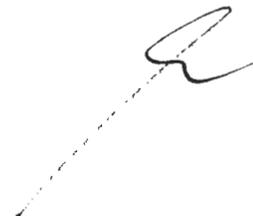
On March 17, 2014, the RTC directed the Office of the City Prosecutor of Santiago City to investigate whether there is collusion between the parties. On May 20, 2014, the Acting City Prosecutor, Arthur G. Kub-ao, submitted a Manifestation that there was no collusion between the parties.²²

The Ruling of the RTC

The RTC found that Constanica was able to establish the psychological incapacity of Justiniano to perform the essential obligations of marriage. The dispositive portion of the RTC Decision,²³ dated June 19, 2017, reads:

WHEREFORE, based on the foregoing, the petition is hereby GRANTED. The Court hereby declares, that:

¹⁷ *Id.*
¹⁸ *Id.*
¹⁹ *Id.*
²⁰ *Id.* at 51 & 72.
²¹ *Id.*
²² *Id.* at 73.
²³ *Id.* at 72-86.



1. The marriage between petitioner Constanca Javate Asejo and respondent Justiniano Zantua Asejo solemnized on December 23, 1989 at Solana, Cagayan, as NULL and VOID;
2. Copies of the decision be furnished to both parties and their counsels including the Office of the Solicitor General and the Office of the City Prosecutor of Santiago City;
3. Upon entry of judgment granting the petition, this Court shall issue the Decree after the prevailing party:
 - a. Registered the entry of judgment of this petition to the Local Civil Registrar of Solana, Cagayan, where the marriage was recorded and the Local Civil Registrar of Santiago City where this Court is located;
4. The prevailing party shall report to the Court compliance with the requirement within thirty (30) days from receipt of the entry of judgment.

SO ORDERED.²⁴

The RTC was convinced through a preponderance of evidence that respondent Justiniano was psychologically incapacitated to perform the essential obligations of marriage.²⁵

The RTC considered, among others, the testimony of the expert witness, Dr. Ethel Maureen Biscarro Pagaddu (**Dr. Pagaddu**), which was based on her interviews with Constanca, Constanca's friends, and Justiniano's sister and sister-in-law.

The OSG filed a Motion for Reconsideration dated June 19, 2017, which was denied by the RTC in an Order,²⁶ dated January 3, 2018.

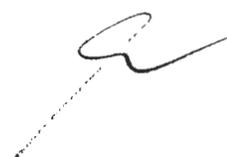
The glaring failure of the respondent to perform his marital and parental obligations serves as sufficient ground to warrant the nullification of his marriage to petitioner. His utter disregard of his duties and responsibilities as a husband and a father should no longer haunt and punish petitioner and her child. The marital obligations to live together, observe mutual love, respect, support was not fulfilled by the respondent.

The Court then finds no cogent reason to alter or modify its Decision dated June 19, 2017.

²⁴ *Id.* at 86.

²⁵ *Id.*

²⁶ *Id.* at 87-92.



WHEREFORE, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.²⁷

The OSG then filed an appeal with the CA, alleging that the RTC erred in declaring the marriage of the parties null and void due to Justiniano's alleged psychological incapacity.

The Ruling of the CA

In its Decision,²⁸ dated November 29, 2018, the CA granted the OSG's appeal:

WHEREFORE, premises considered, the appeal is GRANTED. The Decision dated June 19, 2017 and Order dated January 3, 2018 of the RTC, Branch 21, Santiago City in Civil Case No. 21-3852-FC are hereby REVERSED and SET ASIDE. The marriage between the parties remains VALID and SUBSISTING.

SO ORDERED.²⁹

The Decision of the CA granting the OSG's Petition prompted Constancia to file a Motion for Reconsideration, which was, however, denied by the CA. In its Resolution,³⁰ dated May 8, 2019, the CA concluded that:

Petitioner-appellee Constancia and respondent Justiniano are in reality simply unwilling to work out a solution for each other's personality differences, and have thus become overwhelmed by feelings of disappointment or disillusionment toward one another. Sadly, a marriage, even if unsatisfactory, is not a null and void marriage. Based on the totality of the evidence presented, there exists insufficient factual or legal basis to conclude that respondent Justiniano's immaturity and irresponsibility amount to psychological incapacity.

IN VIEW OF THE FOREGOING, there being no substantial argument which would warrant the modification much less the reversal of this Court's November 29, 2018 Decision, the petitioner-appellee's Motion for Reconsideration is hereby DENIED for utter lack of merit.

