

## SECOND DIVISION

[ G.R. NO. 152577, September 21, 2005 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. CRASUS L. IYOY, RESPONDENT.**

### DECISION

**CHICO-NAZARIO, J.**

In this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, petitioner Republic of the Philippines, represented by the Office of the Solicitor General, prays for the reversal of the Decision of the Court of Appeals in CA-G.R. CV No. 62539, dated 30 July 2001,<sup>[1]</sup> affirming the Judgment of the Regional Trial Court (RTC) of Cebu City, Branch 22, in Civil Case No. CEB-20077, dated 30 October 1998,<sup>[2]</sup> declaring the marriage between respondent Crasus L. Iyoy and Fely Ada Rosal-Iyoy null and void on the basis of Article 36 of the Family Code of the Philippines.

The proceedings before the RTC commenced with the filing of a Complaint<sup>[3]</sup> for declaration of nullity of marriage by respondent Crasus on 25 March 1997. According to the said Complaint, respondent Crasus married Fely on 16 December 1961 at Bradford Memorial Church, Jones Avenue, Cebu City. As a result of their union, they had five children – Crasus, Jr., Daphne, Debbie, Calvert, and Carlos – who are now all of legal ages. After the celebration of their marriage, respondent Crasus discovered that Fely was "hot-tempered, a nagger and extravagant." In 1984, Fely left the Philippines for the United States of America (U.S.A.), leaving all of their five children, the youngest then being only six years old, to the care of respondent Crasus. Barely a year after Fely left for the U.S.A., respondent Crasus received a letter from her requesting that he sign the enclosed divorce papers; he disregarded the said request. Sometime in 1985, respondent Crasus learned, through the letters sent by Fely to their children, that Fely got married to an American, with whom she eventually had a child. In 1987, Fely came back to the Philippines with her American family, staying at Cebu Plaza Hotel in Cebu City. Respondent Crasus did not bother to talk to Fely because he was afraid he might not be able to bear the sorrow and the pain she had caused him. Fely returned to the Philippines several times more: in 1990, for the wedding of their eldest child, Crasus, Jr.; in 1992, for the brain operation of their fourth child, Calvert; and in 1995, for unknown reasons. Fely continued to live with her American family in New Jersey, U.S.A. She had been openly using the surname of her American husband in the Philippines and in the U.S.A. For the wedding of Crasus, Jr., Fely herself had invitations made in which she was named as "Mrs. Fely Ada Micklus." At the time the Complaint was filed, it had been 13 years since Fely left and abandoned respondent Crasus, and there was no more possibility of reconciliation between them. Respondent Crasus finally alleged in his Complaint that Fely's acts brought danger and dishonor to the family, and clearly demonstrated her psychological incapacity to perform the essential obligations of marriage. Such incapacity, being

incurable and continuing, constitutes a ground for declaration of nullity of marriage under Article 36, in relation to Articles 68, 70, and 72, of the Family Code of the Philippines.

Fely filed her Answer and Counterclaim<sup>[4]</sup> with the RTC on 05 June 1997. She asserted therein that she was already an American citizen since 1988 and was now married to Stephen Micklus. While she admitted being previously married to respondent Crasus and having five children with him, Fely refuted the other allegations made by respondent Crasus in his Complaint. She explained that she was no more hot-tempered than any normal person, and she may have been indignant at respondent Crasus on certain occasions but it was because of the latter's drunkenness, womanizing, and lack of sincere effort to find employment and to contribute to the maintenance of their household. She could not have been extravagant since the family hardly had enough money for basic needs. Indeed, Fely left for abroad for financial reasons as respondent Crasus had no job and what she was then earning as the sole breadwinner in the Philippines was insufficient to support their family. Although she left all of her children with respondent Crasus, she continued to provide financial support to them, as well as, to respondent Crasus. Subsequently, Fely was able to bring her children to the U.S.A., except for one, Calvert, who had to stay behind for medical reasons. While she did file for divorce from respondent Crasus, she denied having herself sent a letter to respondent Crasus requesting him to sign the enclosed divorce papers. After securing a divorce from respondent Crasus, Fely married her American husband and acquired American citizenship. She argued that her marriage to her American husband was legal because now being an American citizen, her status shall be governed by the law of her present nationality. Fely also pointed out that respondent Crasus himself was presently living with another woman who bore him a child. She also accused respondent Crasus of misusing the amount of P90,000.00 which she advanced to him to finance the brain operation of their son, Calvert. On the basis of the foregoing, Fely also prayed that the RTC declare her marriage to respondent Crasus null and void; and that respondent Crasus be ordered to pay to Fely the P90,000.00 she advanced to him, with interest, plus, moral and exemplary damages, attorney's fees, and litigation expenses.

