

## THIRD DIVISION

[ G.R. No. 168335, June 06, 2011 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. NESTOR GALANG, RESPONDENT.**

### DECISION

**BRION, J.:**

We resolve the Petition for Review on *Certiorari* [1] filed by the Republic of the Philippines (*petitioner*), challenging the decision [2] dated November 25, 2004 and the resolution [3] dated May 9, 2005 of the Court of Appeals (CA) in CA-G.R. CV No. 70004. The challenged decision affirmed the decision [4] of the Regional Trial Court (RTC), Branch 62, Angeles City, declaring the marriage of Nestor Galang (*respondent*) and Juvy Salazar null and void on the ground of the latter's psychological incapacity. The assailed resolution denied the petitioner's motion for reconsideration.

#### Antecedent Facts

On March 9, 1994, the respondent and Juvy contracted marriage in Pampanga. They resided in the house of the respondent's father in San Francisco, Mabalacat, Pampanga. The respondent worked as an artist-illustrator at the Clark Development Corporation, earning P8,500.00 monthly. Juvy, on the other hand, stayed at home as a housewife. They have one child, Christopher.

On August 4, 1999, the respondent filed with the RTC a petition for the declaration of nullity of his marriage with Juvy, under Article 36 of the Family Code, as amended. The case was docketed as Civil Case No. 9494. He alleged that Juvy was psychologically incapacitated to exercise the essential obligations of marriage, as she was a kleptomaniac and a swindler. He claimed that Juvy stole his ATM card and his parents' money, and often asked money from their friends and relatives on the pretext that Christopher was confined in a hospital. According to the respondent, Juvy suffers from "mental deficiency, innate immaturity, distorted discernment and total lack of care, love and affection [towards him and their] child." He posited that Juvy's incapacity was "extremely serious" and "appears to be incurable." [5]

The RTC ordered the city prosecutor to investigate if collusion existed between the parties. Prosecutor Angelito I. Balderama formally manifested, on October 18, 1999, that he found no evidence of collusion between the parties. The RTC set the case for trial in its Order of October 20, 1999. The respondent presented testimonial and documentary evidence to substantiate his allegations.

In his testimony, the respondent alleged that he was the one who prepared their breakfast because Juvy did not want to wake up early; Juvy often left their child to

their neighbors' care; and Christopher almost got lost in the market when Juvy brought him there. [6]

The respondent further stated that Juvy squandered the P15,000.00 he entrusted to her. He added that Juvy stole his ATM card and falsified his signature to encash the check representing his (the respondent's) father's pension. He, likewise, stated that he caught Juvy playing "*mahjong*" and "*kuwaho*" three (3) times. Finally, he testified that Juvy borrowed money from their relatives on the pretense that their son was confined in a hospital. [7]

Aside from his testimony, the respondent also presented Anna Liza S. Guiang, a psychologist, who testified that she conducted a psychological test on the respondent. According to her, she wrote Juvy a letter requesting for an interview, but the latter did not respond. [8] In her Psychological Report, the psychologist made the following findings:

Psychological Test conducted on client Nestor Galang resembles an emotionally-matured individual. He is well-adjusted to the problem he meets, and enable to throw-off major irritations but manifest[s] a very low frustration tolerance which means he has a little ability to endure anxiety and the client manifests suppressed feelings and emotions which resulted to unbearable emotional pain, depression and lack of self-esteem and gained emotional tensions caused by his wife's behavior.

The incapacity of the defendant is manifested [in] such a manner that the defendant-wife: (1) being very irresponsible and very lazy and doesn't manifest any sense of responsibility; (2) her involvement in gambling activities such as mahjong and kuwaho; (3) being an estafador which exhibits her behavioral and personality disorders; (4) her neglect and show no care attitude towards her husband and child; (5) her immature and rigid behavior; (6) her lack of initiative to change and above all, the fact that she is unable to perform her marital obligations as a loving, responsible and caring wife to her family. There are just few reasons to believe that the defendant is suffering from incapacitated mind and such incapacity appears to be incorrigible.

x x x

The following incidents are the reasons why the couple separated:

1. After the marriage took place, the incapacity of the defendant was manifested on such occasions wherein the plaintiff was the one who prepared his breakfast, because the defendant doesn't want to wake up early; this became the daily routine of the plaintiff before reporting to work;
2. After reporting from work, the defendant was often out gambling, as usual, the plaintiff was the one cooking for supper while the defendant was very busy with her gambling activities and never attended to her husband's needs;

3. There was an occasion wherein their son was lost in the public market because of the irresponsible attitude of the defendant;
4. That the defendant suffers from personality and behavioral disorders, there was an occasion wherein the defendant [would] steal money from the plaintiff and use them for gambling;
5. Defendant, being an estafador had been manifested after their marriage took place, wherein the defendant would come with stories so that people [would] feel pity on her and give her money. Through false pretenses she [would] be able to deceive and take money from neighbors, relatives and other people.
6. That the plaintiff convinced the defendant to stop her unhealthy lifestyle (gambling), but the defendant never listened to his advices;
7. That the plaintiff was the one who [was] taking care of their son, when the plaintiff will leave for work, the defendant [would] entrust their son to their neighbor and go [to] some place. This act reflects the incapacity of the defendant by being an irresponsible mother;
8. That the defendant took their son and left their conjugal home that resulted into the couple's separation.

