



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ROBERT F. MALLILIN,  
Petitioner,

G.R. No. 192718

Present:

- versus -

CARPIO, J., Chairperson,  
VELASCO, JR.,\*  
DEL CASTILLO,  
MENDOZA,  
LEONEN, JJ.

LUZ G. JAMESOLAMIN  
and the REPUBLIC OF THE  
PHILIPPINES,

Promulgated:

Respondents.

18 FEB 2015 *HAN Cabalag Projecto*

X ----- X

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court assailing the November 20, 2009 Decision<sup>1</sup> of the Court of Appeals (CA) and its June 1, 2010 Resolution,<sup>2</sup> in CA-G.R. CV No. 78303-MIN, which *reversed* and *set aside* the September 20, 2002 Decision of the Regional Trial Court, Branch 37, Cagayan de Oro City (RTC-Br.37), declaring the marriage between petitioner Robert F. Mallilin (*Robert*) and private respondent Luz G. Jamesolamin (*Luz*) null and void.

\* Designated Acting member in lieu of Associate Justice Arturo D. Brion, per Special Order No. 1910, dated January 12, 2015.

<sup>1</sup> *Rollo*, pp. 47-60, penned by Associate Justice Edgardo A. Camello, and Associate Justice Edgardo T. Lloren and Associate Justice Leoncia R. Dimagiba, concurring.

<sup>2</sup> *Id.* at 76-77.

***The Facts:***

Robert and Luz were married on September 6, 1972. They begot three (3) children.

On March 16, 1994, Robert filed a complaint for declaration of nullity of marriage before the RTC, Branch 23, Cagayan de Oro City (*RTC-Br. 23*). On March 7, 1996, *RTC-Br. 23* denied the petition. Robert appealed this judgment before the CA where it was docketed as CA-G.R. CV No. 54261. On January 29, 1999, the CA *reversed* the *RTC-Br. 23* decision “due to lack of participation of the State as required under Article 48 of the Family Code.”<sup>3</sup> The case was remanded to the RTC for further proceedings and its records were thereafter transferred from *RTC-Br. 23* to *RTC-Br. 37*, as the latter was designated as Family Court pursuant to the Family Code Act of 1997.

In the complaint, Robert alleged that at the time of the celebration of their marriage, Luz was suffering from psychological and mental incapacity and unpreparedness to enter into such marital life and to comply with its essential obligations and responsibilities. Such incapacity became even more apparent during their marriage when Luz exhibited clear manifestation of immaturity, irresponsibility, deficiency of independent rational judgment, and inability to cope with the heavy and oftentimes demanding obligation of a parent.

Luz filed her Answer with Counterclaim contesting the complaint. She averred that it was Robert who manifested psychological incapacity in their marriage. Despite due notice, however, she did not appear during the trial. Assistant City Prosecutor Isabelo Sabanal appeared for the State.

When Robert testified, he disclosed that Luz was already living in California, USA, and had married an American. He also revealed that when they were still engaged, Luz continued seeing and dating another boyfriend, a certain Lt. Liwag. He also claimed that from the outset, Luz had been remiss in her duties both as a wife and as a mother as shown by the following circumstances: (1) it was he who did the cleaning of the room because Luz did not know how to keep order; (2) it was her mother who prepared their meal while her sister was the one who washed their clothes because she did not want her polished nails destroyed; (3) it was also her sister who took care of their children while she spent her time sleeping and

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<sup>3</sup> Id. at 48.

looking at the mirror; (4) when she resumed her schooling, she dated different men; (5) he received anonymous letters reporting her loitering with male students; (6) when he was not home, she would receive male visitors; (7) a certain Romy Padua slept in their house when he was away; and (6) she would contract loans without his knowledge.

In addition, Robert presented the testimony of Myrna Delos Reyes Villanueva (*Villanueva*), Guidance Psychologist II of Northern Mindanao Medical Center.

On May 8, 2000, while the case was pending before the trial court, Robert filed a petition for marriage annulment with the Metropolitan Tribunal of First Instance for the Archdiocese of Manila (*Metropolitan Tribunal*).

On October 10, 2002, the Metropolitan Tribunal handed down a decision declaring their marriage invalid *ab initio* on the ground of *grave lack of due discretion* on the part of both parties as contemplated by the second paragraph of Canon 1095. This decision was affirmed by the National Appellate Matrimonial Tribunal (*NAMT*).

Prior to that, on September 20, 2002, the RTC had rendered a decision declaring the marriage null and void on the ground of psychological incapacity on the part of Luz as she failed to comply with the essential marital obligations.

The State, represented by the Office of the Solicitor General (*OSG*), interposed an appeal with the CA. The OSG argued that Robert failed to make a case for declaration of nullity of his marriage with Luz. It pointed out that the real cause of the marital discord was the sexual infidelity of Luz. Such ground, the OSG contended, should not result in the nullification of the marriage under the law, but merely constituted a ground for legal separation.

The CA, in its November 20, 2009 Decision,<sup>4</sup> granted the petition and *reversed* the RTC decision. The decision, including the decretal portion, partially reads:

[W]e find that the trial court committed a reversible error. Closer scrutiny of the records reveals, as correctly noted by the Solicitor General, sexual infidelity are not rooted on some debilitating psychological condition but a mere refusal or unwillingness to assume the essential obligations of marriage. x x x.

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<sup>4</sup> Id. at 47 penned by Associate Justice Edgardo A. Camello, and Associate Justice Edgardo T. Lloren, with Associate Justice Leoncia R. Dimagiba, concurring.

X X X X

In the case at bar, apart from his self-serving declarations, the evidence adduced by Robert fell short of establishing the fact that at the time of their marriage, Luz was suffering from a psychological defect which in fact deprived [her] of the ability to assume the essential duties of marriage and its concomitant responsibilities.

X X X X

We commiserate with the plaintiff-appellee's undeserved marital plight. Yet, Our paramount duty as a court compels Us to apply the law at all costs, however harsh it may be on whomsoever is called upon to bear its unbiased brunt.

**FOR THESE REASONS**, the appealed Decision dated September 20, 2002 in Civil Case No. 94-178 is **REVERSED** and **SET ASIDE**. No costs.

**SO ORDERED.**<sup>5</sup>

Robert filed a motion for reconsideration, but it was denied by the CA in its June 1, 2010 Resolution,<sup>6</sup> stating that the arguments of Robert were mere rehash of the same ground, arguments and discussion previously pointed out by him, and that no new substance was brought out to warrant the reconsideration or reversal of its decision.

Hence, this petition.

### **ASSIGNMENT OF ERROR:**

#### **I**

**THE HONORABLE COURT OF APPEALS' HOLDING THAT THE ABSENCE OF THE PSYCHOLOGICAL EXAMINATION OF THE WIFE UNDERSCORES THE EVIDENTIAL GAP TO SUSTAIN THE DECISION OF THE RTC DECLARING THE MARRIAGE OF PETITIONER TO RESPONDENT NULL AND VOID ON THE GROUND OF PSYCHOLOGICAL INCAPACITY IS CONTRARY TO LAW AND JURISPRUDENCE.**

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<sup>5</sup> Id. at 57-59.

<sup>6</sup> Id. at 76.

## II

**THE RESPONDENT WIFE WAS ALSO DECLARED BY THE NATIONAL APPELLATE MATRIMONIAL TRIBUNAL OF THE CATHOLIC BISHOP'S CONFERENCE OF THE PHILIPPINES AS GUILTY OF GRAVE LACK OF DUE DISCRETION.**

## III

**THE RESPONDENT WIFE WAS ALSO FOUND BY THE LOWER COURT AS PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH THE ESSENTIAL MARITAL OBLIGATIONS.**

Robert now argues that he has sufficiently proven the nullity of his marriage even in the absence of any medical, psychiatric or psychological examination of the wife by a competent and qualified professional. To bolster his claim, he avers that the Metropolitan Tribunal already declared that Luz exhibited *grave lack of discretion in judgment* concerning the essential rights and obligations mutually given and accepted in marriage. The said decision was affirmed by the NAMT.

Robert further argues that the sexual indiscretion of Luz with different men coupled with the fact that she failed to function as a home maker to her family and as a housewife to him incapacitated her from accepting and complying with her essential marital obligations. For said reason, he asserts that the case of Luz was not a mere case of sexual infidelity, but clearly an illness that was rooted on some debilitating psychological condition which incapacitated her to carry out the responsibilities of a married woman. Robert avers that a sex maniac is not just a mere sexual infidel but one who is suffering from a deep psychological problem.

### ***Position of the State***

The OSG argues that the CA correctly ruled that the totality of evidence presented by Robert was not sufficient to support a finding that Luz was psychologically incapacitated. His evidence fell short of establishing his assertion that at the time of their marriage, Luz was suffering from a psychological defect which deprived her of the ability to assume the essential duties of marriage and its concomitant responsibilities.

With regard to the findings of the Metropolitan Tribunal and the NAMT, the OSG claims that the same were only given persuasive value and were not controlling or decisive in cases of nullity of marriage. Further, the

decision was based on grave lack of discretion of judgment concerning matrimonial rights and obligations due to outside factors other than psychological incapacity as contemplated in Article 36 of the Family Code. The OSG also raises the strong possibility of collusion between the parties as shown by the events that took place after the issuance of the March 7, 1996 RTC Decision. The OSG wrote:

Significantly, the chronological events after the trial court issued its March 7, 1996 Decision unmistakably show the collusion between the parties to obtain the reliefs pleaded. Among others, respondent's Retraction of Testimony was executed without the presence of counsel sometime in 1998, a few months before she married an American. This irregularity was even noticed by the Court of Appeals in CA-G.R. CV No. 54261:

x x x x

The involvement and active participation of the Solicitor General became indispensable, in the present recourse, when, in a whirlwind turn of events, the Appellee made a VOLTE FACE executed a "Retraction of Testimony" and a "Waiver of Custody" waiving custody of Franco Mark J Mallillin, still a minor, her son by the Appellant. It bears stressing that the Appellee, in the Court *a quo*, obdurately denied the material allegations of the Appellant's complaint and declared that it was the Appellant who was psychologically incapacitated. The sudden turn-about of the appellee, in the present recourse, to the extent of disowning her testimony in the Court *a quo* and even praying for the reversal of the Decision of the Trial Court is strongly suggestive, if not constitutive, of collusion or a *modus vivendi* between the parties, outlawed by the Family Code of the Philippines and the Constitution. x x x

### ***The Court's Ruling***

The main issue is whether the totality of the evidence adduced proves that Luz was psychologically incapacitated to comply with the essential obligations of marriage warranting the annulment of their marriage under Article 36 of the Family Code.

The petition is bereft of merit.

A petition for declaration of nullity of marriage is anchored on Article 36 of the Family Code which provides:

Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligation of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

“Psychological incapacity,” as a ground to nullify a marriage under Article 36 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 of the Family Code, among others, include their mutual obligations to live together; observe love, respect and fidelity; and render help and support. There is hardly a doubt 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.<sup>7</sup>

Psychological incapacity as required by Article 36 must be characterized by (a) gravity, (b) juridical antecedence and (c) incurability. The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage. It must be rooted in the history of the party antedating the marriage, although the overt manifestations may only emerge after the marriage. It must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.<sup>8</sup>

In *Republic v. Court of Appeals and Eduardo C. De Quintos, Jr.*,<sup>9</sup> the Court reiterated the well-settled guidelines in resolving petitions for declaration of nullity of marriage, embodied in *Republic v. Court of Appeals and Molina*,<sup>10</sup> based on Article 36 of the Family Code. Thus:

(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.

x 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

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<sup>7</sup> *Republic v. Garcia*, G.R. No. 171557, February 12, 2014.

<sup>8</sup> *Ligarde v. Patalinghug*, G.R. No. 168796, April 15, 2010, 618 SCRA 315, 320–321.

<sup>9</sup> G.R. No. 159594, November 12, 2012, 685 SCRA 33, 42–43.

<sup>10</sup> 335 Phil. 664, 676 –678 (1997).

must be psychological — not physical, although its manifestations and/or symptoms may be physical. x x x.

x x x x

(3) The incapacity must be proven to be existing at "the time of the celebration" of the marriage. x x x.

x x x x

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. x x x.

x 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. x x x.

x 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. x x x.

Guided by these pronouncements, the Court is of the considered view that Robert's evidence failed to establish the psychological incapacity of Luz.

*First*, the testimony of Robert failed to overcome the burden of proof to show the nullity of the marriage. Other than his self-serving testimony, no other evidence was adduced to show the alleged incapacity of Luz. He presented no other witnesses to corroborate his allegations on her behavior. Thus, his testimony was self-serving and had no serious value as evidence.

*Second*, the root cause of the alleged psychological incapacity of Luz was not medically or clinically identified, and sufficiently proven during the trial. Based on the records, Robert failed to prove that her disposition of not



cleaning the room, preparing their meal, washing the clothes, and propensity for dating and receiving different male visitors, was grave, deeply rooted, and incurable within the parameters of jurisprudence on psychological incapacity.

The alleged failure of Luz to assume her duties as a wife and as a mother, as well as her emotional immaturity, irresponsibility and infidelity, cannot rise to the level of psychological incapacity that justifies the nullification of the parties' marriage. The Court has repeatedly stressed that psychological incapacity contemplates "downright incapacity or inability to take cognizance of and to assume the basic marital obligations," not merely the refusal, neglect or difficulty, much less ill will, on the part of the errant spouse.<sup>11</sup> Indeed, to be declared clinically or medically incurable is one thing; to refuse or be reluctant to perform one's duties is another. 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>12</sup>

As correctly found by the CA, sexual infidelity or perversion and abandonment do not, by themselves, constitute grounds for declaring a marriage void based on psychological incapacity. Robert argues that the series of sexual indiscretion of Luz were external manifestations of the psychological defect that she was suffering within her person, which could be considered as nymphomania or "excessive sex hunger." Other than his allegations, however, no other convincing evidence was adduced to prove that these sexual indiscretions were considered as nymphomania, and that it was grave, deeply rooted, and incurable within the term of psychological incapacity embodied in Article 36. To stress, Robert's testimony alone is insufficient to prove the existence of psychological incapacity.

In *Sivino A. Ligeralde v. May Ascension A. Patalinghug and the Republic of the Philippines*,<sup>13</sup> the Court ruled that the respondent's **act of living an adulterous life cannot automatically be equated with a psychological disorder**, especially when no specific evidence was shown that promiscuity was a trait already existing at the inception of marriage. The petitioner must be able to establish that the respondent's unfaithfulness was a manifestation of a disordered personality, which made her completely unable to discharge the essential obligations of the marital state.

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<sup>11</sup> *Republic v. Encelan*, G.R. No. 170022, January 9, 2013, 668 SCRA 215, 221.

<sup>12</sup> *Republic v. Gracia*, supra note 7.

<sup>13</sup> Supra note 8, at 322.

*Third*, the psychological report of Villanueva, Guidance Psychologist II of the Northern Mindanao Medical Center, Cagayan de Oro City, was insufficient to prove the psychological incapacity of Luz. There was nothing in the records that would indicate that Luz had either been interviewed or was subjected to a psychological examination. The finding as to her psychological incapacity was based entirely on hearsay and the self-serving information provided by Robert.

*Fourth*, the decision of the Metropolitan Tribunal is insufficient to prove the psychological incapacity of Luz. Although it is true that in the case of *Republic v. Court of Appeals and Molina*,<sup>14</sup> the Court stated that interpretations given by the NAMT of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts, still it is subject to the law on evidence. Thus:

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally – subject to our law on evidence – what is decreed as [canonically] invalid should be decreed civilly void x x x. (Emphasis supplied)

Pertinently, Rule 132, Section 34 of the Rules of Evidence provides:

The court shall consider no evidence which has not been formally offered. The purpose of which the evidence is offered must be specified.

In this regard, the belated presentation of the decision of the NAMT cannot be given value since it was *not offered* during the trial, and the Court has in no way of ascertaining the evidence considered by the same tribunal.

Granting that it was offered and admitted, it must be pointed out that the basis of the declaration of nullity of marriage by the NAMT was **not the third paragraph of Canon 1095** which mentions causes of a psychological nature similar to Article 36 of the Family Code, **but the second paragraph of Canon 1095 which refers to those who suffer from grave lack of discretion of judgment concerning essential matrimonial rights and obligations to be mutually given and accepted.** For clarity, the pertinent portions of the NAMT decision are as follows:

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<sup>14</sup> Supra note 10, at 679.

The FACTS on the Case prove with the certitude required by law that based on the deposition of the petitioner – the respondent understandably ignored the proceedings completely for which she was duly cited for Contempt of Court – and premised on the substantially concordant testimonies of the Witnesses, the woman Respondent demonstrated in the external forum through her action and reaction patterns, before and after the marriage-in-fact, her grave lack of due discretion in judgement for marriage intents and purposes basically by reason of her immaturity of judgement as manifested by her emotional ambivalence x x x.

WHEREFORE, this COLLEGIAL COURT OF APPEALS, having invoked the Divine Name and having in mind the Law, the Jurisprudence and the Facts pertaining to the Case, hereby declares and decrees the confirmation of the nullity decision rendered by the Metropolitan Tribunal of First Instance for the Archdiocese of Manil on the Marriage Case MALLILIN – JAMISOLAMIN with Prot. N. 63/2000 on the ground provided by Canon 1095 par. 2 CIC on the part of the woman Respondent – but NOT on the part of the man Petitioner for lack of evidence. (Emphases and underscoring supplied)<sup>15</sup>

In *Santos v. Santos*,<sup>16</sup> the Court referred to the deliberations during the sessions of the Family Code Revision Committee, which drafted the Code, to provide an insight on the import of Article 36 of the Family Code. It went out to state that a part of the provision is **similar to the third paragraph of Canon 1095 of the Code of Canon Law**, which reads:

Canon 1095. The following are incapable of contracting marriage:

1. those who lack sufficient use of reason;
2. those who suffer from a grave lack of discretion of judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted;
3. those who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage. (Emphasis and underscoring supplied)

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<sup>15</sup> *Rollo*, p. 83.

<sup>16</sup> 310 Phil. 21, 37 (1995).

In *Najera v. Najera*,<sup>17</sup> the Court was also confronted with a similar issue of whether to consider an annulment by the NAMT as also covering psychological incapacity, the only ground recognized in our law. In the said case, the NAMT decision was also based on the **second paragraph** of Canon 1095. The Court ruled that it was **not similar** to, and **only annulments under the third paragraph of, Canon 1095 should be considered.** Elucidating, the Court wrote:

Petitioner's argument is without merit.

In its Decision dated February 23, 2004, the Court of Appeals apparently did not have the opportunity to consider the decision of the National Appellate Matrimonial Tribunal. Nevertheless, it is clear that the Court of Appeals considered the Matrimonial Tribunal's decision in its Resolution dated August 5, 2004 when it resolved petitioner's motion for reconsideration. In the said Resolution, the Court of Appeals took cognizance of the very same issues now raised before this Court and correctly held that petitioner's motion for reconsideration was devoid of merit. It stated:

The Decision of the National Appellate Matrimonial Tribunal dated July 2, 2002, which was forwarded to this Court only on February 11, 2004, reads as follows:

[T]he FACTS collated from party complainant and reliable witnesses which include a sister-in-law of Respondent (despite summons from the Court dated June 14, 1999, he did not appear before the Court, in effect waiving his right to be heard, hence, trial in absentia followed) corroborate and lead this Collegiate Court to believe with moral certainty required by law and conclude that the husband-respondent upon contracting marriage suffered from grave lack of due discretion of judgment, thereby rendering nugatory his marital contract: First, his family was dysfunctional in that as a child, he saw the break-up of the marriage of his own parents; his own two siblings have broken marriages; Second, he therefore grew up with a domineering mother with whom [he] identified and on whom he depended for advice; Third, he was according to his friends, already into drugs and alcohol before marriage; this affected his conduct of bipolar kind: he could be very quiet but later very talkative, peaceful but later hotheaded even violent, he also was aware of the infidelity of his mother who now lives with her paramour, also married and a policeman; Finally, into marriage, he continued with his drugs and alcohol abuse until one time he came home very drunk and beat up his wife and attacked her with a bolo that wounded her; this led to final separation.

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<sup>17</sup> 609 Phil. 316, 336 (2009), also citing *Santos v. Santos*, supra.

WHEREFORE, premises considered, this Court of Second Instance, having invoked the Divine Name and having considered the pertinent Law and relevant Jurisprudence to the Facts of the Case hereby proclaims, declares and decrees the confirmation of the sentence from the Court a quo in favor of the nullity of marriage on the ground contemplated under Canon 1095, 2 of the 1983 Code of Canon Law.

However, records of the proceedings before the Trial Court show that, other than herself, petitioner-appellant offered the testimonies of the following persons only, to wit: Aldana Celedonia (petitioner-appellant's mother), Sonny de la Cruz (member, PNP, Bugallon, Pangasinan), and Ma. Cristina R. Gates (psychologist). Said witnesses testified, in particular, to the unfaithful night of July 1, 1994 wherein the respondent allegedly made an attempt on the life of the petitioner. But unlike the hearing and finding before the Matrimonial Tribunal, petitioner-appellant's sister-in-law and friends of the opposing parties were never presented before said Court. As to the contents and veracity of the latter's testimonies, this Court is without any clue.

True, in the case of *Republic v. Court of Appeals, et al.* (268 SCRA 198), the Supreme Court held that the 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. However, the Highest Tribunal expounded as follows:

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally – subject to our law on evidence – what is decreed as [canonically] invalid should be decreed civilly void  
x x x.

And in relation thereto, Rule 132, Sec. 34 of the Rules of Evidence states:

The court shall consider no evidence which has not been formally offered. The purpose of which the evidence is offered must be specified.

Given the preceding disquisitions, petitioner-appellant should not expect us to give credence to the Decision of the National Appellate Matrimonial Tribunal when, apparently, it was made on a different set of evidence of which We have no way of ascertaining their truthfulness.

Furthermore, it is an elementary rule that judgments must be based on the evidence presented before the court (*Manzano vs. Perez*, 362 SCRA 430 [2001]). And based on the evidence on record, We find no ample reason to reverse or modify the judgment of the Trial Court.[31]

*Santos v. Santos*<sup>18</sup> cited the deliberations during the sessions of the Family Code Revision Committee, which drafted the Code, to provide an insight on the import of Article 36 of the Family Code. It stated that a part of the provision is similar to the third paragraph of Canon 1095 of the Code of Canon Law, which reads:

Canon 1095. The following are incapable of contracting marriage:

1. those who lack sufficient use of reason;
2. those who suffer from a grave lack of discretion of judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted;
3. those who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage.

It must be pointed out that in this case, the basis of the declaration of nullity of marriage by the National Appellate Matrimonial Tribunal is not the third paragraph of Canon 1095 which mentions causes of a psychological nature, but the second paragraph of Canon 1095 which refers to those who suffer from a grave lack of discretion of judgment concerning essential matrimonial rights and obligations to be mutually given and accepted. For clarity, the pertinent portion of the decision of the National Appellate Matrimonial Tribunal reads:

The FACTS collated from party complainant and reliable witnesses which include a sister-in-law of Respondent (despite summons from the Court dated June 14, 1999, he did not appear before the Court, in effect waiving his right to be heard, hence, trial in absentia followed) corroborate and lead this Collegiate Court to believe with moral certainty required by law and conclude that the husband-respondent upon contacting marriage suffered from grave lack of due discretion of judgment, thereby rendering nugatory his marital contract x x x.

WHEREFORE, premises considered, this Court of Second Instance, having invoked the Divine Name and having considered the pertinent Law and relevant Jurisprudence to the Facts of the Case hereby proclaims, declares and decrees the confirmation of the sentence from the Court a quo in favor of the nullity of marriage on the ground contemplated under Canon 1095, 2 of the 1983 Code of Canon Law. x x x.

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<sup>18</sup> Supra note 16.

Hence, even if, as contended by petitioner, the factual basis of the decision of the National Appellate Matrimonial Tribunal is similar to the facts established by petitioner before the trial court, the decision of the National Appellate Matrimonial Tribunal confirming the decree of nullity of marriage by the court a quo is not based on the psychological incapacity of respondent. Petitioner, therefore, erred in stating that the conclusion of Psychologist Cristina Gates regarding the psychological incapacity of respondent is supported by the decision of the National Appellate Matrimonial Tribunal.

In fine, the Court of Appeals did not err in affirming the Decision of the RTC. (Emphases in the original; Underscoring supplied)

Hence, Robert's reliance on the NAMT decision is misplaced. To repeat, the decision of the NAMT was based on **the second paragraph of Canon 1095** which refers to those who suffer from **a grave lack of discretion of judgment** concerning essential matrimonial rights and obligations to be mutually given and accepted, a cause not of psychological nature under Article 36 of the Family Code. A cause of psychological nature similar to Article 36 is covered by the **third paragraph of Canon 1095 of the Code of Canon Law** (*Santos v. Santos*<sup>19</sup>), which for ready reference reads:

Canon 1095. The following are incapable of contracting marriage:

x x x x

3. those who, because of causes of a **psychological nature**, are unable to assume the essential obligations of marriage.

To hold that annulment of marriages decreed by the NAMT under the second paragraph of Canon 1095 should also be covered would be to expand what the lawmakers did not intend to include. What would prevent members of *other* religious groups from invoking their own interpretation of psychological incapacity? Would this not lead to multiple, if not inconsistent, interpretations?

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<sup>19</sup> Supra note 16.

To consider church annulments as additional grounds for annulment under Article 36 would be legislating from the bench. As stated in *Republic v. Court of Appeals and Molina*,<sup>20</sup> interpretations given by the NAMT of the Catholic Church in the Philippines are given great respect by our courts, but they are not controlling or decisive.

In *Republic v. Galang*,<sup>21</sup> it was written that the Constitution set out a policy of protecting and strengthening the family as the basic social institution, and the marriage was the foundation of the family. Marriage, as an inviolable institution protected by the State, cannot be dissolved at the whim of the parties. In petitions for declaration of nullity of marriage, the burden of proof to show the nullity of marriage lies with the plaintiff. Unless the evidence presented clearly reveals a situation where the parties, or one of them, could not have validly entered into a marriage by reason of a grave and serious psychological illness existing at the time it was celebrated, the Court is compelled to uphold the indissolubility of the marital tie.

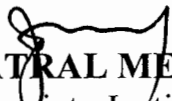
In fine, the Court holds that the CA decided correctly. Petitioner Robert failed to adduce sufficient and convincing evidence to prove the alleged psychological incapacity of Luz.

As asserted by the OSG, the allegations of the petitioner make a case for legal separation. Hence, this decision is without prejudice to an action for legal separation if a party would want to pursue such proceedings. In this disposition, the Court cannot decree a legal separation because in such proceedings, there are matters and consequences like custody and separation of properties that need to be considered and settled.

**WHEREFORE**, the petition is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CV No. 78303-MIN, dated November 20, 2009, and its Resolution, dated June 1, 2010, are hereby **AFFIRMED**, without prejudice.

No costs.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice


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<sup>20</sup> Supra note 10, at 679.

<sup>21</sup> G.R. No. 168335, June 6, 2011, 650 SCRA 524, 543-544.



WE CONCUR:

*I join the dissent of J. Leonen.*  


**ANTONIO T. CARPIO**

Associate Justice

Chairperson

  
**PRESBITERO J. VELASCO, JR.**

Associate Justice

  
**MARIANO C. DEL CASTILLO**

Associate Justice

*I dissent. see separate opinion.*

  
**MARVIC M.V.F. LEONEN**

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