

## **SEVENTH DIVISION**

**[ CA-G.R. CV No. 101707, February 12, 2015 ]**

**ROBERSLY C. CANZANA, PETITIONER-APPELLANT, VS. VIRMAN  
S. CANZANA, RESPONDENT-APPELLEE.**

### **DECISION**

**LAMPAS PERALTA, J.:**

Before the Court is an appeal by petitioner-appellant from the Decision dated September 20, 2013<sup>[1]</sup> in Civil Case No. 11-0745-M of Branch 64, Regional Trial Court, Mauban, Quezon dismissing petitioner-appellant's petition for "Judicial Declaration of Nullity of a Void Marriage under Article 36<sup>[2]</sup> of the Family Code" for insufficiency of evidence.

### **THE ANTECEDENTS**

In 2003, petitioner-appellant Robersly C. Canzana and respondent-appellee Virman S. Canzana were introduced to each other by a common friend.<sup>[3]</sup> After a courtship which lasted three (3) weeks, petitioner-appellant and respondent-appellee became sweethearts. Petitioner-appellant informed respondent-appellee that she already had a son by a former boyfriend named Noli Engreso who did not want to marry her. Respondent-appellee reassured petitioner-appellant that he would love and care for the latter's son as his own.<sup>[4]</sup> After months of being together, petitioner-appellant and respondent-appellee were married on December 19, 2003.<sup>[5]</sup> Petitioner-appellant and respondent-appellee stayed with respondent-appellee's parents before moving to the house of petitioner-appellant's parents.<sup>[6]</sup> Respondent-appellee first made his living by plying a tricycle bought by petitioner-appellant's parents. He also worked as a security guard. Petitioner-appellant and respondent-appellee had a son, Virman C. Canzano, Jr.<sup>[7]</sup>

In 2008, petitioner-appellant left the Philippines to work in Norway.<sup>[8]</sup> When she came back, she filed a petition<sup>[9]</sup> against respondent-appellee for "Judicial Declaration of Nullity of a Void Marriage under Article 36 of the Family Code," alleging that (i) respondent-appellee demonstrated extreme jealousy and his demand for petitioner-appellant to ride the back seat of the tricycle whenever he plied his route resulted in the miscarriage of their first child; (ii) respondent-appellee was always angry with petitioner-appellant's son by Noli Engreso and would always inflict physical violence on the child; (iii) respondent-appellee was a hot-headed person and would always engage in quarrels that became subject of complaints in their barangay; (iv) petitioner-appellant was forced to work as a saleslady to sustain the needs of their family and was compelled to resign from her job because respondent-appellee was jealous of her workmates; (v) when petitioner-appellant's son by Noli Engreso visited them at home, Noli Engreso himself happened to pass by and respondent-appellee threatened to kill him with

the gun he was then cleaning for use in his job as a security guard; (vi) respondent-appellee cannot get along with their landlords and neighbors; (vii) when petitioner-appellant worked in Norway, respondent-appellee squandered her earnings and dated another woman; (viii) upon petitioner-appellant's arrival from Norway, she saw burn marks on Virman C. Canzana, Jr. which the latter told her was sustained while backriding on respondent-appellee's tricycle; (ix) respondent-appellee hated petitioner-appellant's mother and made threats to kill her; (x) respondent-appellee was a drunkard who lost control of himself whenever he was drunk; (xi) respondent-appellee suffered from psychological incapacity that existed at the time of the celebration of marriage, but became manifest only after its solemnization and said psychological incapacity, which was diagnosed as "Atypical Personality Disorder" by Dr. Carmelita I. Custodio, rendered him incapable of performing the essential marital obligations. Petitioner-appellant prayed that her marriage with respondent-appellee be declared null and void on the ground of psychological incapacity of respondent-appellee. Petitioner-appellant further prayed that she and in her absence, her parents, be awarded custody of Virman C. Canzana, Jr.

In his answer,<sup>[10]</sup> which was written in the vernacular without the assistance of counsel, respondent-appellee alleged, among others, that (i) he wholeheartedly accepted petitioner-appellant's son by another man and even provided for the child; (ii) respondent-appellee worked as a security guard and also engaged in other jobs to augment his income; (iii) he was a quiet man who did not want trouble and even if petitioner-appellant had an amorous relationship with another man, respondent-appellee never cheated on petitioner-appellant nor laid a hand on her; (iv) he passed the "Nevro test" for becoming a security guard which proved that he had a stable mind and he was not suicidal; (v) it was his mother-in-law who was determined to break up his marriage with petitioner-appellant because his mother-in-law never liked him and could not manipulate his life; (vi) while they were still boyfriend and girlfriend, petitioner-appellant worked as a prostitute in a bar in Cavite and even engaged in sexual intercourse with some of respondent-appellee's friends, but respondent-appellee still married her thinking that he could change her; (vii) when petitioner-appellant worked in Norway, she never sent money to respondent-appellee who undertook all the responsibilities of caring for their child; (viii) their child sustained head injuries while in the care of petitioner-appellant's parents; and, (ix) even after everything that had happened, respondent-appellee still loves petitioner-appellant and would still accept her. Respondent-appellee prayed for the dismissal of the petition.

During the pre-trial,<sup>[11]</sup> the parties made the following stipulation of facts:

- "1. The fact of marriage between the petitioner and the respondent on December 19, 2003 before Hon. Judge Virgilio C. Alpajora of RTC, Br. 64, Mauban, Quezon;
2. The fact of registration of said marriage before the Office of the Local Civil Registrar of Mauban, Quezon under Registry No. 2003-310 as well as in the National Statistics Office (NSO), Manila;
3. The fact of birth of the petitioner and respondent's son Virman Calucin Canzana, Jr., born on June 15, 2007 and is

now four (4) years old.”

Trial ensued. The public prosecutor, as deputized by the Solicitor General, entered his appearance in behalf of the State.<sup>[12]</sup> Petitioner-appellant<sup>[13]</sup> and Dr. Carmelita I. Custodio<sup>[14]</sup> were presented as witnesses. Respondent-appellee was the sole witness for himself.<sup>[15]</sup>

After the parties had presented their respective evidence, the trial court rendered a Decision dated September 20, 2013<sup>[16]</sup> dismissing petitioner-appellant's petition for declaration of nullity of marriage for insufficiency of evidence. Thus:

“WHEREFORE, of the foregoing, the Court orders the dismissal of this case as it is hereby dismissed for insufficiency of petitioner's evidence that respondent is psychologically incapacitated to comply with his essential obligation to the marriage.

The custody of the couple's minor child Virman Canzana, Jr. born on June 15, 2007 being only six (6) years old as of this writing is awarded to the petitioner pursuant under Art. 213 of the Family Code subject to the visitation rights of the respondent.

SO ORDERED.”

Thus, petitioner-appellant filed the present appeal which is premised on the following assignment of errors:

#### “IV.A

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT THE EVIDENCE OF THE APPELLANT IS INSUFFICIENT TO PROVE THAT THE APPELLEE IS PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH HIS ESSENTIAL OBLIGATION TO THE MARRIAGE

#### IV.B

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT THE FINDINGS OF THE PSYCHIATRIST THAT THE APPELLEE WAS SUFFERING FROM ATYPICAL PERSONALITY DISORDER FAILED TO ESTABLISH HOW THE SAID INCAPACITY PREVENTED HIM FROM VALIDLY ASSUMING HIS ESSENTIAL OBLIGATIONS TO THE MARRIAGE; AND

#### IV.C

THE TRIAL COURT COMMITTED A REVERSIBLE ERROR WHEN IT DISMISSED THE INSTANT PETITION DESPITE SUFFICIENT PROOF AND EVIDENCE THAT INDEED APPELLEE IS PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH HIS ESSENTIAL MARITAL OBLIGATIONS.”<sup>[17]</sup>

### **THE ISSUE**

Whether the trial court erred in finding that petitioner-appellant's evidence was insufficient to establish the alleged psychological incapacity of respondent-appellee to perform his marital obligations.

### THE COURT'S RULING

In denying petitioner-appellant's complaint for "Judicial Declaration of Nullity of a Void Marriage under Article 36 of the Family Code," the trial court ratiocinated that the report of Dr. Carmelita I. Custodio that respondent-appellee suffered from Atypical Personality Disorder "did not establish how the said incapacity prevented respondent from validly assuming his essential obligation to the marriage."<sup>[18]</sup> The trial court further held that it "doubts the evidence adduced by the petitioner that respondent is psychologically incapacitated to perform his conjugal obligation to the marriage which doubt should be resolved in favor of the continuity of the contending parties' marriage x x x."<sup>[19]</sup>

Petitioner-appellant faults the trial court in so ruling. Allegedly, credence should have been given by the trial court to the conclusions of Dr. Carmelita I. Custodio that (i) "the atypical personality disorder of the appellee already existed before his marriage to" petitioner-appellant; (ii) "said personality disorder has been part of the personality make up of the appellee" and is "innate and personal in him;" and, (iii) respondent-appellee's personality disorder "is serious and grave because he continues to threaten his wife."<sup>[20]</sup> Furthermore, Dr. Carmelita I. Custodio clearly established "that it was the atypical personality disorder of the appellee that prevented him from validly assuming his essential obligations to the marriage."<sup>[21]</sup>

The argument is unfounded, as the totality of evidence presented by petitioner-appellant fell short of the essential requirements of psychological incapacity for reasons stated hereunder. It is settled that in granting or denying petitions for declaration of nullity of marriage, courts must always base decisions not solely on the expert opinions furnished by the parties but also on the totality of evidence adduced in the course of the proceedings.<sup>[22]</sup>

Article 36 of the Family Code provides:

"Art. 36. Any 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."

As to the requirements of psychological incapacity, worth stressing is *Republic vs. Molina*,<sup>[23]</sup> wherein the Supreme Court laid down stringent guidelines, to wit:

- " The burden of proof to show the nullity of the marriage  
(1) belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. x x x
- (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. x x x

- (3) The incapacity must be proven to be existing at 'the time of the celebration' of the marriage. The evidence must show that the illness was existing when the parties exchanged their 'I do's'. The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.
- (4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. x x x
- (5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, 'mild characterological 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. x x x
- (6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.
- (7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts x x x"

In *Santos vs. Court of Appeals*,<sup>[24]</sup> the term psychological incapacity was further clarified as:

"[N]o 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