SO ORDERED.³¹

²⁷ *Id.* at 92. Citations omitted.

²⁸ *Id.* at 50-66.

²⁹ *Id.* at 65.

³⁰ *Id.* at 67-71.

³¹ *Id.* at 71.



Hence, Constancia's resort to this Court, through a Petition for Review on *Certiorari*³² under Rule 45. Constancia prays that the Court reverse the Decision of the CA which declared that her marriage with Justiniano remains valid and subsisting, asserting that it was "rendered in a way not in accord with law and with the applicable decisions of this Honorable Court."³³

Constancia asserts that the totality of evidence presented warrants the declaration of their marriage as null and void on the ground of psychological incapacity, citing the findings of Dr. Pagaddu and the Court's ruling in *Te v. Yu-Te and the Republic of the Philippines*,³⁴ which instructs that the provision on psychological incapacity as a ground for the declaration of nullity of marriage must be interpreted on a case-to-case basis.³⁵

The Issue

Did the CA commit any error in reversing the RTC's declaration of nullity of the marriage between Constancia and Justiniano?

Crucial to the Court's determination is whether Constancia has adequately established, through the evidence she has presented, including the findings and testimony of the expert witness Dr. Pagaddu, that Justiniano suffers from psychological incapacity.

The Ruling of the Court

This Court resolves to grant the Petition.

Contrary to the conclusions of the CA, the RTC correctly found that the marriage of Constancia and Justiniano is null and void due to the latter's psychological incapacity, as established by the testimonies of Constancia, the expert, and other witnesses presented. Such psychological incapacity is attended by gravity, juridical antecedence, and incurability, that render Justiniano incapable of performing the essential obligations of marriage.

The RTC did not err in giving weight to the testimony of the expert witness

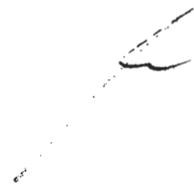
In its Decision, the CA noted that the RTC heavily relied upon the testimony and findings of Dr. Pagaddu, whose conclusions were purely based on the testimony of Constancia and interviews with Justiniano's sister and

³² *Id.* at 9-49.

³³ *Id.* at 11.

³⁴ 598 Phil. 666 (2009).

³⁵ *Rollo*, p. 44.



sister-in-law. While the CA conceded that the lack of personal examination is not necessarily fatal, it still maintained that in this case, Dr. Pagaddu's failure to interview Justiniano is fatal as the totality of evidence is not sufficient to sustain a finding of psychological incapacity.

It further assailed the methodology employed by Dr. Pagaddu, as falling short of the "required depth and comprehensiveness of examination," and hence, could not be relied upon as a basis for declaring the existence of Justiniano's psychological incapacity.

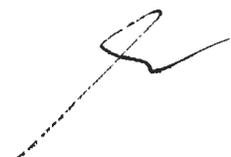
In the assailed Decision and Resolution, the CA cited the case of *Rumbaua v. Rumbaua (Rumbaua)*³⁶ to illustrate the rigor required of a psychological report.

We cannot help but note that Dr. Tayag's conclusions about the respondent's psychological incapacity were based on the information fed to her by only one side – the petitioner – whose bias in favor of her cause cannot be doubted. While this circumstance alone does not disqualify the psychologist for reasons of bias, her report, testimony and conclusions deserve the application of a more rigid and stringent set of standards in the manner we discussed above. For, effectively, Dr. Tayag only diagnosed the respondent from the prism of a third party account; she did not actually hear, see and evaluate the respondent and how he would have reacted and responded to the doctor's probes. x x x We find these observations and conclusions insufficiently in-depth and comprehensive to warrant the conclusion that a psychological incapacity existed that prevented the respondent from complying with the essential obligations of marriage. It failed to identify the root cause of the respondent's narcissistic personality disorder and to prove that it existed at the inception of the marriage. Neither did it explain the incapacitating nature of the alleged disorder, nor show that the respondent was really incapable of fulfilling his duties due to some incapacity of a psychological, not physical, nature. Thus, we cannot avoid but conclude that Dr. Tayag's conclusion in her Report – i.e., that the respondent suffered "Narcissistic Personality Disorder with traces of Antisocial Personality Disorder declared to be grave and incurable" – is an unfounded statement, not a necessary inference from her previous characterization and portrayal of the respondent. While the various tests administered on the petitioner could have been used as a fair gauge to assess her own psychological condition, this same statement cannot be made with respect to the respondent's condition. To make conclusions and generalizations on respondent's psychological condition based on the information fed by only one side is, to our mind, no different from admitting hearsay evidence as proof of truthfulness of the content of such evidence.³⁷

The disparity between *Rumbaua* and this case is pronounced. It should be stressed that in *Rumbaua*, the expert was only able to interview the petitioner. Additionally, the expert witness was unable to identify the root cause of therein respondent's alleged narcissistic personality disorder, prove its juridical antecedence, and show how the same rendered the respondent

³⁶ 612 Phil. 1061, at 1084 (2009).

