

# FIRST DIVISION

[ G.R. No. 212717, March 11, 2020 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, V. ARIEL S. CALINGO AND CYNTHIA MARCELLANA-CALINGO, RESPONDENTS.**

## DECISION

**REYES, J. JR., J.:**

Assailed in this Petition for Review<sup>[1]</sup> are the Decision<sup>[2]</sup> dated September 9, 2013 and Resolution<sup>[3]</sup> dated May 29, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 94407 which declared null and void the marriage between Ariel S. Calingo (Ariel) and Cynthia Marcellana-Calingo (Cynthia).

### The Relevant Antecedents

As culled from the records, the facts of the case are as follows:

In 1978, Ariel and Cynthia met when the latter was still the girlfriend of the former's friend. After a while, Cynthia and his then boyfriend broke up. From the conclusion of such relationship, there sprung a new one. After developing a strong sense of sexual desire and physical attraction towards each other, Ariel and Cynthia became a couple.<sup>[4]</sup>

On February 5, 1980, Ariel and Cynthia decided to get married civilly. The couple initially lived in Paco, Manila; and later on transferred to several places because of the alleged aggressive behavior of Cynthia.<sup>[5]</sup>

As they lived together, Ariel narrated that Cynthia kept herself occupied by gossiping and reading comic books. Once, he asked Cynthia to limit her visitation to their neighbors to gossip, but Cynthia got mad and told him there was nothing much to do in their house.<sup>[6]</sup>

Despite their marital problems, Ariel and Cynthia had their church wedding on February 22, 1998. At the time of their church celebration, Cynthia was five months pregnant. Ariel claimed that Cynthia's behavior was no different even after their second rites. She continued to gossip and pick fights with their neighbors.<sup>[7]</sup>

According to Ariel, not only did Cynthia showed aggressive behavior during their union, but she likewise exhibited unfaithfulness. Ariel recalled that Cynthia's first instance of marital infidelity was with Noli, their neighbor, who became close to them. When Ariel found out about the affair, he forgave Cynthia, who allegedly showed no remorse.<sup>[8]</sup>

Noli later on revealed to him that their twin children were not really Ariel's children, but his own. Ariel then remembered one incident between him and Cynthia wherein

the latter told him "*hindi mo anak yan* ", as she got mad because Ariel spanked one of their children.<sup>[9]</sup>

Cynthia's second affair involved Louie, who was also their neighbor. Ariel testified that he discovered Louie hiding under their marital bed and wearing his pants only.<sup>[10]</sup>

Not long after, Ariel reached his peak and left their conjugal abode after Cynthia threw a knife at him, which fortunately hit the wall. Premised on Cynthia's irritable and irascible attitude, Ariel narrated that the same took place after he asked Cynthia to check the pressure cooker; and in the course thereof, the pressure cooker exploded. Surprised, Cynthia got so angry and started throwing curses at Ariel. Allegedly, Cynthia threw a knife against him which hit the wall.

Ariel filed a petition for declaration of nullity of marriage.

To support his petition, Ariel secured the psychological evaluation of Dr. Arnulfo Lopez (Dr. Lopez). The result thereof shows that Ariel possesses an emotionally disturbed personality, but not severe enough to constitute psychological incapacity.<sup>[11]</sup> Dr. Lopez likewise conducted an assessment on Cynthia; and the same revealed that Cynthia is suffering from Borderline Personality Disorder with Histrionic Personality Disorder Features.<sup>[12]</sup>

In a Decision<sup>[13]</sup> dated August 3, 2009, the Regional Trial Court of Quezon City, Branch 107 (RTC), denied the petition. Finding insufficiency of evidence, the RTC stressed that the totality of evidence presented did not exhibit Cynthia's psychological incapacity as there was absolutely no showing that her traits were already present at the inception of the marriage or that they were incurable. The *fallo* thereof reads:

**WHEREFORE**, the instant petition for declaration of void marriage is denied. The above-entitled case is dismissed.

**SO ORDERED.**<sup>[14]</sup>

Ariel's motion for reconsideration was denied in a Resolution<sup>[15]</sup> dated October 19, 2009.

Raising a lone enor, Ariel filed an appeal before the CA and insisted that the RTC erred in denying the petition for the evidence presented adequately established Cynthia's psychological incapacity.<sup>[16]</sup>

In a Decision dated September 9, 2013, the CA reversed the ruling of the RTC and granted the petition for declaration of nullity of marriage. Hinged on Cynthia's attitude of being "*mabunganga*" and having relationships with other men coupled with the diagnosis of Dr. Lopez, the CA was convinced that Cynthia is psychologically incapacitated to fulfill her essential marital obligations to Ariel. The dispositive portion reads:

**WHEREFORE**, the appeal is **GRANTED**. The Decision dated August 3, 2009 and Resolution dated October 19, 2009 of the Regional Trial Court, Branch 107, Quezon City, in Civil Case No. Q-06-57906 are **REVERSED**

**and SET ASIDE.** The marriage of Ariel S. Calingo and Cynthia Marcellana-Calingo is declared **NULL and VOID AB INITIO**.

**SO ORDERED.**<sup>[17]</sup>

Hence, this petition.

Defending the sanctity of marriage, the Republic, through the Office of the Solicitor General (OSG) filed this petition.

In essence, the OSG was resolute in propounding Ariel's failure to provide sufficient evidence to demonstrate Cynthia's psychological incapacity within the ambit of Article 36 of the Family Code.<sup>[18]</sup>

In his Comment,<sup>[19]</sup> Ariel reiterated that Cynthia's Histrionic Personality Disorder is a psychological incapacity which warrants the nullity of their marriage.

In its Reply,<sup>[20]</sup> the OSG pointed out that Ariel failed to justify in his Comment sufficient basis to justify the denial of the instant petition.

### **The Issue**

Whether or not the marriage between Ariel and Cynthia should be declared null on the basis of psychological incapacity under Article 36 of the Family Code.

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

While marriage is considered by our fundamental law as an inviolable social institution, our laws allow the nullity of marriage entered into between parties who are incognizant of their obligations on the ground of psychological incapacity. Specifically, Article 36 of the Family Code provides:

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

Marriage nullified based on such justification is considered as void from the outset.

Jurisprudence defined psychological incapacity to no less than a mental, not physical, incapacity that causes a party to be truly incognitive of the basic marital covenants that must concomitantly be assumed and discharged by the parties to the marriage.<sup>[21]</sup> It ought to pertain to only the most serious cases of personality disorders that clearly demonstrate the party's/parties' utter insensitivity or inability to give meaning and significance to the marriage.<sup>[22]</sup>

To be accurate, such incapacity must be characterized by gravity, juridical antecedence, and incurability:

The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage, and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.<sup>[23]</sup>

In this case, Ariel presented the medical assessment of Dr. Lopez who found that Cynthia is suffering from Borderline Personality Disorder with Histrionic Personality Disorder Features rooted on her disorderly filial relationship as she was subjected to physical abuse and abandonment.<sup>[24]</sup> Such findings were based on the testimony of Ariel and their friends, Francisca Bilason (Bilason) and Ruben Kalaw (Kalaw).

However, this Court refuses to accept as credible the assessment of Dr. Lopez as there was no other evidence which established the juridical antecedence, gravity, and incurability of Cynthia's alleged incapacity. While jurisprudence recognizes the dispensability of personal examination of the party alleged to be suffering from psychological incapacity, it is but necessary to provide corroborative evidence to exhibit the required legal parameters.<sup>[25]</sup>

To recall, the report itself cited the testimonies of Ariel and their friends, Bilason and Kalaw as bases for the findings. However, in the same report, it displayed that Bilason and Kalaw are friends with the couple for more or less thirty years, and the same does not show that they have known Cynthia longer than such period of time so as to have personal knowledge of her circumstances. Neither was it shown that Ariel likewise had personal knowledge of Cynthia's family background. Thus, they could not have known Cynthia's childhood nor the manner as to how she was raised.

Likewise, Cynthia's sexual infidelity is not a satisfactory proof of psychological incapacity. To be a ground to nullify a marriage based on Article 36 of the Family Code, it must be shown that the acts of unfaithfulness are manifestations of a disordered personality which makes him/her completely unable to discharge the essential obligations of marriage.<sup>[26]</sup>

As discussed, there was no evidence which proved that such raised to the level of psychological incapacity within the meaning of Article 36 of the Family Code, warranting the severance of Cynthia and Ariel's marital bonds.

Unequivocally, psychological incapacity must be more than just a "difficulty," "refusal" or "neglect" in the performance of the marital obligations; it is not enough that a party prove that the other failed to meet the responsibility and duty of a married person.<sup>[27]</sup>

Hence, contrary to CA's decision, the fact that Cynthia is "*mabunganga*" and had extra-marital affairs are *not* sufficient indicators of a psychological disorder.

**WHEREFORE**, premises considered, the instant petition is hereby **GRANTED**. The Decision dated September 9, 2013 and Resolution dated May 29, 2014 of the Court of Appeals in CA-G.R. CV No. 94407 are **REVERSED and SET ASIDE**.

The petition for declaration of nullity of marriage is **DISMISSED** for lack of merit.

**SO ORDERED.**

*Peralta, C.J., (Chairperson), and Gesmundo, [\*] J., concur.*  
*Caguioa (Working Chairperson), J., see concurring opinion.*  
*Lazaro-Javier, J., see dissenting opinion.*

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[\*] Additional member per Raffle dated February 12, 2020 in lieu of Associate Justice Mario V. Lopez.

[1] *Rollo*, pp. 14-46.

[2] Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Rosalinda Asuncion-Vicente and Priscilla J. Baltazar-Padilla, concurring; *id.* at 51-64.

[3] Penned by Associate Justice Agnes Reyes-Carpio, with Associate Justices Priscilla J. Baltazar-Padilla and Samuel H. Gaerlan (now a Member of this Court), concurring; *id.* at 66-67.

[4] *Id.* at 167.

[5] *Id.*

[6] *Id.* at 168.

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.* at 169.

[13] *Id.* at 167-171.

[14] *Id.* at 171.

[15] *Id.* at 185-187.

[16] *Id.* at 199.

[17] *Id.* at 64.

[18] *Id.* at 26-44.

[19] *Id.* at 268-271.

[20] *Id.* at 296-301.

[21] *Mendoza v. Republic of the Philippines*, 698 Phil. 241 (2012).

[22] *Republic of the Philippines v. Tecag*, G.R. No. 229272, November 19, 2018.

[23] *Santos v. Court of Appeals*, G.R. No. 112019, January 4, 1995, 240 SCRA 20, 24.

[24] *Rollo*, pp. 122 and 125.