Psychological findings tend to confirm that the defendant suffers from personality and behavioral disorders. These disorders are manifested through her grave dependency on gambling and stealing money. She doesn't manifest any sense of responsibility and loyalty and these disorders appear to be incorrigible.

The plaintiff tried to forget and forgive her about the incidents and start a new life again and hoping she would change. Tried to get attention back by showing her with special care, treating her to places for a weekend vacation, cook[ing] her favorite food, but the defendant didn't care to change, she did not prepare meals, wash clothes nor clean up. She neglected her duties and failed to perform the basic obligations as a wife.

So in the view of the above-mentioned psychological findings, it is my humble opinion that there is sufficient reason to believe that the defendant wife is psychologically incapacitated to perform her marital duties as a wife and mother to their only son.<sup>[9]</sup>

### **The RTC Ruling**

The RTC nullified the parties' marriage in its decision of January 22, 2001. The trial court saw merit in the testimonies of the respondent and the psychologist, and concluded that:

After a careful perusal of the evidence in the instant case and there being no controverting evidence, this Court is convinced that as held in *Santos* case, the psychological incapacity of respondent to comply with the essential marital obligations of his marriage with petitioner, which Dr. Gerardo Veloso said can be characterized by (a) gravity because the subject cannot carry out the normal and ordinary duties of marriage and

family shouldered by any average couple existing under ordinary circumstances of life and work; (b) antecedence, because the root cause of the trouble can be traced to the history of the subject before marriage although its overt manifestations appear over after the wedding; and (c) incurability, if treatments required exceed the ordinary means or subject, or involve time and expense beyond the reach of the subject - are all obtaining in this case.

x x x x

WHEREFORE, premises considered, the instant petition is granted and the marriage between petitioner and defendant is hereby declared null and void pursuant to Article 36 of the Family Code of the Philippines. [10]

### **The CA Decision**

The petitioner, through the Office of the Solicitor General, appealed the RTC decision to the CA. The CA, in its decision dated November 25, 2004, affirmed the RTC decision *in toto*.

The CA held that Juvy was psychologically incapacitated to perform the essential marital obligations. It explained that Juvy's indolence and lack of sense of responsibility, coupled with her acts of gambling and swindling, undermined her capacity to comply with her marital obligations. In addition, the psychologist characterized Juvy's condition to be permanent, incurable and existing at the time of the celebration of her marriage with the respondent. [11]

The petitioner moved to reconsider this Decision, but the CA denied his motion in its resolution dated May 9, 2005. [12]

### **The Petition and the Issues**

The petitioner claims in the present petition that the totality of the evidence presented by the respondent was insufficient to establish Juvy's psychological incapacity to perform her essential marital obligations. The petitioner additionally argues that the respondent failed to show the juridical antecedence, gravity, and incurability of Juvy's condition. [13] The respondent took the exact opposite view.

The issue boils down to whether there is basis to nullify the respondent's marriage to Juvy on the ground that at the time of the celebration of the marriage, Juvy suffered from psychological incapacity that prevented her from complying with her essential marital obligations.

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

After due consideration, we resolve to **grant** the petition, and hold that no sufficient basis exists to annul the marriage on the ground of psychological incapacity under the terms of Article 36 of the Family Code.

## **Article 36 of the Family Code and Related Jurisprudence**

Article 36 of the Family Code provides that "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." [14]

In *Leouel Santos v. Court of Appeals, et al.*, [15] the Court first declared that psychological incapacity must be characterized by (a) **gravity**; (b) **juridical antecedence**; and (c) **incurability**. The defect should refer to "no 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." It must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage." [16] We laid down more definitive guidelines in the interpretation and application of Article 36 of the Family Code in *Republic of the Philippines v. Court of Appeals and Roridel Olaviano Molina*, whose salient points are footnoted below. [17] These guidelines incorporate the basic requirements we established in *Santos*. [18]

In *Brenda B. Marcos v. Wilson G. Marcos*, [19] we further clarified that it is not absolutely necessary to introduce expert opinion in a petition under Article 36 of the Family Code if the *totality of evidence* shows that psychological incapacity exists and its gravity, juridical antecedence, and incurability can be duly established. Thereafter, the Court promulgated A.M. No. 02-11-10-SC (Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages) [20] which provided that "the complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage but expert opinion need not be alleged."

Our 2009 ruling in *Edward Kenneth Ngo Te v. Rowena Ong Gutierrez Yu-Te* [21] placed some cloud in the continued applicability of the time-tested *Molina* [22] guidelines. We stated in this case that instead of serving as a guideline, *Molina* unintentionally became a straightjacket; it forced all cases involving psychological incapacity to fit into and be bound by it. This is contrary to the intention of the law, since no psychological incapacity case can be considered as completely on "all fours" with another.

*Benjamin G. Ting v. Carmen M. Velez-Ting* [23] and *Jocelyn M. Suazo v. Angelito Suazo*, [24] however, laid to rest any question regarding the continued applicability of *Molina*. [25] In these cases, we clarified that *Ngo Te* [26] did not abandon *Molina*. [27] Far from abandoning *Molina*, [28] *Ngo Te* [29] simply suggested the relaxation of its stringent requirements. We also explained that *Suazo* [30] that *Ngo Te* [31] merely stands for a more flexible approach in considering petitions for declaration of nullity of marriages based on psychological incapacity. [32]

## **The Present Case**