



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

REPUBLIC  
 PHILIPPINES,

OF

THE

G.R. No. 171557

Petitioner,

Present:

- versus -

RODOLFO O. DE GRACIA,

Respondent.

CARPIO, J., Chairperson,  
 BRION,  
 DEL CASTILLO,  
 PEREZ, and  
 PERLAS-BERNABE, JJ.

Promulgated:

FEB 12 2014

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*<sup>1</sup> are the Decision<sup>2</sup> dated June 2, 2005 and Resolution<sup>3</sup> dated February 3, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 69103 which affirmed the Decision<sup>4</sup> dated October 17, 2000 of the Regional Trial Court of Zamboanga del Norte, Branch 11 (RTC) in Civil Case No. S-665 declaring the marriage of respondent Rodolfo O. De Gracia (Rodolfo) and Natividad N. Rosalem (Natividad) void on the ground of psychological incapacity pursuant to Article 36 of the Family Code of the Philippines<sup>5</sup> (Family Code).

<sup>1</sup> Rollo, pp. 28-52.

<sup>2</sup> Id. at 55-68. Penned by Associate Justice Romulo V. Borja, with Associate Justices Rodrigo F. Lim, Jr. and Normandie B. Pizarro concurring.

<sup>3</sup> Id. at 70-72.

<sup>4</sup> Id. at 87-100. Penned by Judge Wilfredo G. Ochotorena.

<sup>5</sup> Executive Order No. 209, as amended, entitled "THE FAMILY CODE OF THE PHILIPPINES."

### The Facts

Rodolfo and Natividad were married on February 15, 1969 at the Parish of St. Vincent Ferrer in Salug, Zamboanga del Norte.<sup>6</sup> They lived in Dapaon, Sindangan, Zamboanga del Norte and have two (2) children, namely, Ma. Reynilda R. De Gracia (Ma. Reynilda) and Ma. Rizza R. De Gracia (Ma. Rizza), who were born on August 20, 1969 and January 15, 1972, respectively.<sup>7</sup>

On December 28, 1998, Rodolfo filed a verified complaint for declaration of nullity of marriage (complaint) before the RTC, docketed as Civil Case No. S-665, alleging that Natividad was psychologically incapacitated to comply with her essential marital obligations. In compliance with the Order<sup>8</sup> dated January 5, 1999 of the RTC, the public prosecutor conducted an investigation to determine if collusion exists between Rodolfo and Natividad and found that there was none.<sup>9</sup> Trial on the merits then ensued.

In support of his complaint, Rodolfo testified, among others, that he first met Natividad when they were students at the Barangay High School of Sindangan,<sup>10</sup> and he was forced to marry her barely three (3) months into their courtship in light of her accidental pregnancy.<sup>11</sup> At the time of their marriage, he was 21 years old, while Natividad was 18 years of age. He had no stable job and merely worked in the gambling cockpits as “*kristo*” and “*bangkero sa hantak*.” When he decided to join and train with the army,<sup>12</sup> Natividad left their conjugal home and sold their house without his consent.<sup>13</sup> Thereafter, Natividad moved to Dipolog City where she lived with a certain Engineer Terez (Terez), and bore him a child named Julie Ann Terez.<sup>14</sup> After cohabiting with Terez, Natividad contracted a second marriage on January 11, 1991 with another man named Antonio Mondarez and has lived since then with the latter in Cagayan de Oro City.<sup>15</sup> From the time Natividad abandoned them in 1972, Rodolfo was left to take care of Ma. Reynilda and Ma. Rizza<sup>16</sup> and he exerted earnest efforts to save their marriage which, however, proved futile because of Natividad’s psychological incapacity that appeared to be incurable.<sup>17</sup>

For her part, Natividad failed to file her answer, as well as appear

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<sup>6</sup> Records, p. 4.

<sup>7</sup> See *rollo*, p. 56.

<sup>8</sup> Records, p. 7.

<sup>9</sup> Id. at 8-A.

<sup>10</sup> Id. at 83.

<sup>11</sup> Id. at 83-84.

<sup>12</sup> Id. at 84.

<sup>13</sup> Id. at 85.

<sup>14</sup> Id. at 89.

<sup>15</sup> Id. at 45.

<sup>16</sup> Id.

<sup>17</sup> Id. at 89-90.

during trial, despite service of summons.<sup>18</sup> Nonetheless, she informed the court that she submitted herself for psychiatric examination to Dr. Cheryl T. Zalsos (Dr. Zalsos) in response to Rodolfo's claims.<sup>19</sup> Rodolfo also underwent the same examination.<sup>20</sup>

In her two-page psychiatric evaluation report,<sup>21</sup> Dr. Zalsos stated that both Rodolfo and Natividad were psychologically incapacitated to comply with the essential marital obligations, finding that both parties suffered from "utter emotional immaturity [which] is unusual and unacceptable behavior considered [as] deviant from persons who abide by established norms of conduct."<sup>22</sup> As for Natividad, Dr. Zalsos also observed that she lacked the willful cooperation of being a wife and a mother to her two daughters. Similarly, Rodolfo failed to perform his obligations as a husband, adding too that he sired a son with another woman. Further, Dr. Zalsos noted that the mental condition of both parties already existed at the time of the celebration of marriage, although it only manifested after. Based on the foregoing, Dr. Zalsos concluded that the "couple's union was bereft of the mind, will and heart for the obligations of marriage."<sup>23</sup>

On February 10, 1999, the Office of the Solicitor General (OSG), representing petitioner Republic of the Philippines (Republic), filed an opposition<sup>24</sup> to the complaint, contending that the acts committed by Natividad did not demonstrate psychological incapacity as contemplated by law, but are mere grounds for legal separation under the Family Code.<sup>25</sup>

### **The RTC Ruling**

In a Decision<sup>26</sup> dated October 17, 2000, the RTC declared the marriage between Rodolfo and Natividad void on the ground of psychological incapacity. It relied on the findings and testimony of Dr. Zalsos, holding that Natividad's emotional immaturity exhibited a behavioral pattern which in psychiatry constitutes a form of personality disorder that existed at the time of the parties' marriage but manifested only thereafter. It likewise concurred with Dr. Zalsos's observation that Natividad's condition is incurable since it is deeply rooted within the make-up of her personality. Accordingly, it concluded that Natividad could not have known, much more comprehend the marital obligations she was assuming, or, knowing them, could not have given a valid assumption thereof.<sup>27</sup>

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<sup>18</sup> Id. at 19-20.

<sup>19</sup> Id. at 28.

<sup>20</sup> See *rollo*, p. 94.

<sup>21</sup> Records, pp. 37-38.

<sup>22</sup> Id. at 38.

<sup>23</sup> Id.

<sup>24</sup> Id. at 9-14.

<sup>25</sup> See Article 55 of the Family Code.

<sup>26</sup> *Rollo*, pp. 87-100.

<sup>27</sup> Id. at 96.

The Republic appealed to the CA, averring that there was no showing that Natividad's personality traits constituted psychological incapacity as envisaged under Article 36 of the Family Code, and that the testimony of the expert witness was not conclusive upon the court.<sup>28</sup>

### The CA Ruling

In a Decision<sup>29</sup> dated June 2, 2005, the CA affirmed the ruling of the RTC, finding that while Natividad's emotional immaturity, irresponsibility and promiscuity by themselves do not necessarily equate to psychological incapacity, "their degree or severity, as duly testified to by Dr. Zalsos, has sufficiently established a case of psychological disorder so profound as to render [Natividad] incapacitated to perform her essential marital obligations."<sup>30</sup>

The Republic moved for reconsideration which was, however, denied in a Resolution<sup>31</sup> dated February 3, 2006, hence, the instant petition.

### The Issue Before the Court

The primordial issue in this case is whether or not the CA erred in sustaining the RTC's finding of psychological incapacity.

### The Ruling of the Court

The petition is meritorious.

"Psychological incapacity," as a ground to nullify a marriage under Article 36<sup>32</sup> of the Family Code, should refer to no less than a mental – not merely physical – incapacity that causes a party to be **truly incognitive of the basic marital covenants** that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed in Article 68<sup>33</sup> of the Family Code, among others,<sup>34</sup> include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been

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<sup>28</sup> *CA Rollo*, p. 27.

<sup>29</sup> *Rollo*, pp. 55-68.

<sup>30</sup> *Id.* at 67.

<sup>31</sup> *Id.* at 70-72.

<sup>32</sup> 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.

<sup>33</sup> Art. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

<sup>34</sup> Also includes those provided under Articles 68 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. (See Guideline 6 in *Rep. of the Phils. v. CA*, 335 Phil. 664, 678 [1997].)

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.**<sup>35</sup> In *Santos v. CA*<sup>36</sup> (*Santos*), the Court first declared that psychological incapacity must be characterized by: (a) **gravity** (*i.e.*, it must be grave and serious such that the party would be incapable of carrying out the ordinary duties required in a marriage); (b) **juridical antecedence** (*i.e.*, it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage); and (c) **incurability** (*i.e.*, it must be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved).<sup>37</sup> The Court laid down more definitive guidelines in the interpretation and application of Article 36 of the Family Code in *Republic of the Phils. v. CA*,<sup>38</sup> whose salient points are footnoted hereunder.<sup>39</sup> These guidelines incorporate the basic

<sup>35</sup> *Santos v. CA*, G.R. No. 112019, January 4, 1995, 240 SCRA 20, 40 (1995).

<sup>36</sup> *Id.* at 39.

<sup>37</sup> *Dimayuga-Laurena v. CA*, 587 Phil. 597, 607-608 (2008).

<sup>38</sup> *Supra* note 34.

<sup>39</sup> (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. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it “as the foundation of the nation.” It decrees marriage as legally “inviolable,” thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be “protected” by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

(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. The evidence must show that the illness was existing when the parties exchanged their “I do’s.” The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. x x x

(5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, “mild characteriological peculiarities, mood changes, occasional emotional outbursts” cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is 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.

(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

requirements that the Court established in *Santos*.<sup>40</sup>

Keeping with these principles, the Court, in *Dedel v. CA*,<sup>41</sup> held that therein respondent's **emotional immaturity and irresponsibility** could not be equated with psychological incapacity as it was not shown that these acts are manifestations of a disordered personality which make her **completely unable to discharge the essential marital obligations of the marital state**, not merely due to her **youth, immaturity or sexual promiscuity**.<sup>42</sup> In the same light, the Court, in the case of *Pesca v. Pesca*<sup>43</sup> (*Pesca*), ruled against a declaration of nullity, as petitioner therein "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," significantly noting that the "[e]motional immaturity and irresponsibility, invoked by her, cannot be equated with psychological incapacity." In *Pesca*, the Court upheld the appellate court's finding that the petitioner therein had not established that her husband "showed signs of mental incapacity as would cause him to be truly incognitive of the basic marital covenant, as so provided for in Article 68 of the Family Code; that the incapacity is grave, has preceded the marriage and is incurable; that his incapacity to meet his marital responsibility is because of a psychological, not physical illness; that the root cause of the incapacity has been identified medically or clinically, and has been proven by an expert; and that the incapacity is permanent and incurable in nature."<sup>44</sup>

The Court maintains a similar view in this case. Based on the evidence presented, there exists insufficient factual or legal basis to conclude that Natividad's emotional immaturity, irresponsibility, or even sexual promiscuity, can be equated with psychological incapacity.

The RTC, as affirmed by the CA, heavily relied on the psychiatric evaluation report of Dr. Zalsos which does not, however, explain in reasonable detail how Natividad's condition could be characterized as grave, deeply-rooted, and incurable within the parameters of psychological

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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. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the *defensor vinculi* contemplated under Canon 1095. (Id. at 276-280.)

<sup>40</sup> *Republic v. Galang*, G.R. No. 168335, June 6, 2011, 650 SCRA 524, 535-537.

<sup>41</sup> 466 Phil. 226 (2004).

<sup>42</sup> Id. at 233.

<sup>43</sup> 408 Phil. 713 (2001).

<sup>44</sup> Id. at 718.

incapacity jurisprudence. Aside from failing to disclose the types of psychological tests which she administered on Natividad, Dr. Zalsos failed to identify in her report the root cause of Natividad's condition and to show that it existed at the time of the parties' marriage. Neither was the gravity or seriousness of Natividad's behavior in relation to her failure to perform the essential marital obligations sufficiently described in Dr. Zalsos's report. Further, the finding contained therein on the incurability of Natividad's condition remains unsupported by any factual or scientific basis and, hence, appears to be drawn out as a bare conclusion and even self-serving. In the same vein, Dr. Zalsos's testimony during trial, which is essentially a reiteration of her report, also fails to convince the Court of her conclusion that Natividad was psychologically incapacitated. Verily, although expert opinions furnished by psychologists regarding the psychological temperament of parties are usually given considerable weight by the courts, the existence of psychological incapacity must still be proven by independent evidence.<sup>45</sup> After poring over the records, the Court, however, does not find any such evidence sufficient enough to uphold the court *a quo*'s nullity declaration. To the Court's mind, Natividad's refusal to live with Rodolfo and to assume her duties as wife and mother as well as her emotional immaturity, irresponsibility and infidelity do not rise to the level of psychological incapacity that would justify the nullification of the parties' marriage. Indeed, to be declared clinically or medically incurable is one thing; to refuse or be reluctant to perform one's duties is another. To hark back to what has been earlier discussed, psychological incapacity refers only to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.<sup>46</sup> In the final analysis, the Court does not perceive a disorder of this nature to exist in the present case. Thus, for these reasons, coupled too with the recognition that marriage is an inviolable social institution and the foundation of the family,<sup>47</sup> the instant petition is hereby granted.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated June 2, 2005 and Resolution dated February 3, 2006 of the Court of Appeals in CA-G.R. CV No. 69103 are **REVERSED** and **SET ASIDE**. Accordingly, the complaint for declaration of nullity of marriage filed under Article 36 of the Family Code is **DISMISSED**.

**SO ORDERED.**

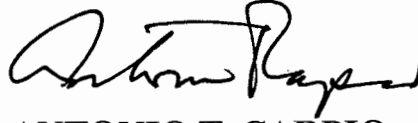
  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

<sup>45</sup> See *Mendoza v. Republic*, G.R. No. 157649, November 12, 2012, 685 SCRA 16, 25-32.

<sup>46</sup> *Republic v. Galang*, supra note 40, at 535.

<sup>47</sup> See Section 2, Article XV of the 1987 Philippine Constitution.

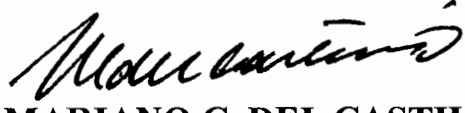
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice

**ATTESTATION**

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



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division



**CERTIFICATION**

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



**MARIA LOURDES P. A. SERENO**  
Chief Justice