Republic of the Philippines
Supreme Court
Manila

SPECIAL FIRST DIVISION

VALERIO E. KALAW, Petitioner,	**G.R. No. 166357**
	Present:
	LEONARDO-DE CASTRO, *Chairperson*, BERSAMIN,
- versus -	DEL CASTILLO, *PEREZ, and **LEONEN, *JJ.*
	Promulgated:
MA. ELENA FERNANDEZ, Respondent.	JAN 14 2015

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RESOLUTION

BERSAMIN, *J.*:

In our decision promulgated on September 19, 2011,[1] the Court dismissed the complaint for declaration of nullity of the marriage of the parties upon the following ratiocination, to wit:

> The petition has no merit. The CA committed no reversible error in setting aside the trial court's Decision for lack of legal and factual basis.
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> x x x x
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> In the case at bar, petitioner failed to prove that his wife (respondent) suffers from psychological incapacity. He presented the testimonies of two supposed expert witnesses who concluded that respondent is psychologically incapacitated, but the conclusions of these witnesses were premised on the alleged acts or behavior of respondent

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* Per Special Order No. 1080 dated September 13, 2011.
** Pursuant to the third paragraph of Section 7, Rule 2, Internal Rules.
1 657 SCRA 822.

which had not been sufficiently proven. Petitioner's experts heavily relied on petitioner's allegations of respondent's constant mahjong sessions, visits to the beauty parlor, going out with friends, adultery, and neglect of their children. Petitioner's experts opined that respondent's alleged habits, when performed constantly to the detriment of quality and quantity of time devoted to her duties as mother and wife, constitute a psychological incapacity in the form of NPD.

But petitioner's allegations, which served as the bases or underlying premises of the conclusions of his experts, were not actually proven. In fact, respondent presented contrary evidence refuting these allegations of the petitioner.

For instance, petitioner alleged that respondent constantly played mahjong and neglected their children as a result. Respondent admittedly played mahjong, but it was not proven that she engaged in mahjong so frequently that she ***neglected*** her duties as a mother and a wife. Respondent refuted petitioner's allegations that she played four to five times a week. She maintained it was only two to three times a week and always with the permission of her husband and without abandoning her children at home. The children corroborated this, saying that they were with their mother when she played mahjong in their relative's home. Petitioner did not present any proof, other than his own testimony, that the mahjong sessions were so frequent that respondent neglected her family. While he intimated that two of his sons repeated the second grade, he was not able to link this episode to respondent's mahjong-playing. The least that could have been done was to prove the frequency of respondent's mahjong-playing during the years when these two children were in second grade. This was not done. Thus, while there is no dispute that respondent played mahjong, its alleged debilitating frequency and adverse effect on the children were not proven.

Also unproven was petitioner's claim about respondent's alleged constant visits to the beauty parlor, going out with friends, and obsessive need for attention from other men. No proof whatsoever was presented to prove her visits to beauty salons or her frequent partying with friends. Petitioner presented Mario (an alleged companion of respondent during these nights-out) in order to prove that respondent had affairs with other men, but Mario only testified that respondent *appeared* to be dating other men. Even assuming *arguendo* that petitioner was able to prove that respondent had an extramarital affair with another man, that one instance of sexual infidelity cannot, by itself, be equated with obsessive need for attention from other men. Sexual infidelity *per se* is a ground for legal separation, but it does not necessarily constitute psychological incapacity.

Given the insufficiency of evidence that respondent actually engaged in the behaviors described as constitutive of NPD, there is no basis for concluding that she was indeed psychologically incapacitated. Indeed, the totality of the evidence points to the opposite conclusion. A fair assessment of the facts would show that respondent was not totally remiss and incapable of appreciating and performing her marital and parental duties. Not once did the children state that they were neglected by their mother. On the contrary, they narrated that she took care of them, was around when they were sick, and cooked the food they like. It appears that respondent made real efforts to see and take care of her children despite her estrangement from their father. There was no testimony whatsoever that shows abandonment and neglect of familial duties. While

> petitioner cites the fact that his two sons, Rio and Miggy, both failed the second elementary level despite having tutors, there is nothing to link their academic shortcomings to Malyn's actions.
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> After poring over the records of the case, the Court finds no factual basis for the conclusion of psychological incapacity. There is no error in the CA's reversal of the trial court's ruling that there was psychological incapacity. The trial court's Decision merely summarized the allegations, testimonies, and evidence of the respective parties, but it did not actually assess the veracity of these allegations, the credibility of the witnesses, and the weight of the evidence. The trial court did not make factual findings which can serve as bases for its legal conclusion of psychological incapacity.
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> What transpired between the parties is acrimony and, perhaps, infidelity, which may have constrained them from dedicating the best of themselves to each other and to their children. There may be grounds for legal separation, but certainly not psychological incapacity that voids a marriage.
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> WHEREFORE**,** premises considered, the petition is DENIED. The Court of Appeals' May 27, 2004 Decision and its December 15, 2004 Resolution in CA-G.R. CV No. 64240 are AFFIRMED.
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> SO ORDERED.[2]

In his Motion for Reconsideration,[3] the petitioner implores the Court to take a thorough second look into what constitutes *psychological incapacity*; to uphold the findings of the trial court as supported by the testimonies of three expert witnesses; and consequently to find that the respondent, if not both parties, were psychologically incapacitated to perform their respective essential marital obligation.

Upon an assiduous review of the records, we resolve to grant the petitioner's Motion for Reconsideration.