³⁷ *Id.* at 1084.



truly incapable of discharging marital obligations. None of these defects are present in the expert testimony in this case.

First, Dr. Pagaddu not only interviewed Constancia, but also Justiniano's sister, Venus Asejo Bautista, and his sister-in-law, Ellen Asejo. The bias that the Court guarded against in *Rumbaua*, thus, cannot be said to be present in this case.

Second, Dr. Pagaddu's assessment sufficiently guided the RTC as it traced and explained the *root cause* of Justiniano's personality disorder, the factors that have contributed to it, and how it affected his relationship with Constancia. Dr. Pagaddu was also able to show how the disorder pervaded Justiniano's daily life, thereby establishing its *severity* and *incurability*.

From the information gathered from her sources, Dr. Pagaddu learned that Justiniano is the youngest of eight children of the late Bienvenido Asejo, a former government hospital employee, and the late Macaria Asejo, a plain housewife. He came from an average family who doesn't know how to save. Their being spendthrift made them always running (sic) short of money. **He was his mother's favorite and she spoiled him with his material and monetary demands. His parents, particularly his mother, had fostered dependence in him and had rewarded extreme loyalty especially that he was given utmost attention and support, being the youngest in the brood. He was not allowed to experience frustrations and express his emotions. He grew up in a dysfunctional family whereby his parents failed to provide adequate parental example which greatly affected his behavior. He became afraid to experience rejection and abandonment that he stood by his parents to maintain their infallible support. He was not able to relinquish his "dependent" relationship from them. Such faulty pattern has not been corrected as he developed in him a self-centered, impulsive, irresponsible and immature disposition as he only focuses on the immediate satisfaction of his overly gratified childhood needs and desires.** His choice of partner was greatly affected by his parents' influence. Connie, who expressed admirations towards him, could have been the best substitute to his mother. Connie, who was focused and willing to listen and provide him attention, was perfect picture of his mother. **His dependency to (sic) Connie was a continuation of his dependency to (sic) his mother.**

The Court has no reason to doubt the testimony of Dr. Ethel Maureen B. Paggadu, the psychiatrist with sufficient authority to speak of the subject of psychological incapacity. She examined respondent's collateral relatives and the petitioner and was able to gather sufficient data (sic) and information about respondent Justiniano. The psychological disorder of respondent is indeed chronic and ingrained in his personality. **The root cause of Justiniano's personality aberration can be said to have originated from various negative factors during his formative years which have affected what could have been a normal childhood development which had resulted to the existence and persistence of his pathological personality disposition. He grew up in a dysfunctional family whereby his parents failed to provide adequate parental example and guidance. Both his parents were spoilers and he was not**



allowed to experience frustrations and express his emotions. Such faulty pattern has not been corrected as he developed in him self-centered, impulsive, irresponsible and immature disposition as he only focuses on the immediate satisfaction of his overly gratified childhood needs and desires. The psychological disorder of the respondent exhibits antecedence because the symptoms of his disorder were present even before the celebration of the marriage. It shows that it evolved from conception and is influenced by his experience as he grew up. **The manifestation of his erratic personality became evident during late adolescence or early adulthood when he established relationships outside his family members.**

The psychological disorder of the respondent is incurable because **it is deeply rooted and already in his character, Dr. Pagaddu concludes that no specific breakthrough will help the respondent to acknowledge his psychological incapacity thru therapy or psychological intervention.** Thus, no amount of therapy can possibly change the respondent in so far as incapability to perform his essential marital obligations with the petitioner.

