

THIRD DIVISION

[G.R. No. 164817, July 03, 2009]

**DIGNA A. NAJERA, PETITIONER, VS. EDUARDO J. NAJERA,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

This is a petition for review on *certiorari* of the Decision dated February 23, 2004 of the Court of Appeals in CA-G.R. CV No. 68053 and its Resolution August 5, 2004, denying petitioner's motion for reconsideration. The Decision of the Court of Appeals affirmed the Decision of the Regional Trial Court of Lingayen, Pangasinan, Branch 68 (RTC), which found petitioner Digna A. Najera and respondent Eduardo J. Najera entitled to legal separation, but not annulment of marriage under Article 36 of the Family Code.

The facts are as follows:

On January 27, 1997, petitioner filed with the RTC a verified Petition for Declaration of Nullity of Marriage with Alternative Prayer for Legal Separation, with Application for Designation as Administrator *Pendente Lite* of the Conjugal Partnership of Gains.
[1]

Petitioner alleged that she and respondent are residents of Bugallon, Pangasinan, but respondent is presently living in the United States of America (U.S.A). They were married on January 31, 1988 by Rev. Father Isidro Palinar, Jr. at the Saint Andrew the Apostle Church at Bugallon, Pangasinan.^[2] They are childless.

Petitioner claimed that at the time of the celebration of marriage, respondent was psychologically incapacitated to comply with the essential marital obligations of the marriage, and such incapacity became manifest only after marriage as shown by the following facts:

(a) At the time of their marriage, petitioner was already employed with the Special Services Division of the Provincial Government of Pangasinan, while respondent was jobless. He did not exert enough effort to find a job and was dependent on petitioner for support. Only with the help of petitioner's elder brother, who was a seaman, was respondent able to land a job as a seaman in 1988 through the Intercrew Shipping Agency.

(b) While employed as a seaman, respondent did not give petitioner sufficient financial support and she had to rely on her own efforts and the help of her parents in order to live.

(c) As a seaman, respondent was away from home from nine to ten months each

year. In May 1989, when he came home from his ship voyage, he started to quarrel with petitioner and falsely accused her of having an affair with another man. He took to smoking marijuana and tried to force petitioner into it. When she refused, he insulted her and uttered "unprintable words" against her. He would go out of the house and when he arrived home, he was always drunk.

(d) When respondent arrived home from his ship voyage in April 1994, as had been happening every year, he quarreled with petitioner. He continued to be jealous, he arrived home drunk and he smoked marijuana. On July 3, 1994, while he was quarreling with petitioner, without provocation, he inflicted physical violence upon her and attempted to kill her with a bolo. She was able to parry his attack with her left arm, yet she sustained physical injuries on different parts of her body. She was treated by Dr. Padlan, and the incident was reported at the Bugallon Police Station.

(e) Respondent left the family home, taking along all their personal belongings. He lived with his mother at Banaga, Bugallon, Pangasinan, and he abandoned petitioner.

Petitioner learned later that respondent jumped ship while it was anchored in Los Angeles, California, U.S.A.

Petitioner prayed that upon filing of the petition, an Order be issued appointing her as the sole administrator of their conjugal properties; and that after trial on the merits, judgment be rendered (1) declaring their marriage void *ab initio* in accordance with Article 36 of the Family Code; (2) in the alternative, decreeing legal separation of petitioner and respondent pursuant to Title II of the Family Code; and (3) declaring the dissolution of the conjugal partnership of petitioner and respondent and the forfeiture in

favor of petitioner of respondent's share in the said properties pursuant to Articles 42 (2) and 63 (2) of the Family Code; and (4) granting petitioner other just and equitable reliefs.

On March 7, 1997, the RTC issued an Order granting the motion of petitioner to effect service by publication as provided under Section 17, Rule 14 of the Rules of Court.

On April 17, 1997, respondent filed his Answer^[3] wherein he denied the material allegations in the petition and averred that petitioner was incurably immature, of dubious integrity, with very low morality, and guilty of infidelity. He claimed that the subject house and lot were acquired through his sole effort and money. As counterclaim, respondent prayed for the award of P200,000.00 as moral damages, P45,000.00 as attorney's fees, and P1,000.00 as appearance fee for every scheduled hearing.

On July 18, 1997, the Office of the Solicitor General filed its Notice of Appearance.

On June 29, 1998, the RTC issued an Order^[4] terminating the pre-trial conference after the parties signed a Formal Manifestation/Motion, which stated that they had agreed to dissolve their conjugal partnership of gains and divide equally their conjugal properties.

On August 3, 1998, Assistant Provincial Prosecutor Ely R. Reintar filed a Compliance manifesting that after conducting an investigation, he found that no collusion existed between the parties.^[5] The initial hearing of the case was held on November 23, 1998.

Petitioner testified in court and presented as witnesses the following: her mother, Celedonia Aldana; psychologist Cristina R. Gates; and Senior Police Officer 1 (SPO1) Sonny Dela Cruz, a member of the Philippine National Police (PNP), Bugallon, Pangasinan.

Petitioner testified that she was a commerce graduate and was working as an accounting clerk in a government agency in Manila. She and respondent married on January 31, 1988 as evidenced by their marriage contract.^[6] At the time of their marriage, respondent was jobless, while petitioner was employed as Clerk at the Special Services Division of the Provincial Government of Pangasinan with a monthly salary of P5,000.00. It was petitioner's brother who helped respondent find a job as a seaman at the Intercrew Shipping Agency in Manila. On July 30, 1988, respondent was employed as a seaman, and he gave petitioner a monthly allotment of P1,600.00. After ten months at work, he went home in 1989 and then returned to work after three months. Every time respondent was home, he quarreled with petitioner and accused her of having an affair with another man. Petitioner noticed that respondent also smoked marijuana and every time he went out of the house and returned home, he was drunk. However, there was no record in their *barangay* that respondent was involved in drugs.^[7]

In 1990, petitioner and respondent were able to purchase a lot out of their earnings. In 1991, they constructed a house on the lot.^[8]

On July 3, 1994, petitioner and respondent were invited to a party by the boyfriend of petitioner's sister. Respondent, however, did not allow petitioner to go with him. When respondent arrived home at around midnight, petitioner asked him about the party, the persons who attended it, and the ladies he danced with, but he did not answer her. Instead, respondent went to the kitchen. She asked him again about what happened at the party. Respondent quarreled with her and said that she was the one having an affair and suddenly slapped and boxed her, causing her eyes to be bloodied. When she opened her eyes, she saw respondent holding a bolo, and he attempted to kill her. However, she was able to parry his attack with her left arm, causing her to sustain injuries on different parts of her body. When respondent saw that she was bloodied, he got nervous and went out. After 10 minutes, he turned on the light in the kitchen, but he could not find her because she had gone out and was hiding from him. When she heard respondent start the motorcycle, she left her hiding place and proceeded to Gomez Street toward the highway. At the highway, she boarded a bus and asked the conductor to stop at a clinic or hospital. She alighted in Mangatarem, Pangasinan and proceeded to the clinic of one Dr. Padlan, who sutured her wounds. After a few hours, she went home.^[9]

When petitioner arrived home, the house was locked. She called for her parents who were residing about 300 meters away. She then asked her brother to enter the house through the ceiling in order to open the door. She found that their personal belongings were gone, including her Automated Teller Machine card and jewelry.^[10]

Thereafter, petitioner reported the incident at the police station of Bugallon, Pangasinan.^[11]

Since then, respondent never returned home. He stayed with his mother in Banaga, Bugallon, Pangasinan. Petitioner learned that he went abroad again, but she no longer received any allotment from him.^[12]

Petitioner testified that her parents were happily married, while respondent's parents were separated. Respondent's brothers were also separated from their respective wives.^[13]

Petitioner disclosed that she also filed a petition for the annulment of her marriage with the Matrimonial Tribunal of the Diocese of Alaminos, Pangasinan on the ground of psychological incapacity of respondent.^[14]

Psychologist Cristina R. Gates testified that she interviewed petitioner, but not respondent who was abroad. She confirmed her Psychological Report, the conclusion of which reads:

PSYCHOLOGICAL CONCLUSIONS BASED ON THE INTERVIEWS:

It is clear from the interviews that Respondent is afflicted with psychological hang-ups which are rooted in the kind of family background he has. His mother had an extramarital affair and separated from Respondent's father. This turn of events left an irreparable mark upon Respondent, gauging from his alcoholic and marijuana habit. In time, he seemed steep in a kind of a *double bind* where he both deeply loved and resented his mother.

His baseless accusation against his wife and his violent behavior towards her appears to be an offshoot of deep-seated feelings and recurrent thoughts towards his own mother. Unable to resolve his childhood conflicts and anger, he turned to his wife as the *scapegoat* for all his troubles.

Based on the Diagnostic and Statistical Manual (DSM IV), Respondent is afflicted with a Borderline Personality Disorder as marked by his pattern of instability in his interpersonal relationships, his *marred* self-image and self-destructive tendencies, his uncontrollable impulses. Eduardo Najera's psychological impairment as traced to his parents' separation, aggravated by the continued meddling of his mother in his adult life, antedates his marriage to Petitioner Digna Aldana.

Furthermore, the ingestion of prohibited substances (alcohol and marijuana), known to cause irreparable damage organically, and the manifest worsening of his violent and abusive behavior across time render his impairment grave and irreversible. In the light of these findings, it is recommended that parties' marriage be annulled on grounds of psychological incapacity on the part of Respondent Eduardo

Najera to fully assume his marital duties and responsibilities to Digna Aldana-Najera.^[15]

Psychologist Cristina Gates testified that the chances of curability of respondent's psychological disorder were nil. Its curability **depended** on whether the established organic damage was minimal — referring to the malfunction of the composites of the brain brought about by habitual drinking and marijuana, which **possibly** afflicted respondent with borderline personality disorder and uncontrollable impulses.^[16]

Further, SPO1 Sonny Dela Cruz, a member of the PNP, Bugallon, Pangasinan, testified that on July 3, 1994, he received a complaint from petitioner that respondent arrived at their house under the influence of liquor and mauled petitioner without provocation on her part, and that respondent tried to kill her. The complaint was entered in the police blotter.^[17]

On March 31, 2000, the RTC rendered a Decision that decreed only the legal separation of the petitioner and respondent, but not the annulment of their marriage. The dispositive portion of the Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. Decreeing legal separation of Petitioner/Plaintiff Digna Najera and respondent/defendant Eduardo Najera;
2. Ordering the dissolution of the conjugal partnership of the petitioner/plaintiff and respondent/defendant, and to divide the same equally between themselves pursuant to their Joint Manifestation/Motion dated April 27, 1998.^[18]

Petitioner's motion for reconsideration was denied in a Resolution^[19] dated May 2, 2000.

Petitioner appealed the RTC Decision and Resolution to the Court of Appeals.

In a Decision dated February 23, 2004, the Court of Appeals affirmed the Decision of the RTC, the dispositive portion of which reads:

WHEREFORE, premises considered, appeal is hereby DISMISSED and judgment of the Trial Court is AFFIRMED *in toto*. No costs.^[20]

Petitioner's motion for reconsideration was denied by the Court of Appeals in a Resolution dated August 5, 2004.

Hence, this petition raising the following issues:

1. The Court of Appeals failed to take into consideration the Decision of the National Appellate Matrimonial Tribunal, contrary to the guidelines decreed by the Supreme Court in the case of *Republic v. Court of Appeals*, 268 SCRA 198.