



Republic of the Philippines  
 Supreme Court  
 Cagayan de Oro City

FIRST DIVISION

**FERNANDO C. CLAVECILLA,**  
 represented by **ATTY. MARVEL**  
**C. CLAVECILLA,**  
 Petitioner,

**G.R. No. 228127**

Present:

**GESMUNDO, C.J.,** *Chairperson,*  
**HERNANDO,**  
**ZALAMEDA,**  
**ROSARIO, and**  
**MARQUEZ, JJ.**

- versus -

**MARIVIC V. CLAVECILLA**  
**and the REPUBLIC OF THE**  
**PHILIPPINES,**  
 Respondents.

Promulgated:

**MAR 06 2023**

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**DECISION**

**GESMUNDO, C.J.:**

Either spouse, whether psychologically incapacitated or not, may initiate a petition to declare the nullity of their marriage. The law only requires that the petition contains specific allegations of the incapacity of either or both spouses from complying with the essential marital obligations. The doctrine of unclean hands will not bar a psychologically incapacitated spouse from filing such petition.

The Court resolves this Appeal by *Certiorari*<sup>1</sup> filed by Fernando C. Clavecilla (*petitioner*) against the June 30, 2016 Decision<sup>2</sup> and the October 7, 2016 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 101689, which reversed and set aside the April 10, 2013 Decision<sup>4</sup> of the Regional

<sup>1</sup> *Rollo*, pp. 11-37; under Rule 45 of the Rules of Court.

<sup>2</sup> *Id.* at 45-55; penned by Associate Justice Florito S. Macalino and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Zenaída T. Galapate-Laguilles.

<sup>3</sup> *Id.* at 57-58.

<sup>4</sup> *Id.* at 59-70; penned by Presiding Judge Erwin Virgilio P. Ferrer.

Trial Court of Naga City, Branch 20 (*RTC*). The CA held that petitioner failed to establish psychological incapacity either on his part or that of his wife, Marivic Clavecilla (*Marivic*), under Article 36 of the Family Code.<sup>5</sup>

### **Antecedents**

Petitioner and Marivic met through a common friend sometime in December 1986. Petitioner was a finance officer at the Philippine Embassy in Saudi Arabia, while Marivic worked as a staff nurse at a private hospital in Jeddah.<sup>6</sup> Petitioner was so smitten by Marivic's striking physical attributes that he courted her until they became sweethearts.<sup>7</sup>

Since her employment contract was to expire by the yearend of 1987, Marivic informed petitioner that she would be returning to the Philippines. Apprehensive that he may lose her, petitioner proposed marriage which Marivic accepted after several discussions and considerations.<sup>8</sup> Thus, on December 10, 1987, the couple exchanged marital vows at the Office of the Philippine Consulate General in Jeddah, Saudi Arabia.<sup>9</sup> They again celebrated their marriage on March 12, 1988 at St. Pancratius Chapel, Paco Park, Manila.<sup>10</sup> They were blessed with a child, Patrick Joshua, who was born on September 21, 1993.<sup>11</sup>

On November 14, 2006, petitioner filed a Verified Petition<sup>12</sup> for the declaration of nullity of his marriage with Marivic and faulted her for being psychologically incapacitated to assume her marital obligations. He averred that during the initial period of their marriage, Marivic had been carefree, and was a consistent nagger and a very demanding wife, who preferred the company of friends instead of staying home to attend to the needs of her family. He also claimed that Marivic had no interest in looking for employment despite his prodding, and did not exert effort to provide for his basic needs. Also, without his knowledge, Marivic obtained loans, and one creditor of which she failed to pay filed a legal action against petitioner before the Department of Foreign Affairs, which placed his employment in jeopardy.<sup>13</sup>

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<sup>5</sup> Id. at 51-53.

<sup>6</sup> Records, p. 2.

<sup>7</sup> Id. at 588-589.

<sup>8</sup> Id. at 2.

<sup>9</sup> Id. at 585.

<sup>10</sup> Id. at 89.

<sup>11</sup> Id. at 586.

<sup>12</sup> Id. at 1-8.

<sup>13</sup> Id. at 2-3.

Petitioner claimed that in order to avoid confrontation and to save their marriage, he would remain submissive to the will and caprices of Marivic. After realizing that she would no longer change, he finally decided to leave sometime in June 2005.<sup>14</sup>

Psychologist Nedy Tayag (*Dr. Tayag*) submitted and testified on the results of the psychological examination she conducted on petitioner,<sup>15</sup> and concluded that he was suffering from Narcissistic Personality Disorder<sup>16</sup> (*NPD*) which resulted in his lack of concern for the overall welfare of his marriage. Dr. Tayag traced petitioner's deficient personality condition from his early formative years. Dr. Tayag concluded that petitioner's psychological incapacity is incurable, and that his marriage which was not founded on mutual trust, love, respect, and commitment, is beyond repair.<sup>17</sup> Dr. Tayag also submitted her separate interviews on petitioner's friends, namely, Fidelis Q. Apalisok<sup>18</sup> (*Apalisok*) and Feliciano Pimentel<sup>19</sup> (*Pimentel*), to supplement her report on petitioner's psychological condition.

In her Answer,<sup>20</sup> Marivic denied being a carefree, consistent nagger, and demanding wife who is inconsiderate of the needs of her family.<sup>21</sup> She argued that being the guilty spouse, petitioner cannot come to court to plea for annulment.<sup>22</sup> She also claimed to have discovered petitioner's psychological incapacity after their marriage, which was manifested by his irresponsible and abnormal attitude, as well as selfishness, especially on financial matters.<sup>23</sup> Since petitioner did not provide for financial support, Marivic found work in his postings abroad.<sup>24</sup> She also alleged that in June 1994, petitioner started spending most of his time outside their home with friends, and even engaged in adulterous relationships.<sup>25</sup> She described petitioner to have become "obsessed with his own personal desires" that he had forgotten his obligation to sufficiently provide financial support, especially to Patrick Joshua.<sup>26</sup>

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<sup>14</sup> Id. at 4.

<sup>15</sup> Id. at 11-21.

<sup>16</sup> Id. at 20.

<sup>17</sup> Id. at 21.

<sup>18</sup> Id. at 597-598.

<sup>19</sup> Id. at 599-600.

<sup>20</sup> Id. at 52-72.

<sup>21</sup> Id. at 58.

<sup>22</sup> Id. at 53.

<sup>23</sup> Id. at 58.

<sup>24</sup> Marivic showed proof that she worked as Secretary/Bookkeeper in Bonn, Germany; as an Information Officer at Pag-IBIG Fund; as Administrative Assistant/Processor at the Department of Labor and Employment-POLO in Milan, Italy; and as a nanny/housekeeper in Paris, France. (Id. at 96-101).

<sup>25</sup> Id. at 63-64.

<sup>26</sup> Id. at 64-65.

### Ruling of the RTC

On April 10, 2013, the RTC granted the petition based on its findings that petitioner was psychologically incapacitated. The RTC noted that even if petitioner was unsuccessful in pinning the blame on Marivic for their failed marriage, Dr. Tayag had sufficiently explained that petitioner's psychological incapacity made it difficult for him to accept his failures and to acknowledge his shortcomings. The RTC believed that such personality disorder was characterized by juridical antecedence, having been deeply rooted and ingrained in his personality prior to his marriage.<sup>27</sup> Hence, the RTC disposed:

**WHEREFORE**, based from the totality of evidence presented in this case, on the ground of psychological incapacity of the petitioner, the petition is GRANTED.

Accordingly, the marriage between petitioner FERNANDO CLAVECILLA and respondent MARIVIC CLAVECILLA is declared null and void under Art. 36 of the Family Code, as amended and all its effects under the law null and void from the beginning. Henceforth, their property relation is dissolved.

As regards their son, Patrick Joshua Clavecilla y Villanueva, he is considered to be the legitimate child of the parties in accordance with Article 53 of the Family Code and shall retain the surname of his father and considering that the respondent is at present having custody over him, she shall retain custody over said child subject to the visitation rights of the petitioner.

The settlement of the parties stated in this Order of this Court dated 15 June 2012, on the issue of support is hereby reinstated such that the Petitioner is directed to give monthly support to his son in the amount of Twenty Five Thousand Pesos (Php 25,000.00) starting 15 July 2012 and thereafter.

Upon finality of this Decision, the Court shall forthwith issue the corresponding degree of nullity of marriage upon compliance with Section 21 of AM 02-11-10-SC on liquidation, partition, and distribution of the properties of the spouses.

Pursuant to the provision of A.M. No. 02-11-10-SC, the Branch Clerk of Court shall enter this judgment upon its finality in the Book of Entry of Judgment and to issue an Entry of Judgment in accordance thereto. The Local Civil Registrar is also directed to cause the registration of the said Entry of Judgment in their respective Book of Marriages.

SO ORDERED.<sup>28</sup>

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<sup>27</sup> *Rollo*, p. 65.

<sup>28</sup> *Id.* at 70.

Marivic filed a Motion for Reconsideration,<sup>29</sup> but the same was denied by the RTC in its Order<sup>30</sup> issued on July 29, 2013. Aggrieved, Marivic filed her Notice of Appeal<sup>31</sup> which the RTC gave due course on November 8, 2013.<sup>32</sup>

### **Ruling of the CA**

In the now assailed decision, the CA reversed the RTC and held that the interview conducted by Dr. Tayag on petitioner and his friends, her testimony, and the documentary evidence submitted to the court, were insufficient to prove the root cause, gravity, and incurability of petitioner's condition.<sup>33</sup> It held that the juridical antecedence of the alleged incapacity was unclear; that Dr. Tayag's findings were primarily based on the information provided by petitioner, which thereby casts doubt on the conclusiveness of her findings; and that there was no explanation on how petitioner's narcissism made him psychologically incapacitated to perform his obligations as a husband.<sup>34</sup> The CA likewise did not find merit in petitioner's allegations of psychological incapacity on the part of Marivic.<sup>35</sup> The CA concluded that:

Irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility, do not by themselves warrant a finding of psychological incapacity, as the same may only be due to a person's difficulty, refusal or neglect to undertake the obligations of marriage that is not rooted in some psychological illness that Article 36 of the Family Code addresses.

Furthermore, the Supreme Court held that "mild characterological peculiarities, mood changes and occasional emotional outburst cannot be accepted as indicative of psychological incapacity. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, the root cause should be a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage."

**WHEREFORE**, premises considered, the Decision dated April 10, 2013 of the Regional Trial Court of Naga City, Branch 20 in Civil Case No. 2006-0117 is hereby **REVERSED and SET ASIDE**. The marriage of Fernando C. Clavecilla and Marivic V. Clavecilla subsists and remains valid.

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<sup>29</sup> Records, pp. 776-790.

<sup>30</sup> Id. at 853.

<sup>31</sup> Id. at 854-855.

<sup>32</sup> Id. at 859.

<sup>33</sup> *Rollo*, p. 51.

<sup>34</sup> Id. at 51-52.

<sup>35</sup> Id. at 53.

**SO ORDERED.**<sup>36</sup>

Petitioner moved for reconsideration, but was denied by the CA in its October 7, 2016 Resolution.

Hence, this petition.

**Issues**

Petitioner maintains that the CA committed reversible error when it overturned the RTC's decision and held that he failed to prove the presence of psychological incapacity. Petitioner insists that the RTC's finding of psychological incapacity on his part is supported by both factual and clinical evidence. The findings of Dr. Tayag had sufficiently shown his NPD, and were even bolstered by Marivic's allegations. He likewise points out that the RTC formed its conclusion on his narcissistic tendencies not only from his complaints against Marivic,<sup>37</sup> but most importantly, from the findings of Dr. Tayag which discussed the root cause, gravity, incurability, and incapacitating nature of his narcissism.<sup>38</sup>

Furthermore, Marivic did not raise any new argument or fact in her appeal; hence, the findings of the RTC which were supported by preponderant evidence, should be accorded respect and must not be disturbed on appeal.<sup>39</sup>

Finally, petitioner argues that the Court, in *Kalaw v. Fernandez*,<sup>40</sup> (*Kalaw*) has relaxed the rigid guidelines in deciding petitions filed under Art. 36 of the Family Code. He maintains that the facts in *Kalaw* and the instant case are identical, hence, the dissolution of his marriage is only proper and necessary.<sup>41</sup>

On her part, Marivic posits that the instant petition should be dismissed because the verification and certification of non-forum shopping were not signed by petitioner,<sup>42</sup> and for raising question of facts.<sup>43</sup> She also opines that petitioner failed to prove the root cause, gravity, and incurability of his purported psychological incapacity; that the findings on the root cause of the alleged psychological incapacity was couched in general and ambiguous

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<sup>36</sup> Id. at 54.

<sup>37</sup> Id. at 19.

<sup>38</sup> Id. at 27-29.

<sup>39</sup> Id. at 29-32.

<sup>40</sup> 750 Phil. 482 (2015).

<sup>41</sup> *Rollo*, pp. 32-34.

<sup>42</sup> Id. at 112-114.

<sup>43</sup> Id. at 115.

language;<sup>44</sup> that Dr. Tayag's report failed to explain how petitioner's psychological incapacity rendered him incapable of performing his marital obligations;<sup>45</sup> that petitioner only seeks the annulment of their marriage because of an extramarital affair, and wanted to legitimize his relationship with his lover; that being the guilty party, petitioner should not be allowed to break free from the marriage by invoking his own misdeeds;<sup>46</sup> and that the ruling in *Kalaw* did not abandon the guidelines set forth in *Republic v. Molina*<sup>47</sup> (*Molina*).<sup>48</sup>

The Office of the Solicitor General (*OSG*) argues in its Comment<sup>49</sup> that the petition is dismissible for raising questions of fact.<sup>50</sup> It also observed that the findings of Dr. Tayag on the root cause and gravity of petitioner's alleged psychological incapacity were general and vague. The report failed to point out the actual and specific circumstances in petitioner's upbringing that may have led him to crave for attention and recognition which resulted in his alleged disorder.<sup>51</sup> The *OSG* also maintains that the report is unreliable because it was based on petitioner's self-serving declarations.<sup>52</sup>

In his Compliance with Reply,<sup>53</sup> petitioner denies that his petition contained a defective verification and certification of non-forum shopping. He contends that although Atty. Marvel C. Clavecilla (*Atty. Clavecilla*) had signed the said documents, he nonetheless executed a special power of attorney (*SPA*) authorizing Atty. Clavecilla to initiate the petition and sign all pleadings and motions on his behalf.<sup>54</sup>

Petitioner likewise counters that the present petition is exempt from the rule that only questions of law may be raised in a petition filed under Rule 45 of the Rules of Court. The significant variance between the findings of the RTC and the CA, as well as the erroneous inference and misapprehension of facts by the CA, constitute as exceptions to the rule.<sup>55</sup> Petitioner maintains that Dr. Tayag's report was supported by factual evidence; and that his narcissistic tendencies were consistent with Marivic's description of his behavior during their marriage.<sup>56</sup> He further insists that the RTC had fully discussed in its

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<sup>44</sup> *Id.* at 117.

<sup>45</sup> *Id.* at 120-121.

<sup>46</sup> *Id.* at 121-122.

<sup>47</sup> 335 Phil. 664 (1997).

<sup>48</sup> *Rollo*, pp. 123-124.

<sup>49</sup> *Id.* at 160-181.

<sup>50</sup> *Id.* at 168-171.

<sup>51</sup> *Id.* at 173.

<sup>52</sup> *Id.* at 174-175.

<sup>53</sup> *Id.* at 147-158.

<sup>54</sup> *Id.* at 148.

<sup>55</sup> *Id.* at 185-186.

<sup>56</sup> *Id.* at 186.

decision the debilitating nature, antecedent nature, incurability, gravity, and root cause of his NPD.<sup>57</sup>

Based on the parties' opposing arguments, the Court will resolve the following: (1) may the psychologically incapacitated spouse initiate a petition for annulment of marriage under Art. 36 of the Family Code; (2) did the ruling in *Kalaw* abandon the guidelines laid down in *Molina*; and (3) should the marriage of petitioner and Marivic be annulled due to psychological incapacity on the part of petitioner?

### Our Ruling

The appeal lacks merit.

*The instant petition substantially complied with the rule on verification and certification on non-forum shopping.*

Marivic makes issue of petitioner's failure to personally execute the verification and certification of non-forum shopping attached to his petition. Petitioner, however, counters that through an SPA, he authorized Atty. Clavecilla to sign the verification and certification on his behalf.

The Court agrees with petitioner.

*Altres v. Empleo*<sup>58</sup> (*Altres*) laid down the following guidelines governing noncompliance with the requirements or submission of defective verification and certification of non-forum shopping, viz.:

1) A distinction must be made between [noncompliance] with the requirement on or submission of defective verification, and [noncompliance] with the requirement on or submission of defective certification against forum shopping.

2) **As to verification, [noncompliance] therewith or a defect therein does not necessarily render the pleading fatally defective. The court may order its submission or correction or act on the pleading if the attending circumstances are such that strict compliance with the Rule may be dispensed with in order that the ends of justice may be served thereby.**

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<sup>57</sup> Id. at 188.

<sup>58</sup> 594 Phil. 246 (2008).

3) Verification is deemed substantially complied with when one who has ample knowledge to swear to the truth of the allegations in the complaint or petition signs the verification, and when matters alleged in the petition have been made in good faith or are true and correct.

4) **As to certification against forum shopping, [noncompliance] therewith or a defect therein, unlike in verification, is generally not curable by its subsequent submission or correction thereof, unless there is a need to relax the Rule on the ground of “substantial compliance” or presence of “special circumstances or compelling reasons.”**

5) The certification against forum shopping must be signed by all the plaintiffs or petitioners in a case; otherwise, those who did not sign will be dropped as parties to the case. Under reasonable or justifiable circumstances, however, as when all the plaintiffs or petitioners share a common interest and invoke a common cause of action or defense, the signature of only one of them in the certification against forum shopping substantially complies with the Rule.

6) Finally, **the certification against forum shopping must be executed by the party-pleader, not by his counsel. If, however, for reasonable or justifiable reasons, the party-pleader is unable to sign, he must execute a Special Power of Attorney designating his counsel of record to sign on his behalf.**<sup>59</sup> (Emphases supplied)

The above guidelines allow certain flexibility in the execution and submission of a verification and/or certification on non-forum shopping. For instance, in a verification, the courts may exercise discretion by ordering its submission or correction, or even act on the petition itself in order to serve the ends of justice. The courts may exercise this discretion because a verification is merely a formal, and not a jurisdictional, requisite,<sup>60</sup> and noncompliance does not necessarily render the pleading fatally defective.<sup>61</sup>

However, Section 5, Rule 7 of the 1997 Rules of Civil Procedure, being the applicable rule at the time that the instant petition was filed,<sup>62</sup> requires the

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<sup>59</sup> Id. at 261-262.

<sup>60</sup> *Holy Trinity Realty & Development Corporation v. Dela Cruz*, 746 Phil. 209, 225 (2014).

<sup>61</sup> *Joven v. Spouses Tulio*, G.R. No. 204567, August 4, 2021.

<sup>62</sup> On May 1, 2020, the 2019 Amendments to the 1997 Rules of Civil Procedure took effect. One of the changes introduced by the amendments is found in Sec. 5 of Rule 7 which now reads:

Sec. 5. *Certification against forum shopping.* – The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his [or her] knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) calendar days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

The authorization of the affiant to act on behalf of a party, whether in the form of a secretary's certificate or a special power of attorney, should be attached to the pleading.



plaintiff or the principal party to execute the certification against forum shopping. If the principal cannot sign the certification, the one signing on his behalf must be authorized.<sup>63</sup> *Heirs of Gabriel v. Cebrero*<sup>64</sup> explained that there is substantial compliance with the requirement that the principal party should sign the certification when the attorney-in-fact is authorized under the SPA to file and prosecute suits on behalf of the former, thus:

[W]hen an SPA was constituted precisely to authorize the agent to file and prosecute suits on behalf of the principal, then it is such agent who has actual and personal knowledge whether he or she has initiated similar actions or proceedings before various courts on the same issue on the principal's behalf, thus, satisfying the requirements for a valid certification against forum shopping. The rationale behind the rule that it must be the "petitioner or principal party himself" who should sign such certification does not apply. Thus, the rule on the certification against forum shopping has been properly complied with when it is the agent or attorney-in-fact who initiated the action on the principal's behalf and who signed the certification against forum shopping.<sup>65</sup>

Also in *Fyfe v. Philippine Airlines, Inc.*,<sup>66</sup> the Court relaxed the rule on certification against forum shopping under Sec. 4, Rule 45, in relation to Sec. 2, Rule 42 of the Rules of Court, when there was no showing that petitioners therein and their counsel intended to circumvent the requirements for verification and certification.

Although another person may be authorized to initiate and file an action, and sign a pleading for and on behalf of the plaintiff or principal party, it bears emphasis that *Altres* still requires the latter to provide sufficient reason or justification for such authority. Such is the significance of this requirement that the Court may disregard the authority given by a sole proprietor to their counsel to sign on his or her behalf, if he or she cannot establish the inability to do physical acts such as the signing of documents.<sup>67</sup>

In here, Atty. Clavecilla appeared to be clothed with sufficient authority to file and sign the petition on petitioner's behalf. The SPA that petitioner

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Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or [noncompliance] with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions. (Emphasis supplied)

<sup>63</sup> *Heirs of Gabriel v. Cebrero*, 843 Phil. 53, 64-65 (2018).

<sup>64</sup> *Supra*.

<sup>65</sup> *Id.* at 66.

<sup>66</sup> 786 Phil. 292 (2016).

<sup>67</sup> See *Hubilla v. HSY Marketing Ltd., Co.*, 823 Phil. 358, 383 (2018).

executed had expressly granted Atty. Clavecilla the authority “[t]o initiate the filing of a petition for review/appeal to the Supreme Court” and “[t]o sign any and all pleadings” in connection with the petition.<sup>68</sup> Hence, Atty. Clavecilla is vested with sufficient authority to sign the verification and certification of non-forum shopping on behalf of petitioner.

Apparently missing from the SPA, however, was the reason or justification for authorizing Atty. Clavecilla to sign on behalf of petitioner. The Court cannot simply presume that just because petitioner indicated therein his residence as “Torokvesz utca 36/D, 1025 Budapest, Hungary,” that he is incapable of returning to the country to sign the petition himself, more so when he also indicated in the same SPA, his residence in the Philippines (*i.e.* “I, FERNANDO C. CLAVECILLA, of legal age, Filipino, married, and resident of Torokvesz utca 36/D, 1025 Budapest, Hungary, and/or No. 32 Jacob Extension, Barangay Liboton, Naga City”).<sup>69</sup> *Altres* clearly laid down the requirement that there should be sufficient justification for the parties’ inability to sign the certification personally.

However, a perusal of the instant petition reveals that petitioner manifested his inability to physically sign the certification because he was assigned and detailed in Budapest, Hungary, as a finance officer of the Philippine Embassy.<sup>70</sup> This circumstance sufficiently explains petitioner’s absence in the country and his inability to personally sign the petition. Hence, there can be no valid objection against petitioner’s failure to personally sign the verification and certification against forum shopping.

*The instant petition is exempted from the rule that only questions of law may be raised in a Rule 45 petition.*

Another procedural challenge posed by Marivic and the OSG, concerns the factual matters raised in the instant petition which, they argue, are improper in a petition for review under Rule 45 of the Rules of Court.

The Rules of Court requires that only questions of law may be raised in petitions filed under Rule 45, since factual questions are not the proper subject of an appeal by *certiorari*. It is not the function of this Court to once again

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<sup>68</sup> *Rollo*, p. 41.

<sup>69</sup> *Id.* at 39. Underscoring supplied.

<sup>70</sup> *Id.* at 11-12.

analyze or weigh evidence that has already been considered in the lower courts.<sup>71</sup>

However, the bar on factual issues admits of certain reasonable deviations, such as when the judgment is based on a misappreciation of facts or when the findings of fact of the CA are conflicting or contrary to those of the trial court.<sup>72</sup>

In view of the conflicting findings of the RTC and the CA, the rule prohibiting factual issues from being raised in a petition for review under Rule 45 shall be set aside to settle the controversies inherent in this case. As such, the procedural challenge against the inclusion of factual matters in the instant case fails.

*Either spouse may petition the court to declare their marriage as null and void under Art. 36 of the Family Code.*

Marivic avers that petitioner came to court with unclean hands, having allegedly engaged in extramarital affairs and, thereafter, claimed to be psychologically incapacitated in order to break free from the marriage bond. As such, he should not be allowed to benefit from his own misdeed.<sup>73</sup>

The Court would like to clarify that although sexual infidelity is a ground for legal separation under Art. 55 of the Family Code, it may be deemed as a manifestation of psychological incapacity. *Castillo v. Republic*<sup>74</sup> elucidated that there must be evidence linking the unfaithfulness with the inability to perform essential spousal obligations:

In order for sexual infidelity to constitute as psychological incapacity, the respondent's unfaithfulness must be established as a manifestation of a disordered personality, completely preventing the respondent from discharging the essential obligations of the marital state; there must be proof of a natal or supervening disabling factor that effectively incapacitated him from complying with the obligation to be faithful to his spouse. It is indispensable that the evidence must show a link, medical or the like,

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<sup>71</sup> *People v. Olpindo*, G.R. No. 252861, February 15, 2022.

<sup>72</sup> *Ruiz v. Armada*, G.R. No. 232849, June 14, 2021.

<sup>73</sup> *Rollo*, p. 122.

<sup>74</sup> 805 Phil. 209 (2017). See also *Republic v. Mola Cruz* (836 Phil. 1266, 1283 [2018]), where the Court held that the wife's sexual infidelity and abandonment, as well as her acts which showed her blatant insensitivity and lack of regard to the sanctity of marriage, were actual manifestations of her histrionic personality disorder.

between the acts that manifest psychological incapacity and the psychological disorder itself.<sup>75</sup>

Accordingly, the allegation of marital infidelity cannot be automatically ruled as an invalid ground to declare a marriage void *ab initio*. As long as the alleged sexual infidelity stemmed from the psychological incapacity of the unfaithful spouse, then it can be a valid ground for declaration of nullity of marriage under Art. 36 of the Family Code.

Another point that needs further elucidation, concerns Marivic's reference to the principle of unclean hands as a bar against a purported psychologically incapacitated spouse to initiate a petition for declaration of nullity of marriage.

The doctrine of unclean hands originated from the maxim "he who comes into equity must come there with clean hands." It is a frequently stated maxim which is also expressed in the principle that he or she who has done inequity shall not have equity. It signifies that a litigant may be denied relief by a court of equity on the ground that his or her conduct has been inequitable, unfair and dishonest, or fraudulent, or deceitful as to the controversy in issue.<sup>76</sup> Equity refuses to offer its aid in any manner to one seeking its active interposition who has been *guilty of unlawful or inequitable conduct* in the matter with relation to which he seeks relief.<sup>77</sup> The early case of *North Negros Sugar Co., Inc. v. Hidalgo*<sup>78</sup> explained the unclean hands doctrine as follows:

*Coming into Equity with Clean Hands.* — The maxim that he who comes into equity must come with clean hands is, of course, applicable in suits to obtain relief by injunction. Injunction will be denied even though complainant shows that he has a right and would otherwise be entitled to the remedy in case it appears that he himself acted dishonestly, fraudulently or illegally in respect to the matter in which redress is sought, or where he has encouraged, invited or contributed to the injury sought to be enjoined. **However, the general principle that he who comes into equity must come with clean hands applies only to plaintiff's conduct in relation to the very matter in litigation. The want of equity that will bar a right to equitable relief for coming into court with unclean hands must be so directly connected with the matter in litigation that it has affected the equitable relations of the parties arising out of the transaction in question.**<sup>79</sup> (Emphasis supplied)

<sup>75</sup> *Castillo v. Republic*, id. at 226-227.

<sup>76</sup> *University of the Philippines v. Catungal, Jr.*, 338 Phil. 728, 744 (1997); *Pilapil v. Garchitorena*, 359 Phil. 674, 688 (1998).

<sup>77</sup> *Pagasa Industrial Corp. v. Court of Appeals*, 216 Phil. 533, 535 (1984).

<sup>78</sup> 63 Phil. 664 (1936).

<sup>79</sup> Id. at 681-682.

The Court had the occasion to apply the unclean hands doctrine in the 1934 case of *Villanueva v. Villanueva*<sup>80</sup> (*Villanueva*), which involved an action for support filed by the wife against her husband. When the case was decided in favor of the wife, the husband mortgaged some of his properties, left the country, and abandoned his family without any visible means of support. In executing the judgment, the sheriff seized and subsequently sold the properties, which the wife bought as partial payment for the judgment she had secured. The husband later sought to annul the sheriff sale, contending that the wife cannot enter into such transaction without his consent. In rejecting the claim, the Court applied the unclean hands doctrine and held that the husband should not be allowed to benefit from his act of depriving his family of support. The Court noted that after violating his marital obligations, the husband had the temerity to seek equitable relief through an annulment of deed of sale that was aimed at leaving his wife and children in absolute want.<sup>81</sup>

Notable, however, that except for the case of *Villanueva*, there has been no other occasion wherein the Court resolved a conflict between spouses by applying the unclean hands doctrine, especially one involving a petition to declare nullity of marriage under Art. 36 of the Family Code.

At any rate, the Court does not see any reason why the principle of clean hands should prevent a psychologically incapacitated spouse from initiating a proceeding to annul a marriage. This is because there is no party at fault in case of annulment of marriage based on psychological incapacity. Culpability cannot be imputed on the part of the spouse said to be psychologically incapacitated since it is not deliberate or intentional on his or her part to possess such personality trait. By reason of psychological incapacity, it cannot be said that bad faith had motivated the afflicted spouse to enter into a marriage or to even seek for a declaration of its nullity. It must be emphasized that the unclean hands doctrine only avails in cases of inequity, which does not exist in a marriage sought to be annulled on the basis of psychological incapacity of a spouse to comprehend and discharge the concomitant marital obligations.

Most importantly, Art. 36 of the Family Code does not prohibit the psychologically incapacitated spouse from initiating the action. Indeed, under the Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages,<sup>82</sup> (*the Rule*) the Court allows either of the spouses to file the petition, alleging specifically, the facts showing the incapacity of *either or both* of them:

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<sup>80</sup> 59 Phil. 664 (1934).

<sup>81</sup> *Id.* at 666.

<sup>82</sup> A.M. No. 02-11-10-SC. Approved on March 4, 2003.

Section 2. *Petition for Declaration of Absolute Nullity of Void Marriages.* –

(a) *Who may file.* – A petition for declaration of absolute nullity of void marriage may be filed solely by the husband or the wife.

x x x x

(d) *What to allege.* – A petition under Article 36 of the Family Code shall specifically allege the complete facts showing that **either or both parties were psychologically incapacitated from complying with the essential marital obligations** of marriages at the time of the celebration of marriage even if such incapacity becomes manifest only after its celebration.

The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged. (Emphasis supplied)

The recent case of *Republic v. Claur*<sup>83</sup> reinforces Sec. 2(d) of the Rule that a petition for nullity of marriage may be filed by either spouses, whether incapacitated or not. In this case, both the wife and the husband were found to have been psychologically incapacitated. Verily, the courts do not limit the right to initiate a petition to nullify the marriage to the spouse who is not psychologically incapacitated.

It therefore becomes of no moment whether the spouse should be free from psychological incapacity before he or she may be allowed to petition the courts for nullity of marriage. What is relevant is for the petition to contain specific allegations of the incapacity of either or both spouses from complying with the essential marital obligations at the time of the marriage.

It likewise bears emphasizing that the minutes of the February 9, 1984 Joint Meeting of the Civil Code Revision and the IBP Family Law Committees provide proper perspective on the intention of the framers to allow either spouses, whether psychologically incapacitated or not, to initiate the petition. The relevant portions of the minutes read:

I. Comments and Suggestions of Archbishop Oscar Cruz on the Proposed Provision on Judicial Declaration of Invalidity of Marriage

A. Article 1.

Either party may obtain a judicial declaration that a marriage is invalid whenever it is proved to the satisfaction of the court that any

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<sup>83</sup> G.R. No. 246868, February 15, 2022.

of the following grounds existed at but was made manifest after the celebration of the marriage;

1) That either party was wanting in the use of reason to appreciate the nature of marriage as permanent union between man and woman for the establishment of a family and the creation of reciprocal rights and duties essential to marriage;

2) That either party acted under a mistake regarding the identity or capacity to marry of the other at the time of the celebration of the marriage;

3) That either party was psychologically or mentally incapacitated to discharge the essential obligations of marriage as prescribed in the next succeeding article.

On the opening phrase "Either party may", Bishop Cruz inquired if the same would mean that the culpable cause of nullity can also file action for judicial declaration of invalidity of marriage. Justice Reyes explained that the said phrase was being proposed inasmuch as ordinary annulment of marriage is open only to innocent parties. Bishop Cruz remarked that if this is the intention, then there is no estoppel if one is the culpable cause.

Director Romero stated that they also intend to keep the provisions on annulment of marriage.<sup>84</sup>

Clearly, the intent of the framers was to enable either party to file the petition for annulment on the ground of psychological incapacity unlike the other grounds for declaring a marriage void. Such was the intent of the framers of the Family Code that, even during the August 2 and August 9, 1986 meetings of the Civil Code Revision and the IBP Family Law Committees, there was no mention on whether the spouse who may initiate the action should be free from any psychological incapacity:

Justice Puno observed that under the present draft provision, it is enough to show that at the time of the celebration of the marriage, one was psychologically incapacitated so that later on if already he can comply with the essential marital obligations, the marriage is still void ab initio. Justice Caguioa explained that since in divorce, the psychological incapacity may occur after the marriage, in void marriages, it has to be at the time of the celebration of the marriage. He, however, stressed that the idea in the provision is that at the time of the celebration of the marriage, one is psychologically incapacitated to comply with the essential marital obligations, which incapacity continues and later becomes manifest.<sup>85</sup>

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<sup>84</sup> Minutes of the Joint Meeting of the Civil Code Revision and the IBP Family Law Committees, February 9, 1984, pp. 1-2.

<sup>85</sup> Id., August 2, 1986, p. 4.

Justice Puno formulated the next article as follows:

Article 37. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated, to comply with the essential obligations of marriage, shall likewise be void from the beginning even if such incapacity becomes manifest after its solemnization.

Justice Caguioa suggested that “even if” be substituted with “although”. On the other hand, Prof. Bautista proposed that the clause “although such incapacity becomes manifest after its solemnization” be deleted since it may encourage one to create the manifestation of psychological incapacity. Justice Caguioa pointed out that, as in other provisions, they cannot argue on the basis of abuse.<sup>86</sup>

Evident from the abovequoted minutes that what is required in filing a petition for nullity of marriage is the presence of psychological incapacity. It will not be significant to the courts whether the petitioner spouse is free from such incapacity. The only requirement is that at least one of them is psychologically incapacitated to comprehend and discharge their marital obligations. If the intention of the framers was to prohibit the incapacitated spouse, they would have expressly stated so, similar to actions to annul a voidable marriage under Art. 47<sup>87</sup> of the Family Code.

### *Standards in determining psychological incapacity*

Art. 36 of the Family Code, as amended, contemplates an inability to assume basic marital obligations. It does not simply relate to a mere difficulty, refusal, or neglect in performing marital obligations or ill will.<sup>88</sup> Art. 36 reads:

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<sup>86</sup> Id., August 9, 1986, p. 9.

<sup>87</sup> Art. 47. The action for annulment of marriage *must be filed by the following persons* and within the periods indicated herein:

- (1) For causes mentioned in number 1 of Article 45, by the party whose parent or guardian did not give his or her consent, within five years after attaining the age of twenty-one; or by the parent or guardian or person having legal charge of the minor, at any time before such party has reached the age of twenty-one;
- (2) For causes mentioned in number 2 of Article 45, by the sane spouse who had no knowledge of the other's insanity; or by any relative guardian or person having legal charge of the insane, at any time before the death of either party; or by the insane spouse during a lucid interval or after regaining sanity;
- (3) For causes mentioned in number 3 of Article 45, by the injured party, within five years after the discovery of the fraud;
- (4) For causes mentioned in number 4 of Article 45, by the injured party, within five years from the time the force, intimidation or undue influence disappeared or ceased;
- (5) For causes mentioned in numbers 5 and 6 of Article 45, by the injured party, within five years after the marriage. (Emphasis supplied)

<sup>88</sup> *Yambao v. Republic*, 655 Phil. 346, 358 (2011).

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.

The Court first defined the term “psychological incapacity” in *Santos v. Court of Appeals*<sup>89</sup> as referring to a mental incapacity that causes a party to be truly incognitive of the basic marital covenants. It is confined to the most serious cases of personality disorders resulting in an utter insensitivity or inability to give meaning and significance to the marriage.<sup>90</sup> In the same case, the Court made reference to the work of Dr. Gerardo Veloso, former Presiding Judge of the Metropolitan Tribunal of the Catholic Archdiocese of Manila (Branch I), when he described psychological incapacity as characterized by gravity, juridical antecedence, and incurability.<sup>91</sup>

Following these criteria, the Court promulgated *Molina* where it laid down the following guidelines in determining psychological incapacity:

- (1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.  
x x x
- (2) The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts[,] and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological — not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.
- (3) The incapacity must be proven to be existing at “the time of the celebration” of the marriage. x x x
- (4) Such incapacity must also be shown to be medically or clinically permanent or incurable. x x x

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<sup>89</sup> 310 Phil. 21 (1995).

<sup>90</sup> Id. at 40.

<sup>91</sup> Id. at 39.

- (5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. x x x
- (6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.
- (7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. x x x

x x x x

- (8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition.<sup>92</sup>

However, the Court later recognized in *Ngo Te v. Yu-Te*<sup>93</sup> (*Ngo Te*) that the resiliency adopted by the framers of the Family Code had been rendered ineffectual by the strict standards in *Molina*. Hence, in declaring the marriage of the parties in *Ngo Te* as null and void, the Court emphasized that the courts should interpret psychological incapacity on a case-to-case basis instead of applying *a priori* assumptions, predilections or generalizations.<sup>94</sup>

In the subsequent case of *Kalaw*, to which petitioner attaches his cause, the Court viewed the *Molina* guidelines as having been too rigid to such point as to practically reject all petitions for declaration of nullity. The Court also emphasized that actual medical examination of the spouses need not be resorted to if the totality of evidence presented sufficiently sustains the finding of psychological incapacity.<sup>95</sup>

Most recently, the Court promulgated *Tan-Andal v. Andal*<sup>96</sup> (*Tan-Andal*) which revisited the *Molina* guidelines. *Tan-Andal* abandoned the second *Molina* guideline of requiring expert evidence to prove psychological incapacity. The Court ruled that since psychological incapacity is neither a mental incapacity nor a personality disorder, the proof required should be that which will establish the durable or enduring aspects of the spouse's personality structure. Such personality structure manifests as clear acts of

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<sup>92</sup> *Republic v. Molina*, supra note 47 at 676-679.

<sup>93</sup> 598 Phil. 666 (2009).

<sup>94</sup> Id. at 685, 694.

<sup>95</sup> Id. at 702-703.

<sup>96</sup> G.R. No. 196359, May 11, 2021.

dysfunctionality that undermines the family by disabling the affected spouse to understand and comply with the essential marital obligations.<sup>97</sup>

Since psychological incapacity relates to the personality structure of spouses, *Tan-Andal* declared that the element of incurability required by Art. 36 of the Family Code be determined from a legal, not medical, point of view. It must be enduring and persistent with respect to a specific partner, which will inevitably result in the irreparable breakdown of the marriage. This personality aspect need not be proven by an expert, but may be established by ordinary witnesses who have consistently observed the behavior of the incapacitated spouse.<sup>98</sup>

Evidently, the prevailing standards in determining psychological incapacity were those laid down in *Tan-Andal*. Hence, the Court, in *Cayabyab-Navarro v. Navarro*,<sup>99</sup> accordingly refined the requisites of juridical antecedence, incurability, and gravity in determining psychological incapacity as follows:

In light of the Court's fundamental paradigm shift in viewing psychological incapacity as a purely legal, rather than a medical concept, the understanding of the requisites in determining psychological incapacity, namely, juridical antecedence, incurability, and gravity, must be refined accordingly.

With regard to the requisite of incurability, it must now be recognized that psychological incapacity is incurable only in the legal (not medical) sense in 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." In order for the said requisite to obtain, there must be "[a]n undeniable pattern of a persisting failure to be a present, loving, faithful, respectful, and supportive spouse that must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other."

Meanwhile, the requisite of gravity in psychological incapacity must be such that it is caused by a genuinely psychic cause, and not just "mild characterological peculiarities, mood changes [or] occasional emotional outbursts" nor mere "refusal, neglect[,] difficulty, much less ill will." As such, "a deeper and fuller assessment of the alleged incapacity must be done such that it is clearly and convincingly shown that the fulfillment of the essential marital obligations is not merely feigned or cumbersome but rather, practically impossible, because of the distinct psychological makeup of the person relative to his or her spouse."

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<sup>97</sup> Id.

<sup>98</sup> Id.

<sup>99</sup> G.R. No. 216655, April 20, 2022.

Lastly, the requisite of juridical antecedence (which — to note — is explicitly necessitated by the phrase “at the time of the celebration of the marriage” in Article 36) means that the incapacity is determined to exist during the time of celebration. While it may indeed be difficult — if not scientifically impossible — to determine the existence of psychological incapacity at the exact point in time that the couple exchanged their ‘I dos,’ it is sufficient, however, that the petitioner demonstrates, by clear and convincing evidence, that the incapacity, in all reasonable likelihood, already exists at the time of the marriage’s celebration. To determine the reasonable likelihood of its existence at the time of the celebration of the marriage, the Court, in *Tan-Andal*, held that “proof of juridically antecedent psychological incapacity may consist of testimonies describing the environment where the supposedly incapacitated spouse lived that may have led to a particular behavior.”

Moreover, the concept of juridical antecedence must be understood to include the ordinary experiences of the spouses not only prior to the marriage itself, but more importantly, during their “lived conjugal life” together since, as the law itself states, a marriage can be declared null and void under Article 36 “even if such incapacity becomes manifest only after its solemnization.” As the parties have yet to assume any of the essential marital obligations prior to being married, the Court discerns that the experience of marriage itself is the litmus test of self-realization, reflecting one’s true psychological makeup as to whether or not he or she was indeed capable of assuming the essential marital obligations to his or her spouse at the time the marriage was entered into.

Therefore, in order to determine juridical antecedence, “judges must reconstruct the marital decision-making process of an individual, just like inquisitive investigators. The judge must trace back and examine all the manifestations before and during marriage to find out if such non-fulfillment relates to the intrinsic psychological makeup of the person relative to his or her specific partner, and not just some mere difficulty that ordinary spouses, at some point in time, are bound to go through.