It can be said that the psychological disorder is severe, grave, serious and permanent. **Respondent Justiniano could not perform his essential marital obligations because he is pre-occupied with his personal interest. He could not engage into (sic) gainful employment and provide a good life for his family because he knows he can depend on his parents for financial matters. He is fully absorbed with his vices, such as gambling and drinking alcohol.** On cross examination, Dr. Paggadu explained that the behaviors of the respondent such as gambling and drinking alcohol done in excessive manner are external manifestations of his psychological incapacity because they become his pre-occupation and it occupies or controls his behavior spending almost the entire day drinking instead of looking for productive activities which restricts him from fulfilling his marital obligations. The immaturity and irresponsibility of the respondent are likewise a manifestations (sic) of his personality disorder.³⁸

It must likewise be stressed that in *Rumbaua*, this Court firmly reiterated that psychological incapacity need not be personally testified to by a physician or psychologist, or that the party alleged to be psychologically incapacitated be personally examined by such psychologist.

Neither the law nor jurisprudence requires, of course, that the person sought to be declared psychologically incapacitated should be personally examined by a physician or psychologist as a condition *sine qua non* to arrive at such declaration. If a psychological disorder can be proven by independent means, no reason exists why such independent proof cannot be admitted and given credit. No such independent evidence, however, appears on record to have been gathered in this case, particularly about the respondent's early life and associations, and about events on or about the time of the marriage and immediately thereafter. Thus, the testimony and report appear to us to be no more than a

³⁸

Rollo, pp. 83-84. Emphasis supplied.



diagnosis that revolves around the one-sided and meager facts that the petitioner related, and were all slanted to support the conclusion that a ground exists to justify the nullification of the marriage. We say this because only the baser qualities of the respondent's life were examined and given focus; none of these qualities were weighed and balanced with the better qualities, such as his focus on having a job, his determination to improve himself through studies, his care and attention in the first six months of the marriage, among others. The evidence fails to mention also what character and qualities the petitioner brought into her marriage, for example, why the respondent's family opposed the marriage and what events led the respondent to blame the petitioner for the death of his mother, if this allegation is at all correct.³⁹

In its Comment⁴⁰ to this Petition, the OSG raised its misgivings concerning Dr. Pagaddu's conclusions, stressing that the findings were based on her interview with Justiniano's sister and sister-in-law which only lasted for less than five hours. The OSG asserts that the sources and methodology of Dr. Pagaddu are "severely lacking the requisite depth and comprehensiveness to judicially establish Justiniano's psychological incapacity."⁴¹ The OSG's contentions deserve scant consideration.

As it stands, this Court does not even require expert testimony for cases of this nature.⁴² It must remain circumspect in prescribing how experts must establish their findings and conclusions in due deference to their professional expertise, and loath to specify such methodologies lest it ventures into a field beyond its competence. It must not foray into specifying the minimum number of hours an expert must interview his or her informants. Suffice it to state that the interview length of about four to less than five hours, for the two informants, appears reasonable and does not present such striking irregularity that may put into question the findings of the expert witness. This is especially so when the expert's conclusions have been presented before and have been sufficiently probed and accepted by the RTC.

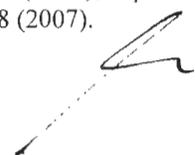
The conclusions of Dr. Pagaddu regarding Justiniano's psychological makeup, based on her interviews with Justiniano's sister and sister-in-law in addition to interviews with Constancia, cannot be dismissed as self-serving and biased simply because there was no interview with Justiniano himself. It must be emphasized that these informants are no strangers to Justiniano and can be reasonably believed to have sufficient knowledge and insights about him, as he grew up in the same household as his sister and lived in the same family compound as his sister-in-law. Neither was bias nor ill motive alleged, much less shown. Justiniano in choosing not to answer the Petition, despite

³⁹ 612 Phil 1061, at 1091 (2009). Emphasis supplied.

⁴⁰ *Rollo*, pp. 145-161.

⁴¹ *Id.* at 157.

⁴² *Marcos v. Marcos*, 397 Phil. 840 (2000); *Vide Antonio v. Reyes.*, 484 SCRA 353 (2006); *Republic v. Iyoy*, 470 SCRA 508 (2005); *Republic v. Tanyag-San Jose*, 545 Phil. 725-738 (2007).



summons and opportunity to do so, must be deemed to have conceded the veracity of his own relatives' accounts.

This Court is also aware that apart from the expert testimony of Dr. Pagaddu, Constanica presented the testimonies of other witnesses, namely, Venilyn Domingo Gaspar (**Venilyn**), a close friend with whom she shares her struggles concerning her relationship with Justiniano; and Lutgarda M. Consolacion (**Lutgarda**), a former classmate and neighbor who lived 100 meters from Constanica and Justiniano, and who was able to observe facets of the couple's daily life including their altercations.⁴³

Venilyn's uncontroverted testimony detailed how she pitied Constanica when the latter complained to her that Justiniano sold their furniture and other household items, *i.e.*, their sala set, LPG tank, among others, for money he then spent for alcohol, gambling, women, and drugs. Constanica also shared with her that Justiniano calls her "reject," "second hand," "*malas*," and "*basura*" in public. She likewise testified as to how she personally observed Constanica's hardship in raising her child alone, as she would ask her for help for the child's school expenses. She also candidly informed the RTC that she had only met Justiniano and did not have a chance to closely observe their relationship.⁴⁴

Meanwhile, Lutgarda testified that she frequently sees Justiniano doing nothing or drinking with his relatives, she witnessed the spouses quarrelling as she lived nearby, has heard Justiniano shouting "second hand," "reject," "*malas*," and "*basura ka*" at Constanica.⁴⁵ She likewise testified that she witnessed the incident when Justiniano threw away Constanica's clothes and other belongings "near the canal and water pump," and narrated how she saw her friend Constanica trembling while picking up her clothes and putting them inside a plastic bag. She thereafter accompanied Constanica to the bus station. Lutgarda further shared that after Constanica left, Justiniano was "continuously drunk."⁴⁶

Their testimonies are consistent with Constanica's assertions and corroborate Dr. Pagaddu's findings and observations from her interviews with Justiniano's collateral relatives as detailed in her testimony and Psychiatric Evaluation Report.⁴⁷

As the CA noted, Justiniano never participated in the proceedings. Nonetheless, it cannot be denied that the expert witness, Dr. Pagaddu, made an effort to study and present a more holistic picture of the parties' relationship, their psychological status, and the underpinnings thereof by

⁴³ *Rollo*, p. 74.

⁴⁴ *Id.* at 55.

⁴⁵ *Id.* at 74.

⁴⁶ *Id.* at 56.

⁴⁷ *Id.* at 125-135.



reaching out to, and interviewing, the couple's relatives, including two of Justiniano's family members. The failure of Justiniano to participate should not hold the proceedings hostage, *moreso*, as such nonchalance only bolsters claims of his utter insensitivity and irresponsibility.

This Court finds no reason to doubt the RTC, which had the opportunity to directly hear, observe, and examine Constanica and her witnesses, including the expert witness, Dr. Pagaddu.

The totality of evidence points to respondent's psychological incapacity, marked by gravity, antecedence, and incurability

In its Decision,⁴⁸ the CA opined that the behavior of Justiniano, *i.e.*, habitual drunkenness, gambling, and refusal to find a job "while indicative of psychological incapacity, do not by themselves show psychological incapacity."⁴⁹ It further declared that "[i]t is settled in jurisprudence that refusal to look for a job *per se* is not indicative of psychological defect."⁵⁰ Moreover, the CA likewise held that Constanica failed to present substantiating evidence to support her claim that she was physically abused by Justiniano.

The Court finds this conclusion utterly incompatible with the facts as established by the RTC and the CA itself. For one, Justiniano's habitual drunkenness, gambling, and refusal to find a job were all established on record, and conceded even by the OSG. By unduly focusing on allegations of physical violence and abusive behavior, the more glaring aspects of Justiniano's failure to comply with his obligations as a spouse were overlooked.

The OSG's Comment alone is replete with such admissions of Justiniano's lack of understanding of his essential obligations as a husband, hence:

11. Connie gave birth to their son Clifford Javate Asejo on April 1, 1990. **Expenses relative to her delivery was (*sic*) shouldered by Justiniano's parents alone without any sense of concern and worry from Justiniano.**

12. **While the child grew up, it was still Justiniano's parents who sustained their family's needs.** Connie then decided to go abroad in 1992. She worked as a domestic helper in Hongkong and sent monthly allowance for their child.

⁴⁸ *Id.* at 50-66.

⁴⁹ *Id.* at 59.

⁵⁰ *Id.*

13. In 1993, Connie went home and worked in a private company to personally take care of their child. She observed that Justiniano was exhibiting abnormal behavior and attitude, to wit:

- a. He became physically violent towards her everytime he got drunk and he would always utter the words “second hand,” “reject,” “*malas*,” and “*basura ka*,” with an offensive gesture;
- b. During his drinking spree, he would compel her to sit with them and act like a guest relations officer;
- c. He publicly scandalized her by throwing all her personal belongings from the house;
- d. He verbally, psychologically and physically maltreated her in front of their son and his relatives;
- e. **Throughout their married life, Connie was the only one earning a living for their family and taking care of their son.**⁵¹

However, Justiniano’s callousness, lack of concern or worry were casually treated and merely brushed aside as indicative of the parties’ failure to “get along with each other” by the CA.⁵² Justiniano’s behavior is conveniently labelled as “immaturity” and “irresponsibility” as if these are excusable behavior for a married man who is the father of a child.

Our courts should be sensitized to the power dynamics in a family setting, specifically between the husband and the wife. When we routinely categorize a husband’s refusal to be gainfully employed and support his family as plain “immaturity” or “irresponsibility” and shrug it off, as in this case, we perpetuate the unequal and discriminatory gender imbalance in the spouses’ relationship. Constanica came to court for relief from the “immature” and “irresponsible” behavior of Justiniano, which has taken a fatal toll on their married life. And yet, instead of such relief, she was told that Justiniano’s immaturity and irresponsibility must be tolerated and merely accepted.

Even as courts ought to uphold marriage as an inviolable social institution, so must courts be ready to sever marital bonds upon a clear showing of psychological incapacity that impedes a meaningful and nurturing partnership of equals. No incompatibility exists between these bounden duties, as ultimately the institution of marriage is safeguarded when those who partake in it are truly fit to discharge its attendant obligations.

In dealing with petitions for nullity, our courts must not only mechanically observe the guidelines laid out by this Court. They must also proceed with due care to require no more than what is necessary from those

⁵¹ *Id.* at 147-148. Citations omitted; emphasis supplied.

⁵² *Id.* at 60.



who come before them, sensitive to the context or backdrop within which the facts of a given case play out, and to the inherent hardships that such a case engenders. These, the CA failed to do in Constancia's case.

Neither the OSG nor the CA could deny that Justiniano has never been employed, lives a carefree lifestyle, and is overly dependent on his wife, his parents and relatives for his responsibilities as a husband to Constancia and a father to Clifford.

The OSG's Comment admitted that "Connie's parents were disappointed because Justiniano was unemployed and have nothing of his own to support a family" and that when Constancia gave birth "expenses relative to the delivery was shouldered by Justiniano's parents alone without any sense of concern and worry from Justiniano." Further, as the child grew up, their family's needs were sustained by Justiniano's parents such that Constancia then decided to go abroad in 1992, worked as a domestic helper in Hong Kong, and sent monthly allowances for their child. In 1993, she went home and worked in a private company to personally take care of their child.

Contrary to the conclusions of the CA, therefore, the facts of this case do not support mere difficulty or neglect on the part of Justiniano, but a pathologic over-reliance on others. There were no indicia that he even understood that he was personally responsible for the support of his family, in the first place. The records establish, and both parties readily admit, that Justiniano does not even acknowledge or fathom his own responsibility for his own self.

In *Marcos v. Marcos*,⁵³ this Court referred to psychological incapacity as a "malady so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume."⁵⁴ While psychological incapacity clearly refers to one's obligations to one's spouse and family, it is not difficult to understand how one who cannot understand and assume responsibilities for oneself can likewise fail to understand and assume his responsibility for others.

The case of *Azcueta v. Republic of the Philippines and the Court of Appeals*⁵⁵ is in point. The Court was confronted with a similar situation – the husband suffered from dependent personality disorder which prevented him from discharging his marital obligations. The Court in finding that the husband was psychologically incapacitated, as he cannot be persuaded to look for employment, was overly dependent on his mother for daily sustenance, and cannot make decisions for himself, among others, emphasized the nature of the family as an autonomous social institution.

⁵³ 397 Phil. 840 (2000).

⁵⁴ *Id.* at 851.

⁵⁵ 606 Phil. 177 (2009).



At this point, the Court is not unmindful of the sometimes peculiar predicament it finds itself in those instances when it is tasked to interpret static statutes formulated in a particular point in time and apply them to situations and people in a society in flux. With respect to the concept of psychological incapacity, courts must take into account not only developments in science and medicine but also changing social and cultural mores, including the blurring of traditional gender roles. In this day and age, women have taken on increasingly important roles in the financial and material support of their families. **This, however, does not change the ideal that the family should be an “autonomous” social institution, wherein the spouses cooperate and are equally responsible for the support and well-being of the family. In the case at bar, the spouses from the outset failed to form themselves into a family, a cohesive unit based on mutual love, respect and support, due to the failure of one to perform the essential duties of marriage.**⁵⁶

Justiniano, due to his constant need to be supported by his parents and relatives, could not fully embrace autonomy as an individual and could likewise not afford the same for his wife and family.

Even as a family can decide to have a sole breadwinner, to the Court’s mind, this decision must be mutually and freely determined, consistent with the spouses’ obligation to “observe mutual love, respect and fidelity, and render help and support,”⁵⁷ and not be forced upon by sheer insensitivity or utter lack of regard of one spouse, who does not have the slightest inkling of or is unable to understand and fulfill this duty due to a persisting psychological malady.

The OSG also contends that all of Constancia’s allegations against Justiniano – “habitual drunkenness, gambling, refusal to seek employment and his baser attitudes during marital squabbles” – occurred during the marriage and that “there was no showing that any mental disorder existed at the inception of the marriage.” However, in its Comment to this Petition, the OSG narrated that even early in their relationship, prior to marriage, there were already indications of Justiniano’s pattern of behavior, the extent of which remained unknown to Constancia prior to their marriage. To quote:

During the times that they were out together, Connie learned:

a. Justiniano lived in a rowdy compound in Ugac Sur, Tuguegarao City where most of the people residing therein were his relatives. Most of them were into gambling, betting and drinking habits. It was the usual scenario in their compound since most of them were unemployed and living an easy go lucky lifestyle. Justiniano stayed in their family house and **was dependent to his parents and other siblings;**

b. **Justiniano’s group of friends were known as drug users and fond of having drinking spree anytime of the day;**

⁵⁶ *Id.* at 198. Emphasis supplied.

⁵⁷ FAMILY CODE, art. 68.



c. Justiniano finished his studies **but he was never employed and did not at all tried to look for one, he was jobless and chooses to be reliant to his parents.**⁵⁸

The expert's interview with the material witnesses, including Constancia and the sister and sister-in-law of Justiniano, provided the requisite proof that juridical antecedence marks Justiniano's psychological incapacity, aside from gravity and incurability.

In its Resolution,⁵⁹ the CA even highlighted Justiniano's helpful behavior at the beginning of their relationship, that he even became Constancia's shoulder to cry on at the beginning of the relationship, and the couple's failed attempt to live independently, to belie the existence of his psychological incapacity and show that the couple merely suffers from irreconcilable differences.

However, this line of reasoning must be rejected as Constancia is not asserting that Justiniano cannot be a friend nor even a lover, but only that he cannot be a husband or a father, as he cannot truly grasp what being one entails. Surely, cases for the declaration of nullity of marriage start with some form of friendship or romance, or other similar interpersonal relationship, which unlike marriage, do not have attendant responsibilities.

The OSG further posits that even as Constancia criticized Justiniano for not looking for a stable job she "did not specify what job suits Justiniano's qualifications." Additionally, it submits that "Justiniano may have failed to support Connie and their son; however, this act, by itself does not prove that he is psychologically incapacitated as this *may have been simply due to emotional immaturity, irresponsibility or dire financial constraints.*"⁶⁰

The first assertion only emphasizes Justiniano's overdependence, the root of his psychological incapacity as pointed out by the expert. As to the cause of the Justiniano's failure to support Constancia and his son, it is baffling how this conclusion came to be considering that, as the CA has noted, Justiniano never participated in the proceedings. This assertion based on unfounded suppositions and conjectures cannot stand against the categorical findings of the expert witness, borne out of interviews of people who closely know the couple, and have witnessed their daily lives even prior to their marriage.

The Court agrees with the CA and the OSG that Article 36 contemplates downright incapacity or inability to take cognizance of and assume the basic marital obligations, not mere refusal, neglect or difficulty, much less, ill will.

⁵⁸ *Rollo*, p. 147. Emphasis supplied.

⁵⁹ *Id.* at 67-71.

⁶⁰ *Id.* at 155.



But it must disagree with their appreciation of the facts in this case, and their conclusion that these pieces of evidence do not establish such incapacity or inability on the part of Justiniano.

The quantum of proof required in Tan-Andal v. Andal has been discharged in this case

In 2021, the Court in *Tan-Andal v. Andal (Tan-Andal)*⁶¹ pronounced that the quantum of proof required in nullity cases must be clear and convincing evidence.

The first *Molina* guideline reiterates the fundamental rule in evidence that one who asserts a claim must prove it. Specifically, in psychological incapacity cases, it is the plaintiff-spouse who proves the existence of psychological incapacity.

Molina, however, is silent on what quantum of proof is required in nullity cases. While there is opinion that a nullity case under Article 36 is like any civil case that requires preponderance of evidence, we now hold that the plaintiff-spouse must prove his or her case with *clear and convincing evidence*. This is a quantum of proof that requires more than preponderant evidence but less than proof beyond reasonable doubt.⁶²

This is a departure from the guidelines set in *Antonio v. Reyes (Antonio)*,⁶³ which treats Article 36 as any other civil case, and therefore, only requires a preponderance of evidence.

As in all civil matters, the petitioner in an action for declaration of nullity under Article 36 must be able to establish the cause of action with a preponderance of evidence. However, since the action cannot be considered as a non-public matter between private parties, but is impressed with State interest, the Family Code likewise requires the participation of the State, through the prosecuting attorney, fiscal, or Solicitor General, to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed. Thus, even if the petitioner is able establish the psychological incapacity of respondent with preponderant evidence, any finding of collusion among the parties would necessarily negate such proofs.⁶⁴

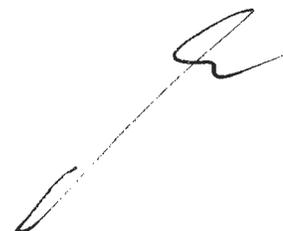
Thus, this Court must require no less than clear and convincing evidence before it declares a marriage null and void *ab initio*.

⁶¹ G.R. No. 196359, May 11, 2021.

⁶² *Id.* Emphasis in the original.

⁶³ 519 Phil. 337 (2006).

⁶⁴ *Id.* at 359. Emphasis supplied.



Contrary to the finding of the RTC that the psychological incapacity of Justiniano has been established through a preponderance of evidence, this Court finds that the evidence presented is more compelling, and ought to be properly regarded as clear and convincing proof.

The expert testimony was anchored on interviews with unbiased witnesses and has been corroborated by the other witnesses presented by Constancia. Justiniano's persisting psychological condition was identified, its history traced from his childhood and upbringing, and its manifestations prior to and throughout their marriage have been demonstrated by evidence beyond reproach. Thus, Constancia was able to discharge the requisite burden of proof.

Moreover, based on the foregoing discussions, this Court has noted that even the evidence presented by the State failed to dissuade and have actually buttressed the case for declaring the nullity of this marriage.

All told, the records speak clearly and convincingly that Justiniano is suffering from psychological incapacity, of such gravity, antecedence, and incurability, that prevents him from recognizing his essential marital obligations and renders his marriage to Constancia null and void *ab initio*.

WHEREFORE, the Petition for Review on *Certiorari* is **GRANTED**. The Decision, dated November 29, 2018, and the Resolution, dated May 8, 2019, of the Court of Appeals in CA-G.R. CV No. 110708 are **REVERSED**. The Decision, dated June 19, 2017, of the Regional Trial Court, Branch 21, Santiago City, is **REINSTATED**.

SO ORDERED.



MARIA FILOMENA D. SINGH

Associate Justice

WE CONCUR:

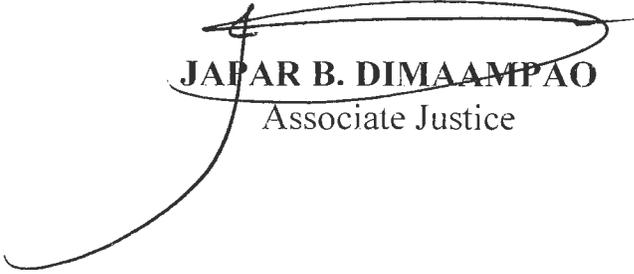


ALFREDO BENJAMIN S. CAGUIOA

Associate Justice
Chairperson

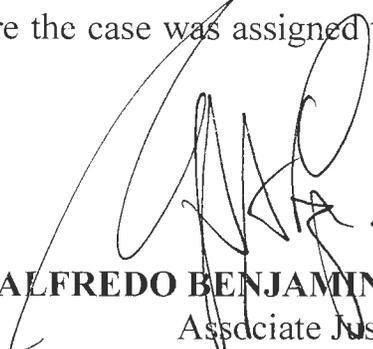

HENRI JEAN PAUL B. INTING
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

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


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice