

## SECOND DIVISION

[ G.R. No. 192718, February 18, 2015 ]

**ROBERT F. MALLILIN, PETITIONER, VS. LUZ G. JAMESOLAMIN  
AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is a petition for review on *certiorari* under Rule 45 of the Revised Rules of Court assailing the November 20, 2009 Decision<sup>[1]</sup> of the Court of Appeals (CA) and its June 1, 2010 Resolution,<sup>[2]</sup> in CA-G.R. CV No. 78303-MIN, which reversed and set aside the September 20, 2002 Decision of the Regional Trial Court, Branch 37, Cagayan de Oro City(RTC-Br. 37), declaring the marriage between petitioner Robert F. Mallilin (*Robert*) and private respondent Luz G. Jamesolamin (*Luz*) null and void.

#### ***The Facts:***

Robert and Luz were married on September 6, 1972. They begot three (3) children.

On March 16, 1994, Robert filed a complaint for declaration of nullity of marriage before the RTC, Branch 23, Cagayan de Oro City (*RTC-Br. 23*). On March 7, 1996, RTC-Br. 23 denied the petition. Robert appealed this judgment before the CA where it was docketed as CA-G.R. CV No. 54261. On January 29, 1999, the CA reversed the RTC-Br. 23 decision "due to lack of participation of the State as required under Article 48 of the Family Code."<sup>[3]</sup> The case was remanded to the RTC for further proceedings and its records were thereafter transferred from RTC-Br. 23 to RTC-Br. 37, as the latter was designated as Family Court pursuant to the Family Code Act of 1997.

In the complaint, Robert alleged that at the time of the celebration of their marriage, Luz was suffering from psychological and mental incapacity and unpreparedness to enter into such marital life and to comply with its essential obligations and responsibilities. Such incapacity became even more apparent during their marriage when Luz exhibited clear manifestation of immaturity, irresponsibility, deficiency of independent rational judgment, and inability to cope with the heavy and oftentimes demanding obligation of a parent.

Luz filed her Answer with Counterclaim contesting the complaint. She averred that it was Robert who manifested psychological incapacity in their marriage. Despite due notice, however, she did not appear during the trial. Assistant City Prosecutor Isabelo Sabanal appeared for the State.

When Robert testified, he disclosed that Luz was already living in California, USA, and had married an American. He also revealed that when they were still engaged, Luz continued seeing and dating another boyfriend, a certain Lt. Liwag. He also

claimed that from the outset, Luz had been remiss in her duties both as a wife and as a mother as shown by the following circumstances: (1) it was he who did the cleaning of the room because Luz did not know how to keep order; (2) it was her mother who prepared their meal while her sister was the one who washed their clothes because she did not want her polished nails destroyed; (3) it was also her sister who took care of their children while she spent her time sleeping and looking at the mirror; (4) when she resumed her schooling, she dated different men; (5) he received anonymous letters reporting her loitering with male students; (6) when he was not home, she would receive male visitors; (7) a certain Romy Padua slept in their house when he was away; and (6) she would contract loans without his knowledge.

In addition, Robert presented the testimony of Myrna Delos Reyes Villanueva (*Villanueva*), Guidance Psychologist II of Northern Mindanao Medical Center.

On May 8, 2000, while the case was pending before the trial court, Robert filed a petition for marriage annulment with the Metropolitan Tribunal of First Instance for the Archdiocese of Manila (*Metropolitan Tribunal*).

On October 10, 2002, the Metropolitan Tribunal handed down a decision declaring their marriage invalid *ab initio* on the ground of *grave lack of due discretion* on the part of both parties as contemplated by the second paragraph of Canon 1095. This decision was affirmed by the National Appellate Matrimonial Tribunal (NAMT).

Prior to that, on September 20, 2002, the RTC had rendered a decision declaring the marriage null and void on the ground of psychological incapacity on the part of Luz as she failed to comply with the essential marital obligations.

The State, represented by the Office of the Solicitor General (OSG), interposed an appeal with the CA. The OSG argued that Robert failed to make a case for declaration of nullity of his marriage with Luz. It pointed out that the real cause of the marital discord was the sexual infidelity of Luz. Such ground, the OSG contended, should not result in the nullification of the marriage under the law, but merely constituted a ground for legal separation.

The CA, in its November 20, 2009 Decision,<sup>[4]</sup> granted the petition and *reversed* the RTC decision. The decision, including the decretal portion, partially reads:

[W]e find that the trial court committed a reversible error. Closer scrutiny of the records reveals, as correctly noted by the Solicitor General, sexual infidelity are not rooted on some debilitating psychological condition but a mere refusal or unwillingness to assume the essential obligations of marriage. x xx.

xxxx

In the case at bar, apart from his self-serving declarations, the evidence adduced by Robert fell short of establishing the fact that at the time of their marriage, Luz was suffering from a psychological defect which in fact deprived [her] of the ability to assume the essential duties of marriage and its concomitant responsibilities.

XXXX

We commiserate with the plaintiff-appellee's undeserved marital plight. Yet, Our paramount duty as a court compels Us to apply the law at all costs, however harsh it may be on whomsoever is called upon to bear its unbiased brunt.

**FOR THESE REASONS**, the appealed Decision dated September 20, 2002 in Civil Case No. 94-178 is **REVERSED** and **SET ASIDE**. No costs.

SO ORDERED.<sup>[5]</sup>

Robert filed a motion for reconsideration, but it was denied by the CA in its June 1, 2010 Resolution,<sup>[6]</sup> stating that the arguments of Robert were mere rehash of the same ground, arguments and discussion previously pointed out by him, and that no new substance was brought out to warrant the reconsideration or reversal of its decision.

Hence, this petition.

#### **ASSIGNMENT OF ERROR:**

##### **I**

**THE HONORABLE COURT OF APPEALS' HOLDING THAT THE ABSENCE OF THE PSYCHOLOGICAL EXAMINATION OF THE WIFE UNDERSCORES THE EVIDENTIAL GAP TO SUSTAIN THE DECISION OF THE RTC DECLARING THE MARRIAGE OF PETITIONER TO RESPONDENT NULL AND VOID ON THE GROUND OF PSYCHOLOGICAL INCAPACITY IS CONTRARY TO LAW AND JURISPRUDENCE.**

##### **II**

**THE RESPONDENT WIFE WAS ALSO DECLARED BY THE NATIONAL APPELLATE MATRIMONIAL TRIBUNAL OF THE CATHOLIC BISHOP'S CONFERENCE OF THE PHILIPPINES AS GUILTY OF GRAVE LACK OF DUE DISCRETION.**

##### **III**

**THE RESPONDENT WIFE WAS ALSO FOUND BY THE LOWER COURT AS PSYCHOLOGICALLY INCAPACITATED TO COMPLY WITH THE ESSENTIAL MARITAL OBLIGATIONS.**

Robert now argues that he has sufficiently proven the nullity of his marriage even in the absence of any medical, psychiatric or psychological examination of the wife by a competent and qualified professional. To bolster his claim, he avers that the

Metropolitan Tribunal already declared that Luz exhibited *grave lack of discretion in judgment* concerning the essential rights and obligations mutually given and accepted in marriage. The said decision was affirmed by the NAMT.

Robert further argues that the sexual indiscretion of Luz with different men coupled with the fact that she failed to function as a home maker to her family and as a housewife to him incapacitated her from accepting and complying with her essential marital obligations. For said reason, he asserts that the case of Luz was not a mere case of sexual infidelity, but clearly an illness that was rooted on some debilitating psychological condition which incapacitated her to carry out the responsibilities of a married woman. Robert avers that a sexmaniac is not just a mere sexual infidel but one who is suffering from a deep psychological problem.

### ***Position of the State***

The OSG argues that the CA correctly ruled that the totality of evidence presented by Robert was not sufficient to support a finding that Luz was psychologically incapacitated. His evidence fell short of establishing his assertion that at the time of their marriage, Luz was suffering from a psychological defect which deprived her of the ability to assume the essential duties of marriage and its concomitant responsibilities.

With regard to the findings of the Metropolitan Tribunal and the NAMT, the OSG claims that the same were only given persuasive value and were not controlling or decisive in cases of nullity of marriage. Further, the decision was based on grave lack of discretion of judgment concerning matrimonial rights and obligations due to outside factors other than psychological incapacity as contemplated in Article 36 of the Family Code. The OSG also raises the strong possibility of collusion between the parties as shown by the events that took place after the issuance of the March 7, 1996 RTC Decision. The OSG wrote:

Significantly, the chronological events after the trial court issued its March 7, 1996 Decision unmistakably show the collusion between the parties to obtain the reliefs pleaded. Among others, respondent's Retraction of Testimony was executed without the presence of counsel sometime in 1998, a few months before she married an American. This irregularity was even noticed by the Court of Appeals in CA-G.R. CV No. 54261:

x x x x

The involvement and active participation of the Solicitor General became indispensable, in the present recourse, when, in a whirlwind turn of events, the Appellee made a VOLTE FACE executed a "Retraction of Testimony" and a "Waiver of Custody," waiving custody of Franco Mark J Mallillin, still a minor, her son by the Appellant. It bears stressing that the Appellee, in the Court a quo, obdurately denied the material allegations of the Appellant's complaint and declared that it was the Appellant who was psychologically incapacitated. **The sudden turn-about of the appellee, in the present**

**recourse, to the extent of disowning her testimony in the Court *a quo* and even praying for the reversal of the Decision of the Trial Court is strongly suggestive, if not constitutive, of collusion or a *modus vivendi* between the parties, outlawed by the Family Code of the Philippines and the Constitution. x x x**

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

The main issue is whether the totality of the evidence adduced proves that Luz was psychologically incapacitated to comply with the essential obligations of marriage warranting the annulment of their marriage under Article 36 of the Family Code.

The petition is bereft of merit.

A petition for declaration of nullity of marriage is anchored on Article 36 of the Family Code which 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 obligation of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

"Psychological incapacity," as a ground to nullify a marriage under Article 36 of the Family Code, should refer to no less than a mental – not merely 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 in Article 68 of the Family Code, among others, include their mutual obligations to live together; observe love, respect and fidelity; and render help and support. There is hardly a 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.<sup>[7]</sup>

Psychological incapacity as required by Article 36 must be characterized by (a) gravity, (b) juridical antecedence and (c) 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 only emerge after the marriage. It must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.<sup>[8]</sup>

In *Republic v. Court of Appeals and Eduardo C. De Quintos, Jr.*,<sup>[9]</sup> the Court reiterated the well-settled guidelines in resolving petitions for declaration of nullity of marriage, embodied in *Republic v. Court of Appeals and Molina*,<sup>[10]</sup> based on Article 36 of the Family Code. Thus: