



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ARABELLE J. MENDOZA,
Petitioner,

G.R. No. 157649

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

**REPUBLIC OF THE
PHILIPPINES and
DOMINIC C. MENDOZA,**
Respondents.

Promulgated:

NOV 12 2012

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DECISION

BERSAMIN, J.:

To entitle petitioner spouse to a declaration of the nullity of his or her marriage, the totality of the evidence must sufficiently prove that respondent spouse's psychological incapacity was grave, incurable and existing prior to the time of the marriage.

Petitioner wife appeals the decision promulgated on March 19, 2003,¹ whereby the Court of Appeals (CA) reversed the judgment of the Regional Trial Court in Mandaluyong City (RTC) declaring her marriage with respondent Dominic C. Mendoza (Dominic) as null and void.

¹ Rollo, pp. 13-21; penned by Associate Justice Rodrigo V. Cosico (retired), with Associate Justice Rebecca De Guia-Salvador and Associate Justice Regalado E. Maambong (retired/deceased) concurring.

Antecedents

Petitioner and Dominic met in 1989 upon his return to the country from his employment in Papua New Guinea. They had been next-door neighbors in the appartelle they were renting while they were still in college – she, at Assumption College while he, at San Beda College taking a business management course. After a month of courtship, they became intimate and their intimacy ultimately led to her pregnancy with their daughter whom they named Allysa Bianca. They got married on her eighth month of pregnancy in civil rites solemnized in Pasay City on June 24, 1991,² after which they moved to her place, although remaining dependent on their parents for support.

When petitioner delivered Alyssa Bianca, Dominic had to borrow funds from petitioner's best friend to settle the hospital bills. He remained jobless and dependent upon his father for support until he finished his college course in October 1993. She took on various jobs to meet the family's needs, first as a part-time aerobics instructor in 1992 and later, in 1993, as a full-time employee in Sanofi, a pharmaceutical company. Being the one with the fixed income, she shouldered all of the family's expenses (*i.e.*, rental, food, other bills and their child's educational needs).

On his part, Dominic sold Collier's Encyclopedia for three months after his graduation from college before he started working as a car salesman for Toyota Motors in Bel-Air, Makati in 1994.³ Ironically, he spent his first sales commission on a celebratory bash with his friends inasmuch as she shouldered all the household expenses and their child's schooling because his irregular income could not be depended upon. In September 1994, she discovered his illicit relationship with Zaida, his co-employee at Toyota Motors. Eventually, communication between them became rare until they

² Id. at 77-78.

³ Id. at 79.

started to sleep in separate rooms, thereby affecting their sexual relationship.⁴

In November 1995, Dominic gave her a Daihatsu Charade car as a birthday present. Later on, he asked her to issue two blank checks that he claimed would be for the car's insurance coverage. She soon found out, however, that the checks were not paid for the car's insurance coverage but for his personal needs. Worse, she also found out that he did not pay for the car itself, forcing her to rely on her father-in-law to pay part of the cost of the car, leaving her to bear the balance of ₱120,000.00.

To make matters worse, Dominic was fired from his employment after he ran away with ₱164,000.00 belonging to his employer. He was criminally charged with violation of *Batas Pambansa Blg. 22* and *estafa*, for which he was arrested and incarcerated. After petitioner and her mother bailed him out of jail, petitioner discovered that he had also swindled many clients some of whom were even threatening petitioner, her mother and her sister themselves.⁵

On October 15, 1997, Dominic abandoned the conjugal abode because petitioner asked him for "time and space to think things over." A month later, she refused his attempt at reconciliation, causing him to threaten to commit suicide. At that, she and her family immediately left the house to live in another place concealed from him.

On August 5, 1998, petitioner filed in the RTC her petition for the declaration of the nullity of her marriage with Dominic based on his psychological incapacity under Article 36 of the *Family Code*. The Office of the Solicitor General (OSG) opposed the petition.

⁴ Id. at 4-5.

⁵ Id. at 81-82.

Ruling of the RTC

In the RTC, petitioner presented herself as a witness, together with a psychiatrist, Dr. Rocheffume Samson, and Professor Marites Jimenez. On his part, Dominic did not appear during trial and presented no evidence.

On August 18, 2000, the RTC declared the marriage between petitioner and Dominic an absolute nullity,⁶ holding in part:

xxx. The result of Dr. Samson's clinical evaluation as testified to by her and per Psychiatric Report she issued together with one Dr. Doris Primero showed that petitioner appears to be mature, strong and responsible individual. Godly, childlike trust however, makes her vulnerable and easy to forgive and forget. Petitioner also believes that marriage was a partnership "for better and for worse", she gave all of herself unconditionally to respondent. Unfortunately, respondent cannot reciprocate. On the one hand, respondent was found to have a personality that can be characterized as inadequate, immature and irresponsible. His criminal acts in the present time are mere extensions of his misconduct established in childhood. His childhood experiences of separations and emotional deprivation largely contributed to this antisocial (sociopathic) attitude and lifestyle.

She concluded that respondent had evidently failed to comply with what is required of him as a husband and father. Besides from his adulterous relationship and irresponsibility, his malevolent conduct and lack of true remorse indicate that he is psychologically incapacitated to fulfill the role of a married man.⁷

The RTC found that all the characteristics of psychological incapacity, *i.e.*, gravity, antecedence and incurability, as set forth in *Republic v. Court of Appeals (Molina)*,⁸ were attendant, establishing Dominic's psychological incapacity, *viz*:

Gravity — from the evidence adduced it can be said that respondent cannot carry out the normal and ordinary duties of marriage and family shouldered by any average couple existing under ordinary circumstances of life and work. Respondent is totally incapable of observing mutual love, respect and fidelity as well as to provide support to his wife and child. Ever since the start of the marriage respondent had left

⁶ CA Rollo, pp. 41-44.

⁷ Id. at 42-43.

⁸ G.R. No. 108763, February 13, 1997, 268 SCRA 198, 207.

all the household concerns and the care of their child to petitioner while he studied and indulged in night outs with friends. This continued even when he finished his studies and landed a job. He concealed his salary from the petitioner and worse, had the gall to engage in sexual infidelity. Likewise worthy of serious consideration is respondent's propensity to borrow money, his deceitfulness and habitual and continuous evasion of his obligations which (sic) more often than not had led to the filing of criminal cases against him.

Antecedence — Before the marriage petitioner was not aware of respondent's personality disorder and it was only after marriage that it began to surface. Dr. Samson declared that respondent's behavioral equilibrium started at a very early age of fifteen. His dishonesty and lack of remorse are mere extensions of his misconduct in childhood which generally attributable to respondent's childhood experiences of separation and emotional deprivations. In fine, his psychological incapacity is but a product of some genetic causes, faulty parenting and influence of the environment although its over manifestation appear only after the wedding.

Incurability — Respondent's personality disorder having existed in him long before he contracted marriage with petitioner, there appears no chance for respondent to recover any (sic) ordinary means from such incapacity.

All told, the callous and irresponsible ways of respondent show that he does not possess the proper outlook, disposition and temperament necessary for marriage. Indeed, this ultimate recourse of nullity is the only way by which petitioner can be delivered from the bondage of a union that only proved to be a mockery and brought pain and dishonor to petitioner.⁹

Ruling of the CA

The Republic appealed to the CA, arguing that there was no showing that Dominic's personality traits either constituted psychological incapacity existing at the time of the marriage or were of the nature contemplated by Article 36 of the *Family Code*; that the testimony of the expert witness, while persuasive, was not conclusive upon the court; and that the real reason for the parties' separation had been their frequent quarrels over financial matters and the criminal cases brought against Dominic.¹⁰

⁹ *Rollo*, p. 6.

¹⁰ *Id.* at 84.

On March 19, 2003 the CA promulgated its assailed decision reversing the judgment of the RTC.¹¹ Specifically, it refused to be bound by the findings and conclusions of petitioner's expert witness, holding:

It has not been established to our satisfaction as well that respondent's condition, assuming it is serious enough, was present before or during the celebration of the marriage. Although petitioner's expert witness concluded that petitioner was psychologically incapacitated even before the parties' marriage, the Court refuses to be bound by such finding, in view of the fact that the witness' findings, admittedly, were concluded only on the basis of information given by the petitioner herself, who, at the time of the examination, interview, was already head strong in her resolve to have her marriage with the respondent nullified, and harbored ill-feelings against respondent throughout her consultation with Dr. Samson.¹²

The CA held the testimonies of petitioner's witnesses insufficient to establish Dominic's psychological affliction to be of such a grave or serious nature that it was medically or clinically rooted. Relying on the pronouncements in *Republic v. Dagdag*,¹³ *Hernandez v. Court of Appeals*¹⁴ and *Pesca v. Pesca*,¹⁵ the CA observed:

In her testimony, petitioner described her husband as immature, deceitful and without remorse for his dishonesty, and lack of affection. Such characteristics, however, do not necessarily constitute a case of psychological incapacity. A person's inability to share or take responsibility, or to feel remorse for his misbehavior, or even to share his earnings with family members, are indicative of an immature mind, but not necessarily a medically rooted psychological affliction that cannot be cured.

Even the respondent's alleged sexual infidelity is not necessarily equivalent to psychological incapacity, although it may constitute adequate ground for an action for legal separation under Article 55 of the Family Code. Nor does the fact that the respondent is a criminal suspect for estafa or violation of the B.P. Blg. 22 constitutes a ground for the nullification of his marriage to petitioner. Again, it may constitute ground for legal separation provided the respondent is convicted by final judgment and sentenced to imprisonment of more than six (6) years.¹⁶

¹¹ Id. at 84-85.

¹² Id. at 19-20

¹³ G.R. No. 109975, February 9, 2001, 351 SCRA 425.

¹⁴ G.R. No. 126010, December 8, 1999, 320 SCRA 76.

¹⁵ G.R. No. 136921, April 17, 2001, 356 SCRA 588.

¹⁶ *Rollo*, p. 19.

Hence, this appeal by petitioner.

Issues

Petitioner assails the CA's refusal to be bound by the expert testimony and psychiatric evaluation she had presented in the trial of the case, and the CA's reliance on the pronouncements in *Dagdag*, *Hernandez* and *Pesca*, *supra*. She contends that the report on the psychiatric evaluation conducted by Dr. Samson more than complied with the requirements prescribed in *Santos v. Court of Appeals* (G.R. No. 112019, January 4, 1995, 240 SCRA 20) and *Molina*. She insists that the CA should have applied the ruling in *Marcos v. Marcos* (G.R. No. 136490, October 19, 2000, 343 SCRA 755) to the effect that personal medical or psychological examination was not a requirement for a declaration of psychological incapacity.

Ruling

The appeal has no merit.

We consider the CA's refusal to accord credence and weight to the psychiatric report to be well taken and warranted. The CA correctly indicated that the ill-feelings that she harbored towards Dominic, which she admitted during her consultation with Dr. Samson, furnished the basis to doubt the findings of her expert witness; that such findings were one-sided, because Dominic was not himself subjected to an actual psychiatric evaluation by petitioner's expert; and that he also did not participate in the proceedings; and that the findings and conclusions on his psychological profile by her expert were solely based on the self-serving testimonial descriptions and characterizations of him rendered by petitioner and her witnesses.

Moreover, Dr. Samson conceded that there was the need for her to resort to other people in order to verify the facts derived from petitioner about Dominic's psychological profile considering the ill-feelings she harbored towards him. It turned out, however, that the only people she interviewed about Dominic were those whom petitioner herself referred, as the following testimony indicated:

Fiscal Zalameda

Q: So you're saying that the petitioner have an ill-feeling towards the respondent? At the time you interviewed?

A: Yes, Sir, during the first interview.

Q: How about during the subsequent interview?

A: During the subsequent interview more or less the petitioner was able to talk regarding her marital problems which is uncomfortable, so she was able to adapt, she was able to condition herself regarding her problems, Sir.

Q: But the ill-feeling was still there?

A: But the feeling was still there, Sir.

Q: Now, considering that this ill feeling of the petitioner insofar as the respondent is concerned, would you say that the petitioner would only tell you information negative against the respondent?

A: Yes, may be Sir. But I do try to conduct or verify other people the facts given to me by the petitioner, Sir.

Q: And these other people were also people given to you or the name are given to you by the petitioner, Madame Witness?

A: Yes, Sir.¹⁷

In fine, the failure to examine and interview Dominic himself naturally cast serious doubt on Dr. Samson's findings. The CA rightly refused to accord probative value to the testimony of such expert for being avowedly given to show compliance with the requirements set in *Santos* and *Molina* for the establishment of Dominic's psychological incapacity.

¹⁷ TSN, May 26, 1999, pp. 25-26.

The CA's reliance on *Dagdag*, *Hernandez* and *Pesca* was not misplaced. It is easy to see why.

In *Dagdag*, we ruled that "Erlinda failed to comply with guideline No. 2 which requires that the *root cause* of psychological incapacity must be medically or clinically identified and sufficiently proven by experts, since no psychiatrist or medical doctor testified as to the alleged psychological incapacity of her husband."¹⁸ But here, the expert's testimony on Dominic's psychological profile did not identify, much less prove, the root cause of his psychological incapacity because said expert did not examine Dominic in person before completing her report but simply relied on other people's recollection and opinion for that purpose.

In *Hernandez*, we ruminated that:

xxx expert testimony should have been presented to establish the precise cause of private respondent's psychological incapacity, if any, in order to show that it existed at the inception of the marriage. The burden of proof to show the nullity of the marriage rests upon petitioner. The Court is mindful of the policy of the 1987 Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family. Thus, any doubt should be resolved in favor of the validity of the marriage.¹⁹

but the expert evidence submitted here did not establish the precise cause of the supposed psychological incapacity of Dominic, much less show that the psychological incapacity existed at the inception of the marriage.

The Court in *Pesca* observed that:

At all events, petitioner has utterly failed, both in her allegations in the complaint and in her evidence, to make out a case of psychological incapacity on the part of respondent, let alone at the time of solemnization of the contract, so as to warrant a declaration of nullity of the marriage.

¹⁸ *Supra* note 13, at 434-435.

¹⁹ *Supra* note 14, at 88.

Emotional immaturity and irresponsibility, invoked by her, cannot be equated with psychological incapacity.²⁰

Apparent from the aforecited pronouncements is that it was not the absence of the medical expert's testimony alone that was crucial but rather petitioners' failure to satisfactorily discharge the burden of showing the existence of psychological incapacity at the inception of the marriage. In other words, the totality of the evidence proving such incapacity at and prior to the time of the marriage was the crucial consideration, as the Court has reminded in *Ting v. Velez-Ting*.²¹

By the very nature of cases involving the application of Article 36, it is logical and understandable to give weight to the expert opinions furnished by psychologists regarding the psychological temperament of parties in order to determine the root cause, juridical antecedence, gravity and incurability of the psychological incapacity. However, such opinions, while highly advisable, are not conditions *sine qua non* in granting petitions for declaration of nullity of marriage. At best, courts must treat such opinions as decisive but not indispensable evidence in determining the merits of a given case. In fact, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical or psychological examination of the person concerned need not be resorted to. The trial court, as in any other given case presented before it, must always base its decision not solely on the expert opinions furnished by the parties but also on the totality of evidence adduced in the course of the proceedings.

Petitioner's view that the Court in *Marcos* stated that the personal medical or psychological examination of respondent spouse therein was not a requirement for the declaration of his psychological incapacity²² is not entirely accurate. To be clear, the statement in *Marcos* ran as follows:

The guidelines incorporate the three basic requirements earlier mandated by the Court in *Santos v. Court of Appeals*: "psychological incapacity must be characterized by (a) gravity (b) juridical antecedence, and (c) incurability." The foregoing guidelines do not require that a physician examine the person to be declared psychologically incapacitated. In fact, the root cause may be "medically *or clinically* identified." What is important is the presence of evidence that can

²⁰ *Supra* note 15, at 594.

²¹ G.R. No. 166562, March 31, 2009, 582 SCRA 694, 709.

²² *Rollo*, p. 8.

adequately establish the party's *psychological* condition. For indeed, **if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to.**

In light of the foregoing, even if the expert opinions of psychologists are not conditions *sine qua non* in the granting of petitions for declaration of nullity of marriage, the actual medical examination of Dominic was to be dispensed with only *if* the totality of evidence presented was enough to support a finding of his psychological incapacity. This did not mean that the presentation of any form of medical or psychological evidence to show the psychological incapacity would have automatically ensured the granting of the petition for declaration of nullity of marriage. What was essential, we should emphasize herein, was the “presence of evidence that can adequately establish the party's psychological condition,” as the Court said in *Marcos*. But where, like here, the parties had the full opportunity to present the professional and expert opinions of psychiatrists tracing the root cause, gravity and incurability of the alleged psychological incapacity, then the opinions should be presented and be weighed by the trial courts in order to determine and decide whether or not to declare the nullity of the marriages. It bears repeating that the trial courts, as in all the other cases they try, must always base their judgments not solely on the expert opinions presented by the parties but on the totality of evidence adduced in the course of their proceedings.²³

We find the totality of the evidence adduced by petitioner insufficient to prove that Dominic was psychologically unfit to discharge the duties expected of him as a husband, and that he suffered from such psychological incapacity as of the date of the marriage. Accordingly, the CA did not err in dismissing the petition for declaration of nullity of marriage.

²³ Id.

We have time and again held that psychological incapacity should refer to no less than a mental, not physical, incapacity that causes a party to be truly incognitive of the basic marital covenants that must concomitantly be assumed and discharged by the parties to the marriage that, as so expressed by Article 68 of the *Family Code*, include their mutual obligations to live together, to observe love, respect and fidelity, and to render help and support. We have also held that the intendment of the law has been to confine the meaning of psychological incapacity to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. To qualify as psychological incapacity as a ground for nullification of marriage, a person's psychological affliction must be grave and serious as to indicate an utter incapacity to comprehend and comply with the essential objects of marriage, including the rights and obligations between husband and wife. The affliction must be shown to exist at the time of marriage, and must be incurable.

Accordingly, the RTC's findings that Dominic's psychological incapacity was characterized by gravity, antecedence and incurability could not stand scrutiny. The medical report failed to show that his actions indicated a psychological affliction of such a grave or serious nature that it was medically or clinically rooted. His alleged immaturity, deceitfulness and lack of remorse for his dishonesty and lack of affection did not necessarily constitute psychological incapacity. His inability to share or to take responsibility or to feel remorse over his misbehavior or to share his earnings with family members, albeit indicative of immaturity, was not necessarily a medically rooted psychological affliction that was incurable. Emotional immaturity and irresponsibility did not equate with psychological incapacity.²⁴ Nor were his supposed sexual infidelity and criminal offenses manifestations of psychological incapacity. If at all, they would constitute a

²⁴ *Pesca v. Pesca*, *supra* note 15, at 594.

ground only for an action for legal separation under Article 55 of the *Family Code*.

Finally, petitioner contends that the Court's Resolution in A.M. No. 02-11-10 rendered appeals by the OSG no longer required, and that the appeal by the OSG was a mere superfluity that could be deemed to have become *functus officio* if not totally disregarded.²⁵

The contention is grossly erroneous and unfounded. The Resolution nowhere stated that appeals by the OSG were no longer required. On the contrary, the Resolution explicitly required the OSG to actively participate in all stages of the proceedings, to wit:

a) The petitioner shall serve a copy of the petition on the Office of the Solicitor General and the Office of the City or Provincial Prosecutor, within five days from the date of its filing and submit to the court proof of such service within the same period.²⁶

b) The court may require the parties and the public prosecutor, in consultation with the Office of the Solicitor General, to file their respective memoranda support of their claims within fifteen days from the date the trial is terminated. It may require the Office of the Solicitor General to file its own memorandum if the case is of significant interest to the State. No other pleadings or papers may be submitted without leave of court. After the lapse of the period herein provided, the case will be considered submitted for decision, with or without the memoranda.²⁷

c) The parties, including the Solicitor General and the public prosecutor, shall be served with copies of the decision personally or by registered mail. If the respondent summoned by publication failed to appear in the action, the dispositive part of the decision shall be published once in a newspaper of general circulation.²⁸

d) The decision becomes final upon the expiration of fifteen days from notice to the parties. Entry of judgment shall be made if no motion for reconsideration or new trial, or appeal is filed by any of the parties, the public prosecutor, or the Solicitor General.²⁹

²⁵ *Rollo*, p. 9.

²⁶ A.M. No. 02-11-10, Section 5, paragraph 4.

²⁷ *Id.*, Section 18.

²⁸ *Id.*, Section 19, paragraph 2.

²⁹ *Id.*, Section 19, paragraph 3.

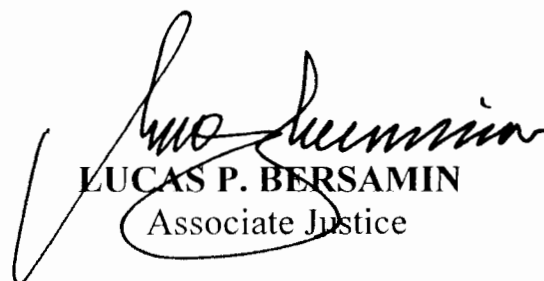
e) An aggrieved party or the Solicitor General may appeal from the decision by filing a Notice of Appeal within fifteen days from notice of denial of the motion for reconsideration or new trial. The appellant shall serve a copy of the notice of appeal on the adverse parties.³⁰

The obvious intent of the Resolution was to require the OSG to appear as counsel for the State in the capacity of a *defensor vinculi* (i.e., defender of the marital bond) to oppose petitions for, and to appeal judgments in favor of declarations of nullity of marriage under Article 36 of the *Family Code*, thereby ensuring that only the meritorious cases for the declaration of nullity of marriages based on psychological incapacity—those sufficiently evidenced by gravity, incurability and juridical antecedence—would succeed.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; and **AFFIRMS** the decision promulgated on March 19, 2003 in CA-G.R. CV No. 68615.

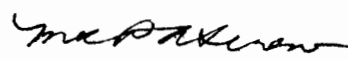
The petitioner shall pay the costs of suit.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

³⁰ Id., Section 20, paragraph 2.

Teresita Leonardo de Castro

TERESITA J. LEONARDO-DE CASTRO

Associate Justice

Martin S. Villarama, Jr.

MARTIN S. VILLARAMA, JR.

Associate Justice

Bienvenido L. Reyes

BIENVENIDO L. REYES

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.

Maria Lourdes P. A. Sereno

MARIA LOURDES P. A. SERENO

Chief Justice