I

Psychological incapacity as a ground for the nullity of marriage under Article 36 of the Family Code refers to a serious psychological illness afflicting a party even prior to the celebration of the marriage that is permanent as to deprive the party of the awareness of the duties and responsibilities of the matrimonial bond he or she was about to assume. Although the Family Code has not defined the term *psychological incapacity*, the Court has usually looked up its meaning by reviewing the deliberations of the sessions of the Family Code Revision Committee that had drafted the Family Code in order to gain an insight on the provision. It appeared that the members of the Family Code Revision Committee were

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2 Id. at 836-839.

3 *Rollo*, pp. 689-704.

not unanimous on the meaning, and in the end they decided to adopt the provision "with less specificity than expected" in order to have the law "allow some resiliency in its application."[4] Illustrative of the "less specificity than expected" has been the omission by the Family Code Revision Committee to give any examples of psychological incapacity that would have limited the applicability of the provision conformably with the principle of *ejusdem generis*, because the Committee desired that the courts should interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and the decisions of church tribunals that had persuasive effect by virtue of the provision itself having been taken from the Canon Law.[5]

On the other hand, as the Court has observed in *Santos v. Court of Appeals*,[6] the deliberations of the Family Code Revision Committee and the relevant materials on psychological incapacity as a ground for the nullity of marriage have rendered it obvious that the term *psychological incapacity* as used in Article 36 of the Family Code "has not been meant to comprehend all such possible cases of psychoses as, likewise mentioned by some ecclesiastical authorities, extremely low intelligence, immaturity, and like circumstances," and could not be taken and construed independently of "but must stand in conjunction with, existing precepts in our law on marriage." Thus correlated:-

> x x x "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 concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 68 of the Family Code, 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 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. This psychologic condition must exist at the time the marriage is celebrated. The law does not evidently envision, upon the other hand, an inability of the spouse to have sexual relations with the other. This conclusion is implicit under Article 54 of the Family Code which considers children conceived prior to the judicial declaration of nullity of the void marriage to be "legitimate."[7]

In time, in *Republic v. Court of Appeals*,[8] the Court set some guidelines for the interpretation and application of Article 36 of the Family Code, as follows:

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4 See *Santos v. Court of Appeals*, G.R. No. 112019, January 4, 1995, 240 SCRA 20, 31.
5 See *Salita v. Magtolis*, G.R No. 106429, June 13, 1994, 233 SCRA 100, 107-108.
6 Supra note 4.
7 Id. at 34.
8 G.R. No. 108763, February 13, 1997, 268 SCRA 198.

(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. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(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 petition, proven by evidence and included in the text of the decision.
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> (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. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:
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> > "The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature."
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> 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 also be decreed civilly void.
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> This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church — while remaining independent, separate and apart from each other — shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.
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> (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.[9]

The foregoing guidelines have turned out to be rigid, such that their application to every instance practically condemned the petitions for declaration of nullity to the fate of certain rejection. But Article 36 of the Family Code must not be so strictly and too literally read and applied given the clear intendment of the drafters to adopt its enacted version of "less specificity" obviously to enable "some resiliency in its application." Instead, every court should approach the issue of nullity "not on the basis of *a priori* assumptions, predilections or generalizations, but according to its own facts" in recognition of the verity that no case would be on "all fours" with the next one in the field of psychological incapacity as a ground for the nullity of marriage; hence, every "trial judge must take pains in examining the factual

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[9] Id. at 209-213.

milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court."[10]

In the task of ascertaining the presence of psychological incapacity as a ground for the nullity of marriage, the courts, which are concededly not endowed with expertise in the field of psychology, must of necessity rely on the opinions of experts in order to inform themselves on the matter, and thus enable themselves to arrive at an intelligent and judicious judgment. Indeed, the conditions for the malady of being grave, antecedent and incurable demand the in-depth diagnosis by experts.[11]

II

The findings of the Regional Trial Court (RTC) on the existence or non-existence of a party's psychological incapacity should be final and binding for as long as such findings and evaluation of the testimonies of witnesses and other evidence are not shown to be clearly and manifestly erroneous.[12] In every situation where the findings of the trial court are sufficiently supported by the facts and evidence presented during trial, the appellate court should restrain itself from substituting its own judgment.[13] It is not enough reason to ignore the findings and evaluation by the trial court and substitute our own as an appellate tribunal only because the Constitution and the Family Code regard marriage as an inviolable social institution. We have to stress that the fulfilment of the constitutional mandate for the State to protect marriage as an inviolable social institution[14] only relates to a valid marriage. No protection can be accorded to a marriage that is null and void *ab initio*, because such a marriage has no legal existence.[15]

In declaring a marriage null and void *ab initio*, therefore, the Courts really assiduously defend and promote the sanctity of marriage as an inviolable social institution. The foundation of our society is thereby made all the more strong and solid.

Here, the findings and evaluation by the RTC as the trial court deserved credence because it was in the better position to view and examine

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[10] Separate Statement of Justice Teodoro Padilla in *Republic v. Court of Appeals*, supra, note 8, at 214.

[11] *Hernandez v. Court of Appeals*, G.R. No. 126010, December 8, 1999, 320 SCRA 76; *Republic v. Quintero-Hamano*, G.R. No. 149498, May 20, 2004, 428 SCRA 735.

[12] *Tuason v. Court of Appeals*, G.R. No. 116607, April 10, 1996, 256 SCRA 158, 170.

[13] Separate Statement of Justice Teodoro R. Padilla in *Republic v. Court of Appeals*, supra note 10.

[14] Article XV of the 1987 Constitution provides:

Section 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

[15] *Camacho-Reyes v. Reyes*, G.R. No. 185286, August 18, 2010, 628 SCRA 461 ("[B]lind adherence by the courts to the exhortation in the Constitution and in our statutes that marriage is an inviolable social institution, and validating a marriage that is null and void despite convincing proof of psychological incapacity, trenches on the very reason why a marriage is doomed from its inception should not be forcibly inflicted upon its hapless partners for life.").

the demeanor of the witnesses while they were testifying.[16] The position and role of the trial judge in the appreciation of the evidence showing the psychological incapacity were not to be downplayed but should be accorded due importance and respect.

Yet, in the September 19, 2011 decision, the Court brushed aside the opinions tendered by Dr. Cristina Gates, a psychologist, and Fr. Gerard Healy on the ground that their conclusions were solely based on the petitioner's version of the events.

After a long and hard second look, we consider it improper and unwarranted to give to such expert opinions a merely generalized consideration and treatment, least of all to dismiss their value as inadequate basis for the declaration of the nullity of the marriage. Instead, we hold that said experts sufficiently and competently described the psychological incapacity of the respondent within the standards of Article 36 of the Family Code. We uphold the conclusions reached by the two expert witnesses because they were largely drawn from the case records and affidavits, and should not anymore be disputed after the RTC itself had accepted the veracity of the petitioner's factual premises.[17]

Admittedly, Dr. Gates based her findings on the transcript of the petitioner's testimony, as well as on her interviews of the petitioner, his sister Trinidad, and his son Miguel. Although her findings would seem to be unilateral under such circumstances, it was not right to disregard the findings on that basis alone. After all, her expert opinion took into consideration other factors extant in the records, including the own opinions of another expert who had analyzed the issue from the side of the respondent herself. Moreover, it is already settled that the courts must accord weight to expert testimony on the psychological and mental state of the parties in cases for the declaration of the nullity of marriages, for by the very nature of Article 36 of the Family Code the courts, "despite having the primary task and burden of decision-making, **must not discount but, instead, must consider *as decisive evidence* the expert opinion on the psychological and mental temperaments of the parties**."[18]

The expert opinion of Dr. Gates was ultimately necessary herein to enable the trial court to properly determine the issue of psychological incapacity of the respondent (if not also of the petitioner). Consequently, the lack of personal examination and interview of the person diagnosed with personality disorder, like the respondent, did not *per se* invalidate the findings of the experts. The Court has stressed in *Marcos v. Marcos*[19] that

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16 *Collado v. Intermediate Appellate Court*, G.R. No. 72780, February 13, 1992, 206 SCRA 206, 212; *People v. Basmayor*, G.R. No. 182791, February 10, 2009, 578 SCRA 369, 382-383.

17 *Antonio v. Reyes*, G.R. No. 155800, March 10, 2006, 484 SCRA 353, 379.

18 *Ngo Te v. Yu-Te*, G.R. No. 161793, February 13, 2009, 579 SCRA 193, 228.

19 G.R. No. 136490, October 19, 2000, 343 SCRA 755, 757.

there is no requirement for one to be declared psychologically incapacitated to be personally examined by a physician, because what is important is the presence of evidence that adequately establishes the party's psychological incapacity. Hence, "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."[20]

Verily, the totality of the evidence must show a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself. If other evidence showing that a certain condition could possibly result from an assumed state of facts existed in the record, the expert opinion should be admissible and be weighed as an aid for the court in interpreting such other evidence on the causation.[21] Indeed, an expert opinion on psychological incapacity should be considered as conjectural or speculative and without any probative value only in the absence of other evidence to establish causation. The expert's findings under such circumstances would not constitute hearsay that would justify their exclusion as evidence.[22] This is so, considering that any ruling that brands the scientific and technical procedure adopted by Dr. Gates as weakened by bias should be eschewed if it was clear that her psychiatric evaluation had been based on the parties' upbringing and psychodynamics.[23]

In that context, Dr. Gates' expert opinion should be considered not in isolation but along with the other evidence presented here.

Moreover, in its determination of the issue of psychological incapacity, the trial court was expected to compare the expert findings and opinion of Dr. Natividad Dayan, the respondent's own witness, and those of Dr. Gates.

In her Psychological Evaluation Report,[24] Dr. Dayan impressed that the respondent had "compulsive and dependent tendencies" to the extent of being "relationship dependent." Based from the respondent's psychological data, Dr. Dayan indicated that:

> In her relationship with people, Malyne is likely to be reserved and seemingly detached in her ways. Although she likes to be around people, she may keep her emotional distance. She, too, values her relationship but she may not be that demonstrative of her affections. Intimacy may be quite difficult for her since she tries to maintain a certain distance to minimize opportunities for rejection. To others, Malyne may appear, critical and demanding in her ways. She can be assertive when opinions contrary to those of her own are expressed. And yet, she is apt to be a dependent

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20 Id. at 764.
21 Herrera, *Remedial Law*, Volume V (1999), pp. 804-805.
22 *Camacho-Reyes v. Reyes*, supra, note 15, at 487.
23 Carcereny, *et al*., *Annulment in the Philippines: Clinical and Legal Issues* (2010), p. 16.
24 Records Volume II, pp. 87-105.

> person. At a less conscious level, Malyne fears that others will abandon her. Malyne, who always felt a bit lonely, placed an enormous value on having significant others would depend on most times.
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> x x x x
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> But the minute she started to care, she became a different person—clingy and immature, doubting his love, constantly demanding reassurance that she was the most important person in his life. She became relationship-dependent.[25]

Dr. Dayan was able to clearly interpret the results of the Millon Clinical Multiaxial Inventory test[26] conducted on the respondent, observing that the respondent obtained high scores on dependency, narcissism and compulsiveness, to wit:

> Atty. Bretania
> Q : How about this Millon Clinical Multiaxial Inventory?
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> A : Sir, the cut of the score which is supposed to be normal is 73 percental round and there are several scores wherein Mrs. Kalaw obtained very high score and these are on the score of dependency, narcissism and compulsion.
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> Q : Would you please tell us again, Madam Witness, what is the acceptable score?
> A : When your score is 73 and above, that means that it is very significant. So, if 72 and below, it will be considered as acceptable.
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> Q : In what area did Mrs. Kalaw obtain high score?
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> A : Under dependency, her score is 78; under narcissism, is 79; under compulsiveness, it is 84.[27]

It is notable that Dr. Dayan's findings did not contradict but corroborated the findings of Dr. Gates to the effect that the respondent had been afflicted with Narcissistic Personality Disorder as well as with Anti-Social Disorder. Dr. Gates relevantly testified:

> ATTY. GONONG
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> Q : Could you please repeat for clarity. I myself is [sic] not quite familiar with psychology terms. So, more or less, could you please tell me in more layman's terms how you arrived at your findings that the respondent is self-centered or narcissistic?

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[25] Id. at 100, 103.
[26] A psychological test used to find personality disorders based on the respondent's answers to 175 true/false questions (Ng, et al., *Legal and Clinical Bases of Psychological Incapacity* [2006], p. 109).
[27] TSN dated January 30, 1996, p. 13.

A : I moved into this particular conclusion. Basically, if you ask about her childhood background, her father died in a vehicular accident when she was in her teens and thereafter she was prompted to look for a job to partly assume the breadwinner's role in her family. I gathered that paternal grandmother partly took care of her and her siblings against the fact that her own mother was unable to carry out her respective duties and responsibilities towards Elena Fernandez and her siblings considering that the husband died prematurely. And there was an indication that Elena Fernandez on several occasions ever told petitioner that he cannot blame her for being negligent as a mother because she herself never experienced the care and affection of her own mother herself. So, there is a precedent in her background, in her childhood, and indeed this seems to indicate a particular script, we call it in psychology a script, the tendency to repeat some kind of experience or the lack of care, let's say some kind of deprivation, there is a tendency to sustain it even on to your own life when you have your own family. I did interview the son because I was not satisfied with what I gathered from both Trinidad and Valerio and even though as a young son at the age of fourteen already expressed the he could not see, according to the child, the sincerity of maternal care on the part of Elena and that he preferred to live with the father actually.

Q : Taking these all out, you came to the conclusion that respondent is self-centered and narcissistic?

A : Actually respondent has some needs which tempts [sic] from a deprived childhood and she is still in search of this. In her several boyfriends, it seems that she would jump from one boyfriend to another. There is this need for attention, this need for love on other people.

Q : And that led you to conclude?

A : And therefore I concluded that she is self-centered to the point of neglecting her duty as a wife and as a mother.[28]

The probative force of the testimony of an expert does not lie in a mere statement of her theory or opinion, but rather in the assistance that she can render to the courts in showing the facts that serve as a basis for her criterion and the reasons upon which the logic of her conclusion is founded.[29] Hence, we should weigh and consider the probative value of the findings of the expert witnesses vis-à-vis the other evidence available.

The other expert of the petitioner was Fr. Healy, a canon law expert, an advocate before the Manila Archdiocese and Matrimonial Tribunal, and a consultant of the Family Code Revision Committee. Regarding Father Healy's expert testimony, we have once declared that judicial understanding of psychological incapacity could be informed by evolving standards, taking into account the particulars of each case, by current trends in psychological

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[28] TSN dated February 15, 1995, pp. 8-10.

[29] *Lim v. Sta. Cruz-Lim*, G.R. No. 176464, February 4, 2010, 611 SCRA 569, 585.

and even by canonical thought, and by experience.[30] It is prudent for us to do so because the concept of psychological incapacity adopted under Article 36 of the Family Code was derived from Canon Law.

Father Healy tendered his opinion on whether or not the respondent's level of immaturity and irresponsibility with regard to her own children and to her husband constituted psychological incapacity, testifying thusly:

> ATTY. MADRID
> Q : Now, respondent Ma. Elena Fernandez claims that she is not psychologically incapacitated. On the facts as you read it based on the records of this case before this Honorable Court, what can you say to that claim of respondent?
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> A : I would say it is a clear case of psychological incapacity because of her immaturity and traumatic irresponsibility with regards to her own children.
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> Q : So what you are saying is that, the claim of respondent that she is not psychologically incapacitated is not true?
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> A : Yes. It should be rejected.
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> Q : Why do you say so?
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> A : Because of what she has manifested in her whole lifestyle, inconsistent pattern has been manifested running through their life made a doubt that this is immaturity and irresponsibility because her family was dysfunctional and then her being a model in her early life and being the breadwinner of the family put her in an unusual position of prominence and then begun to inflate her own ego and she begun to concentrate her own beauty and that became an obsession and that led to her few responsibility of subordinating to her children to this lifestyle that she had embraced.
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> Q : You only mentioned her relationship with the children, the impact. How about the impact on the relationship of the respondent with her husband?
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> A : Also the same thing. It just did not fit in to her lifestyle to fulfill her obligation to her husband and to her children. She had her own priorities, her beauty and her going out and her mahjong and associating with friends. They were the priorities of her life.
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> Q : And what you are saying is that, her family was merely secondary?
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> A : Secondary.
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> Q : And how does that relate to psychological incapacity?
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> A : That she could not appreciate or absorb or fulfill the obligations of marriage which everybody takes for granted. The concentration on the husband and the children before everything else would be

[30] *Antonio v. Reyes*, supra note 17, at 370.

subordinated to the marriage with her. It's the other way around. Her beauty, her going out, her beauty parlor and her mahjong, they were their priorities in her life.

Q : And in medical or clinical parlance, what specifically do you call this?

A : That is narcissism where the person falls in love with himself is from a myt[h]ical case in Roman history.

Q : Could you please define to us what narcissism is?

A : It's a self-love, falling in love with oneself to make up for the loss of a dear friend as in the case of Narcissus, the myth, and then that became known in clinical terminology as narcissism. When a person is so concern[ed] with her own beauty and prolonging and protecting it, then it becomes the top priority in her life.

x x x x

Q : And you stated that circumstances that prove this narcissism. How do you consider this narcissism afflicting respondent, it is grave, slight or ….?

A : I would say it's grave from the actual cases of neglect of her family and that causes serious obligations which she has ignored and not properly esteemed because she is so concern[ed] with herself in her own lifestyle. Very serious.

Q : And do you have an opinion whether or not this narcissism afflicting respondent was already existing at the time or marriage or even thereafter?

x x x x

A : When you get married you don't develop narcissism or psychological incapacity. You bring with you into the marriage and then it becomes manifested because in marriage you accept these responsibilities. And now you show that you don't accept them and you are not capable of fulfilling them and you don't care about them.

Q : Is this narcissism, Fr. Healy, acquired by accident or congenital or what?

A : No. The lifestyle generates it. Once you become a model and still the family was depended [sic] upon her and she was a model at Hyatt and then Rustan's, it began to inflate her ego so much that this became the top priority in her life. It's her lifestyle.

Q : What you are saying is that, the narcissism of respondent even expanded after the marriage?

A : That could have expanded because it became very obvious after the marriage because she was neglecting such fundamental obligations.

> Q : And how about the matter of curability, is this medically or clinically curable, this narcissism that you mentioned?
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> A : Let's say, it was manifested for so many years in her life. It was found in her family background situation. Say, almost for sure would be incurable now.
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> Q : What specific background are you referring to?
>
> A : Well, the fact when the father died and she was the breadwinner and her beauty was so important to give in her job and money and influence and so on. But this is a very unusual situation for a young girl and her position in the family was exalted in a very very unusual manner and therefore she had that pressure on her and in her accepting the pressure, in going along with it and putting it in top priority.[31]

Given his credentials and conceded expertise in Canon Law, Father Healy's opinions and findings commanded respect. The contribution that his opinions and findings could add to the judicial determination of the parties' psychological incapacity was substantive and instructive. He could thereby inform the trial court on the degrees of the malady that would warrant the nullity of marriage, and he could as well thereby provide to the trial court an analytical insight upon a subject as esoteric to the courts as psychological incapacity has been. We could not justly disregard his opinions and findings. Appreciating them together with those of Dr. Gates and Dr. Dayan would advance more the cause of justice. The Court observed in *Ngo Te v. Yu-Te*:[32]

> By the very nature of Article 36, courts, despite having the primary task and burden of decision-making, **must not discount but, instead, must consider as decisive evidence the expert opinion on the psychological and mental temperaments of the parties**.
>
> Justice Romero explained this in *Molina*, as follows:
>
> > Furthermore, and equally significant, *the professional opinion of a psychological expert became increasingly important in such cases. Data about the person's entire life, both before and after the ceremony, were presented to these experts and they were asked to give professional opinions about a party's mental capacity at the time of the wedding.* These opinions were rarely challenged and tended to be accepted as decisive evidence of lack of valid consent.
> >
> > The Church took pains to point out that its new openness in this area did not amount to the addition of new grounds for annulment, but rather was an accommodation by the Church to the *advances made in psychology during the past decades. There was now the expertise to provide the all-important connecting link between a marriage breakdown and premarital causes*.

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31 TSN dated June 17, 1998, pp. 24-28.

32 Supra note 18.

During the 1970s, the Church broadened its whole idea of marriage from that of a legal contract to that of a covenant. The result of this was that *it could no longer be assumed* in annulment cases *that a person who could intellectually understand the concept of marriage could necessarily give valid consent to marry. The ability to both grasp and assume the real obligations of a mature, lifelong commitment* are now considered a necessary prerequisite to valid matrimonial consent.

Rotal decisions continued applying the concept of incipient psychological incapacity, "not only to sexual anomalies but to all kinds of personality disorders that incapacitate a spouse or both spouses from assuming or carrying out the essential obligations of marriage. For marriage . . . is not merely cohabitation or the right of the spouses to each other's body for heterosexual acts, but is, *in its totality the right to the community of the whole of life; i.e., the right to a developing lifelong relationship. Rotal decisions since 1973 have refined the meaning of psychological or psychic capacity for marriage* as presupposing the development of an adult personality; as *meaning the capacity of the spouses to give themselves to each other and to accept the other as a distinct person; that the spouses must be `other oriented' since the obligations of marriage are rooted in a self-giving love; and that the spouses must have the capacity for interpersonal relationship* because marriage is more than just a physical reality but involves a true intertwining of personalities. *The fulfillment of the obligations of marriage depends, according to Church decisions, on the strength of this interpersonal relationship.* A serious incapacity for interpersonal sharing and support is held to impair the relationship and consequently, the ability to fulfill the essential marital obligations. *The marital capacity of one spouse is not considered in isolation but in reference to the fundamental relationship to the other spouse.*

Fr. Green, in an article in *Catholic Mind*, lists six elements necessary to the mature marital relationship:

> "The courts consider the following elements crucial to the marital commitment: (1) a permanent and faithful commitment to the marriage partner; (2) openness to children and partner; (3) stability; (4) emotional maturity; (5) financial responsibility; (6) an ability to cope with the ordinary stresses and strains of marriage, etc."

Fr. Green goes on to speak about some of the psychological conditions that might lead to the failure of a marriage:

> "At stake is a type of constitutional impairment precluding conjugal communion even with the best intentions of the parties. Among the psychic factors possibly giving rise to his or her inability to fulfill marital obligations are the following: (1) antisocial

> personality with its fundamental lack of loyalty to persons or sense of moral values; (2) hyperesthesia, where the individual has no real freedom of sexual choice; (3) the inadequate personality where personal responses consistently fall short of reasonable expectations.
>
> x x x x
>
> The psychological grounds are the best approach for anyone who doubts whether he or she has a case for an annulment on any other terms. A situation that does not fit into any of the more traditional categories often fits very easily into the psychological category.
>
> As new as the psychological grounds are, experts are already detecting a shift in their use. Whereas originally the emphasis was on the parties' inability to exercise proper judgment at the time of the marriage (lack of due discretion), recent cases seem to be concentrating *on the parties' incapacity to assume or carry out their responsibilities and obligations as promised* (lack of due competence). An advantage to using the ground of lack of due competence is that at the time the marriage was entered into *civil divorce and breakup of the family almost always is proof of someone's failure to carry out marital responsibilities as promised* at the time the marriage was entered into."

Hernandez v. Court of Appeals emphasizes the importance of presenting expert testimony to establish the precise cause of a party's psychological incapacity, and to show that it existed at the inception of the marriage. And as *Marcos v. Marcos* asserts, there is no requirement that the person to be declared psychologically incapacitated be personally examined by a physician, if the totality of evidence presented is enough to sustain a finding of psychological incapacity. Verily, the evidence must show a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself.

This is not to mention, but we mention nevertheless for emphasis, that the presentation of expert proof presupposes a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a grave, severe and incurable presence of psychological incapacity.[33]

Ngo Te also emphasized that in light of the unintended consequences of strictly applying the standards set in *Molina*,[34] the courts should consider the totality of evidence in adjudicating petitions for declaration of nullity of marriage under Article 36 of the *Family Code*, *viz*:

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33 Id. at 229-232.

34 *Republic v. Court of Appeals*, supra, note 8.

The resiliency with which the concept should be applied and the case-to-case basis by which the provision should be interpreted, as so intended by its framers, had, somehow, been rendered ineffectual by the imposition of a set of strict standards in *Molina*, thus:

x x x x

Noteworthy is that in *Molina*, while the majority of the Court's membership concurred in the ponencia of then Associate Justice (later Chief Justice) Artemio V. Panganiban, three justices concurred "in the result" and another three--including, as aforesaid, Justice Romero--took pains to compose their individual separate opinions. Then Justice Teodoro R. Padilla even emphasized that "each case must be judged, not on the basis of a priori assumptions, predilections or generalizations, but according to its own facts. In the field of psychological incapacity as a ground for annulment of marriage, it is trite to say that no case is on 'all fours' with another case. The trial judge must take pains in examining the factual milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court."

Predictably, however, in resolving subsequent cases, the Court has applied the aforesaid standards, without too much regard for the law's clear intention that **each case is to be treated differently**, as "courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals."

In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in *Molina*, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the "most liberal divorce procedure in the world." The unintended consequences of *Molina*, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. Far from what was intended by the Court, *Molina* has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying Molina, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals.

The Court need not worry about the possible abuse of the remedy provided by Article 36, for there are ample safeguards against this contingency, among which is the intervention by the State, through the public prosecutor, to guard against collusion between the parties and/or fabrication of evidence. The Court should rather be alarmed by the rising number of cases involving marital abuse, child abuse, domestic violence and incestuous rape.

In dissolving marital bonds on account of either party's psychological incapacity, the Court is not demolishing the foundation of families, but it is actually protecting the sanctity of marriage, because it refuses to allow a person afflicted with a psychological disorder, who cannot comply with or assume the essential marital obligations, from

> remaining in that sacred bond. It may be stressed that the infliction of physical violence, constitutional indolence or laziness, drug dependence or addiction, and psychosexual anomaly are manifestations of a sociopathic personality anomaly. Let it be noted that in Article 36, there is no marriage to speak of in the first place, as the same is void from the very beginning. To indulge in imagery, the declaration of nullity under Article 36 will simply provide a decent burial to a stillborn marriage.
>
> x x x x
>
> Lest it be misunderstood, we are not suggesting the abandonment of *Molina* in this case. We simply declare that, as aptly stated by Justice Dante O. Tinga in *Antonio v. Reyes,* there is need to emphasize other perspectives as well which should govern the disposition of petitions for declaration of nullity under Article 36. At the risk of being redundant, we reiterate once more the principle that each case must be judged, not on the basis of *a priori* assumptions, predilections or generalizations but according to its own facts. And, to repeat for emphasis, courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals.[35]

III

In the decision of September 19, 2011, the Court declared as follows:

> **Respondent admittedly played mahjong,** but it was not proven that she engaged in mahjong so frequently that she neglected her duties as a mother and a wife. Respondent refuted petitioner's allegations that she played four to five times a week. **She maintained it was only two to three times a week and always with the permission of her husband and without abandoning her children at home. The children corroborated this, saying that they were with their mother when she played mahjong in their relatives home.** Petitioner did not present any proof, other than his own testimony, that the mahjong sessions were so frequent that respondent neglected her family. While he intimated that two of his sons repeated the second grade, he was not able to link this episode to respondent's mahjong-playing. The least that could have been done was to prove the frequency of respondent's mahjong-playing during the years when these two children were in second grade. This was not done. Thus, while there is no dispute that respondent played mahjong, its alleged debilitating frequency and adverse effect on the children were not proven.[36] (Emphasis supplied)

The frequency of the respondent's mahjong playing should not have delimited our determination of the presence or absence of psychological incapacity. Instead, the determinant should be her obvious failure to fully appreciate the duties and responsibilities of parenthood at the time she made her marital vows. Had she fully appreciated such duties and responsibilities, she would have known that bringing along her children of very tender ages

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35 Supra note 18, at 220-228.
36 Decision, pp. 837-838.

to her mahjong sessions would expose them to a culture of gambling and other vices that would erode their moral fiber.

Nonetheless, the long-term effects of the respondent's obsessive mahjong playing surely impacted on her family life, particularly on her very young children. We do find to be revealing the disclosures made by Valerio Teodoro Kalaw[37] – the parties' eldest son – in his deposition, whereby the son confirmed the claim of his father that his mother had been hooked on playing mahjong, *viz*:

> ATTY. PISON: From the time…before your parent's separation, do you remember any habit or activity or practice which your mother engaged in, before the separation?
>
> WITNESS: Yeah, habit? She was a heavy smoker and she likes to play mahjong a lot, and I can't remember.
>
> x x x x
>
> ATTY. PISON: You said that your mother played mahjong frequently. How frequent, do you remember?
>
> WITNESS : Not really, but it was a lot. Not actually, I can't, I can't…
>
> ATTY. PISON: How long would she stay playing mahjong say one session?
>
> WITNESS : Really long cuz' we would go to my aunt's house in White Plains and I think we would get there by lunch then leave, we fall asleep. I think it was like one in the morning.
>
> ATTY. PISON: You, you went there? She brought you?
>
> WITNESS : Yeah, to play with my cousins, yeah and my brothers & sisters.
>
> ATTY. PISON: Were you brought all the time?
>
> WITNESS: Yeah, almost all the time but sometimes, I guess she'd go out by herself.[38]

The fact that the respondent brought her children with her to her mahjong sessions did not only point to her neglect of parental duties, but also manifested her tendency to expose them to a culture of gambling. Her willfully exposing her children to the culture of gambling on every occasion of her mahjong sessions was a very grave and serious act of subordinating their needs for parenting to the gratification of her own personal and escapist desires. This was the observation of Father Healy himself. In that regard, Dr.

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37 Records, pp. 354-391.
38 Id. at 363.

Gates and Dr. Dayan both explained that the current psychological state of the respondent had been rooted on her own childhood experience.

The respondent revealed her wanton disregard for her children's moral and mental development. This disregard violated her duty as a parent to safeguard and protect her children, as expressly defined under Article 209 and Article 220 of the *Family Code*, to wit:

> Article 209. Pursuant to the natural right and duty of parents over the person and property of their unemancipated children, **parental authority and responsibility shall include** the caring for and rearing of such children for civic consciousness and efficiency **and the development of their moral, mental and physical character and well-being**.
>
> Article 220. The parents and those exercising parental authority shall have with respect to their unemancipated children or wards the following rights and duties:
>
> (1) **To keep them in their company, to support, educate and instruct them by right precept and good example**, and to provide for their upbringing in keeping with their means;
>
> (2) x x x x
>
> (3) **To provide them with moral and spiritual guidance**, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;
>
> (4) **To enhance, protect, preserve and maintain their physical and mental health at all times**;
>
> (5) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, **protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals**;
>
> (6) x x x x
>
> (7) x x x x
>
> (8) x x x x
>
> (9) x x x x (emphasis supplied)

The September 19, 2011 decision did not properly take into consideration the findings of the RTC to the effect that both the petitioner and the respondent had been psychologically incapacitated, and thus could not assume the essential obligations of marriage. The RTC would not have found so without the allegation to that effect by the respondent in her

answer,[39] whereby she averred that it was not she but the petitioner who had suffered from psychological incapacity.

The allegation of the petitioner's psychological incapacity was substantiated by Dr. Dayan, as follows:

> ATTY. BRETAÑA:
> Q : You stated earlier that both parties were behaviorally immature?
>
> A : Yes, sir.
>
> Q : And that the marriage was a mistake?
>
> A : Yes, sir.
>
> Q : What is your basis for your statement that respondent was behaviorally immature?
>
> A : Sir, for the reason that even before the marriage Malyn had noticed already some of those short temper of the petitioner but she was very much in love and so she lived-in with him and even the time that they were together, that they were living in, she also had noticed some of his psychological deficits if we may say so. But as I said, because she is also dependent and she was one who determined to make the relationship work, she was denying even those kinds of problems that she had seen.
>
> Q : To make it clear, Madam witness, I'm talking here of the petitioner, Mr. Kalaw. What led you to conclude that Mr. Kalaw was behaviorally immature?
>
> A : I think he also mentioned that his concept of marriage was not duly stable then. He was not really thinking of marriage except that his wife got pregnant and so he thought that he had to marry her. And even that time he was not also a monogamous person.
>
> Q : Are you saying, Madam Witness, that ultimately the decision to marry lied on the petitioner?
>
> A : I think so, Sir.
>
> Q : Now, in your report, Madam Witness, you mentioned here that the petitioner admitted to you that in his younger years he was often out seeking other women. I'm referring specifically to page 18. He also admitted to you that the thought of commitment scared him, the petitioner. Now, given these admissions by petitioner to you, my questions is, is it possible for such a person to enter into marriage despite

[39] Paragraph 3 (Records, Vol. I, p. 20) of which runs:

3. She specifically denies the allegations contained in paragraphs 5, 6 and 7 of the Petition alleging that the respondent was psychologically incapacitated to comply with the essential obligations to the marriage and that such incapacity manifested itself only after the marriage, the truth of the matter being that it is the petitioner who is psychologically incapacitated.

this fear of commitment and given his admission that he was a womanizer? Is it possible for this person to stop his womanizing ways during the marriage?

A : Sir, it's difficult.

Q : It would be difficult for that person?

A : Yes, Sir.

Q : What is the probability of this person giving up his womanizing after marriage?

A : Sir, I would say the probability of his giving up is almost only 20%.

Q : So, it is entirely possible that the respondent womanized during his marriage with the respondent?

A : Yes, Sir.

Q : What is the bearing of this fear of commitment on the part of the petitioner insofar as his psychological capacity to perform his duties as a husband is concerned?

A : Sir, it would impair his ability to have sexual integrity and also to be fully committed to the role of husband to Malyn.

Q : Madam Witness, you never directly answered my question on whether the petitioner was psychologically incapacitated to perform his duty as a husband. You only said that the petitioner was behaviorally immature and that the marriage was a mistake. Now, may I asked [sic] you that question again and request you to answer that directly?

A : Sir, he is psychologically incapacitated.[40]

Although the petitioner, as the plaintiff, carried the burden to prove the nullity of the marriage, the respondent, as the defendant spouse, could establish the psychological incapacity of her husband because she raised the matter in her answer. The courts are justified in declaring a marriage null and void under Article 36 of the Family Code regardless of whether it is the petitioner or the respondent who imputes the psychological incapacity to the other as long as the imputation is fully substantiated with proof. Indeed, psychological incapacity may exist in one party alone or in both of them, and if psychological incapacity of either or both is established, the marriage has to be deemed null and void.

More than twenty (20) years had passed since the parties parted ways. By now, they must have already accepted and come to terms with the awful truth that their marriage, assuming it existed in the eyes of the law, was

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[40] TSN dated March 14, 1996, pp. 10-12.

already beyond repair. Both parties had inflicted so much damage not only to themselves, but also to the lives and psyche of their own children. It would be a greater injustice should we insist on still recognizing their void marriage, and then force them and their children to endure some more damage. This was the very same injustice that Justice Romero decried in her erudite dissenting opinion in *Santos v. Court of Appeals*:[41]

> It would be great injustice, I believe, to petitioner for this Court to give a much too restrictive interpretation of the law and compel the petitioner to continue to be married to a wife who for purposes of fulfilling her marital duties has, for all practical purposes, ceased to exist.
>
> Besides, there are public policy considerations involved in the ruling the Court makes today. It is not, in effect, directly or indirectly, facilitating the transformation of petitioner into a "habitual tryster" or one forced to maintain illicit relations with another woman or women with emerging problems of illegitimate children, simply because he is denied by private respondent, his wife, the companionship and conjugal love which he has sought from her and to which he is legally entitled?
>
> I do not go as far as to suggest that Art. 36 of the Family Code is a sanction for absolute divorce but I submit that we should not constrict it to non-recognition of its evident purpose and thus deny to one like petitioner, an opportunity to turn a new leaf in his life by declaring his marriage a nullity by reason of his wife's psychological incapacity to perform an essential marital obligation.

In this case, the marriage never existed from the beginning because the respondent was afflicted with psychological incapacity at and prior to the time of the marriage. Hence, the Court should not hesitate to declare the nullity of the marriage between the parties.

To stress, our mandate to protect the inviolability of marriage as the basic foundation of our society does not preclude striking down a marital union that is "ill-equipped to promote family life," thus:

> Now is also the opportune time to comment on another common legal guide utilized in the adjudication of petitions for declaration of nullity in the adjudication of petitions for declaration of nullity under Article 36. All too frequently, this Court and lower courts, in denying petitions of the kind, have favorably cited Sections 1 and 2, Article XV of the Constitution, which respectively state that "[t]he State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development[t]," and that [m]arriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State." These provisions highlight the importance of the family and the constitutional protection accorded to the institution of marriage.

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41 Supra note 4, at 38.

> But the Constitution itself does not establish the parameters of state protection to marriage as a social institution and the foundation of the family. It remains the province of the legislature to define all legal aspects of marriage and prescribe the strategy and the modalities to protect it, based on whatever socio-political influences it deems proper, and subject of course to the qualification that such legislative enactment itself adheres to the Constitution and the Bill of Rights. This being the case, it also falls on the legislature to put into operation the constitutional provisions that protect marriage and the family. This has been accomplished at present through the enactment of the Family Code, which defines marriage and the family, spells out the corresponding legal effects, imposes the limitations that affect married and family life, as well as prescribes the grounds for declaration of nullity and those for legal separation. While it may appear that the judicial denial of a petition for declaration of nullity is reflective of the constitutional mandate to protect marriage, such action in fact merely enforces a statutory definition of marriage, not a constitutionally ordained decree of what marriage is. Indeed, if circumstances warrant, Sections 1 and 2 of Article XV need not be the only constitutional considerations to be taken into account in resolving a petition for declaration of nullity.
>
> Indeed, Article 36 of the Family Code, in classifying marriages contracted by a psychologically incapacitated person as a nullity, should be deemed as an implement of this constitutional protection of marriage. **Given the avowed State interest in promoting marriage as the foundation of the family, which in turn serves as the foundation of the nation, there is a corresponding interest for the State to defend against marriages ill-equipped to promote family life. Void ab initio marriages under Article 36 do not further the initiatives of the State concerning marriage and family, as they promote wedlock among persons who, for reasons independent of their will, are not capacitated to understand or comply with the essential obligations of marriage.**[42] (Emphasis supplied)

WHEREFORE, the Court **GRANTS** the Motion for Reconsideration; **REVERSES** and **SETS ASIDE** the decision promulgated on September 19, 2011; and **REINSTATES** the decision rendered by the Regional Trial Court declaring the marriage between the petitioner and the respondent on November 4, 1976 as **NULL AND VOID *AB INITIO*** due to the psychological incapacity of the parties pursuant to Article 36 of the Family Code.

No pronouncement on costs of suit.

SO ORDERED.

LUCAS P. BERSAMIN
Associate Justice

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42 *Antonio v. Reyes*, supra note 17, at 371-373.

WE CONCUR:

TERESITA J. LEONARDO DE CASTRO
Associate Justice
Chairperson

See dissenting opinion
MARIANO C. DEL CASTILLO
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution 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