Overall, the focus should be on the manifestations during the marriage itself since, as intended by Canon Law from which psychological incapacity was patterned after, the lived conjugal life is that which provides a confirmation of the original consent or its absence at the time of the marriage’s celebration. Since there is no way to determine the existence of psychological incapacity at the exact point that vows were exchanged, it is enough that it exists at such time in all reasonable likelihood. This is determined, in turn, by the manifestations and circumstances attending before, and most significantly, during the marriage.<sup>100</sup> (Underscoring supplied, emphases omitted)

Finally, the Court, in *Tan-Andal*, declared that what the plaintiff-spouse in nullity cases under Art. 36 of the Family Code needs, is clear and convincing evidence. Such quantum of proof requires more than preponderant evidence but less than proof beyond reasonable doubt.

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<sup>100</sup> Id.

Based on these guidelines, the Court will now determine whether petitioner was able to establish his claim of psychological incapacity. It must be emphasized that petitioner primarily insists that it is Marivic who is psychologically incapacitated, while the finding of Dr. Tayag that he was the one afflicted with incapacity, was his alternative argument. Hence, the following discussion will not only focus on whether there is clear and convincing evidence to establish petitioner's psychological incapacity, but also whether he has sufficiently proven his claim that it was Marivic who failed to discharge and comprehend the essential marital obligations.

*Petitioner failed to present clear and convincing evidence of psychological incapacity either on his or on Marivic's part.*

To recall, petitioner described Marivic as carefree, a consistent nagger, and a very demanding wife, who preferred the company of friends. However, his claims not only remained to be unsubstantiated, but were also insufficient to establish psychological incapacity. His complaints against Marivic appear to be minor, and do not have any relevance to her inability to perform essential marital obligations.

Petitioner laments that Marivic appears to have no interest in contributing to the family's income despite his prodding. Still, this allegation is not enough to convince the Court of her psychological incapacity.

The standards in determining whether Marivic is psychologically incapacitated are laid down in Arts. 68 to 71<sup>101</sup> of the Family Code. Said provisions refer to spousal obligations which range from living together, observing mutual love, respect and fidelity, rendering mutual help and support, fixing the family domicile, support, and management of the household. Despite this myriad of spousal obligations, it was only in one

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<sup>101</sup> Art. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

Art. 69. The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family.

Art. 70. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from the separate properties.

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

aspect where Marivic, in the eyes of petitioner, failed in her duties, effectively admitting that she had no difficulty in performing the remaining obligations.

Regardless, Marivic was able to sufficiently refute petitioner's allegations of her supposed inability and unwillingness to contribute to the family's income. The documents she presented (*i.e.* the certification from the International Operations Group of the Pag-IBIG Fund, Contract of Services with the Philippine Overseas Labor Office in Milan, Italy, etc.)<sup>102</sup> reasonably prove that she was able to find work during their marriage, thus, enabling her to also provide for the financial needs of the family.

Neither can petitioner rely on the interview conducted by Dr. Tayag on Apalisok and Pimentel,<sup>103</sup> who related that Marivic did not exert any effort to find work. Their interviews did not provide any specific circumstances that could have established Marivic's indifference to the needs of her family in relation to her duties as a wife.

To reiterate, psychological incapacity does not simply connote difficulty, refusal, or neglect in performing marital obligations. It is pertinent to prove, based on the ruling in *Tan-Andal*, that the spouse is incapable of discharging those obligations by reason of a dysfunctional personality structure. Evidently, petitioner failed to establish his claim that Marivic was the psychologically incapacitated spouse.

In a similar vein, the Court rejects petitioner's alternative argument that he is psychologically incapacitated based on Dr. Tayag's findings. He insists that Dr. Tayag's report had established the root cause, gravity, incurability, and incapacitating nature of his NPD.

The Court remains unpersuaded.

The ruling in *Tan-Andal* is clear that there must be proof of the consistent behavior of the psychologically incapacitated spouse. This shall consist of an undeniable pattern of failing to be present, loving, faithful, respectful, and supportive. There was none in this case.

Petitioner heavily relied on the report of Dr. Tayag, but there was nothing in her report which indicated a pattern indicating his inability to perform the essential spousal obligations. The said report merely provided a

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<sup>102</sup> Records, pp. 695-699.

<sup>103</sup> *Id.* at 597-600.

general description of petitioner's family background<sup>104</sup> without explaining how his relationship with his family, and even significant experiences during childhood, may have affected his personality structure. Being the youngest in the family with parents who want him to be strong and not pathetic,<sup>105</sup> would not suffice to convince the Court that such aspirations from his parents would affect, later on, his interpersonal relationships and inability to comprehend and discharge spousal duties.

To be clear, the Court does not doubt the diagnosis of Dr. Tayag – this is one aspect of the report that the Court will not tread on, as it is not an expert in the field of psychology or human behavior. However, her report lacked specific instances of petitioner's behavior inconsistent with that of a husband who is always present, loving, faithful, respectful, and supportive towards Marivic.

The interviews conducted on Apalisok and Pimentel likewise did not offer any glimpse into petitioner's personality traits and behavior before and during his marriage with Marivic.

More importantly, petitioner failed to impress upon the Court that his NPD impaired his ability to discharge the essential marital obligations under Arts. 68 to 71 of the Family Code. To reiterate, psychological incapacity should be viewed in the legal sense, and not in the medical sense. In sum, the totality of the evidence presented by petitioner failed to establish that his enduring personality structure rendered him incapable of comprehending and discharging his marital obligations in terms of juridical antecedence, gravity, and incurability in the legal sense.

**WHEREFORE**, the petition is **DENIED**. The June 30, 2016 Decision and the October 7, 2016 Resolution of the Court of Appeals in CA-G.R. CV No. 101689 are **AFFIRMED**. Costs against petitioner.

**SO ORDERED.**

  
ALEXANDER G. GESMUNDO  
Chief Justice

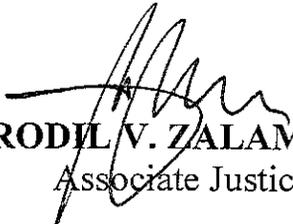
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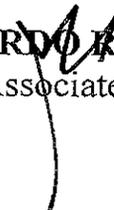
<sup>104</sup> Id. at 20-21.

<sup>105</sup> *Rollo*, p. 66.

**WE CONCUR:**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

  
**RODIL V. ZALAMEDA**  
Associate Justice

  
**RICARDO R. ROSARIO**  
Associate Justice

  
**JOSE MIDAS P. MARQUEZ**  
Associate Justice

**CERTIFICATION**

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

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