After respondent Crasus and Fely had filed their respective Pre-Trial Briefs,<sup>[5]</sup> the RTC afforded both parties the opportunity to present their evidence. Petitioner Republic participated in the trial through the Provincial Prosecutor of Cebu.<sup>[6]</sup>

Respondent Crasus submitted the following pieces of evidence in support of his Complaint: (1) his own testimony on 08 September 1997, in which he essentially reiterated the allegations in his Complaint;<sup>[7]</sup> (2) the Certification, dated 13 April 1989, by the Health Department of Cebu City, on the recording of the Marriage Contract between respondent Crasus and Fely in the Register of Deeds, such marriage celebration taking place on 16 December 1961;<sup>[8]</sup> and (3) the invitation to the wedding of Crasus, Jr., their eldest son, wherein Fely openly used her American husband's surname, Micklus.<sup>[9]</sup>

Fely's counsel filed a Notice,<sup>[10]</sup> and, later on, a Motion,<sup>[11]</sup> to take the deposition of witnesses, namely, Fely and her children, Crasus, Jr. and Daphne, upon written interrogatories, before the consular officers of the Philippines in New York and

California, U.S.A, where the said witnesses reside. Despite the Orders<sup>[12]</sup> and Commissions<sup>[13]</sup> issued by the RTC to the Philippine Consuls of New York and California, U.S.A., to take the depositions of the witnesses upon written interrogatories, not a single deposition was ever submitted to the RTC. Taking into account that it had been over a year since respondent Crasus had presented his evidence and that Fely failed to exert effort to have the case progress, the RTC issued an Order, dated 05 October 1998,<sup>[14]</sup> considering Fely to have waived her right to present her evidence. The case was thus deemed submitted for decision.

Not long after, on 30 October 1998, the RTC promulgated its Judgment declaring the marriage of respondent Crasus and Fely null and void *ab initio*, on the basis of the following findings –

The ground bearing defendant's psychological incapacity deserves a reasonable consideration. As observed, plaintiff's testimony is decidedly credible. The Court finds that defendant had indeed exhibited unmistakable signs of psychological incapacity to comply with her marital duties such as striving for family unity, observing fidelity, mutual love, respect, help and support. From the evidence presented, plaintiff adequately established that the defendant practically abandoned him. She obtained a divorce decree in the United States of America and married another man and has establish [*sic*] another family of her own. Plaintiff is in an anomalous situation, wherein he is married to a wife who is already married to another man in another country.

Defendant's intolerable traits may not have been apparent or manifest before the marriage, the FAMILY CODE nonetheless allows the annulment of the marriage provided that these were eventually manifested after the wedding. It appears to be the case in this instance.

Certainly defendant's posture being an irresponsible wife erringly reveals her very low regard for that sacred and inviolable institution of marriage which is the foundation of human society throughout the civilized world. It is quite evident that the defendant is bereft of the mind, will and heart to comply with her marital obligations, such incapacity was already there at the time of the marriage in question is shown by defendant's own attitude towards her marriage to plaintiff.

In sum, the ground invoked by plaintiff which is defendant's psychological incapacity to comply with the essential marital obligations which already existed at the time of the marriage in question has been satisfactorily proven. The evidence in herein case establishes the irresponsibility of defendant Fely Ada Rosal Iyoy, firmly.

Going over plaintiff's testimony which is decidedly credible, the Court finds that the defendant had indeed exhibited unmistakable signs of such psychological incapacity to comply with her marital obligations. These are her excessive disposition to material things over and above the marital stability. That such incapacity was already there at the time of the marriage in question is shown by defendant's own attitude towards her marriage to plaintiff. And for these reasons there is a legal ground to

declare the marriage of plaintiff Crasus L. Iyoy and defendant Fely Ada Rosal Iyoy null and void *ab initio*.<sup>[15]</sup>

Petitioner Republic, believing that the afore-quoted Judgment of the RTC was contrary to law and evidence, filed an appeal with the Court of Appeals. The appellate court, though, in its Decision, dated 30 July 2001, affirmed the appealed Judgment of the RTC, finding no reversible error therein. It even offered additional ratiocination for declaring the marriage between respondent Crasus and Fely null and void, to wit –

Defendant secured a divorce from plaintiff-appellee abroad, has remarried, and is now permanently residing in the United States. Plaintiff-appellee categorically stated this as one of his reasons for seeking the declaration of nullity of their marriage...

...

Article 26 of the Family Code provides:

"Art. 26. All marriages solemnized outside the Philippines in accordance with the laws in force in the country where they were solemnized, and valid there as such, shall also be valid in this country, except those prohibited under Articles 35(1), (4), (5) and (6), 36, 37 and 38.

"WHERE A MARRIAGE BETWEEN A FILIPINO CITIZEN AND A FOREIGNER IS VALIDLY CELEBRATED AND A DIVORCE IS THEREAFTER VALIDLY OBTAINED ABROAD BY THE ALIEN SPOUSE CAPACITATING HIM OR HER TO REMARRY, THE FILIPINO SPOUSE SHALL LIKEWISE HAVE CAPACITY TO REMARRY UNDER PHILIPPINE LAW."

The rationale behind the second paragraph of the above-quoted provision is to avoid the absurd and unjust situation of a Filipino citizen still being married to his or her alien spouse, although the latter is no longer married to the Filipino spouse because he or she has obtained a divorce abroad. In the case at bench, the defendant has undoubtedly acquired her American husband's citizenship and thus has become an alien as well. This Court cannot see why the benefits of Art. 26 aforequoted can not be extended to a Filipino citizen whose spouse eventually embraces another citizenship and thus becomes herself an alien.

It would be the height of unfairness if, under these circumstances, plaintiff would still be considered as married to defendant, given her total incapacity to honor her marital covenants to the former. To condemn plaintiff to remain shackled in a marriage that in truth and in fact does not exist and to remain married to a spouse who is incapacitated to discharge essential marital covenants, is verily to condemn him to a perpetual disadvantage which this Court finds abhorrent and will not countenance. Justice dictates that plaintiff be given relief by affirming the trial court's declaration of the nullity of the marriage of the parties.

<sup>[16]</sup>

After the Court of Appeals, in a Resolution, dated 08 March 2002,<sup>[17]</sup> denied its Motion for Reconsideration, petitioner Republic filed the instant Petition before this Court, based on the following arguments/grounds –

I. Abandonment by and sexual infidelity of respondent's wife do not *per se* constitute psychological incapacity.

II. The Court of Appeals has decided questions of substance not in accord with law and jurisprudence considering that the Court of Appeals committed serious errors of law in ruling that Article 26, paragraph 2 of the Family Code is inapplicable to the case at bar.  
<sup>[18]</sup>

In his Comment<sup>[19]</sup> to the Petition, respondent Crasus maintained that Fely's psychological incapacity was clearly established after a full-blown trial, and that paragraph 2 of Article 26 of the Family Code of the Philippines was indeed applicable to the marriage of respondent Crasus and Fely, because the latter had already become an American citizen. He further questioned the personality of petitioner Republic, represented by the Office of the Solicitor General, to institute the instant Petition, because Article 48 of the Family Code of the Philippines authorizes the prosecuting attorney or fiscal assigned to the trial court, not the Solicitor General, to intervene on behalf of the State, in proceedings for annulment and declaration of nullity of marriages.

After having reviewed the records of this case and the applicable laws and jurisprudence, this Court finds the instant Petition to be meritorious.

### *I*

*The totality of evidence presented during trial is insufficient to support the finding of psychological incapacity of Fely.*

Article 36, concededly one of the more controversial provisions of the Family Code of the Philippines, reads –

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

Issues most commonly arise as to what constitutes psychological incapacity. In a series of cases, this Court laid down guidelines for determining its existence.

In *Santos v. Court of Appeals*,<sup>[20]</sup> the term psychological incapacity was defined, thus –

". . . [P]sychological incapacity" should refer to no less than a mental (not physical) incapacity that causes a party to be truly cognitive 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.