

THIRD DIVISION

[G.R. No. 170729, December 08, 2010]

ENRIQUE AGRAVIADOR Y ALUNAN, PETITIONER, VS. ERLINDA AMPARO-AGRAVIADOR AND REPUBLIC OF THE PHILIPPINES, RESPONDENTS.

DECISION

BRION, J.:

Enrique Agraviador y Alunan (*petitioner*) challenges through his petition for review on *certiorari*^[1] the decision dated May 31, 2005^[2] and the resolution dated December 6, 2005^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 75207. The challenged decision reversed the resolution^[4] of the Regional Trial Court (RTC), Branch 276, Muntinlupa City, declaring the marriage of the petitioner and Erlinda Amparo-Agraviador (*respondent*) null and void on the ground of the latter's psychological incapacity. The assailed resolution, on the other hand, denied the petitioner's motion for reconsideration.

Antecedent Facts

The petitioner first met the respondent in 1971 at a beerhouse where the latter worked. The petitioner, at that time, was a 24-year old security guard of the Bureau of Customs, while the respondent was a 17-year old waitress. Their meeting led to a courtship, and they eventually became sweethearts. They often spent nights together at the respondent's rented room, and soon entered into a common-law relationship.

On May 23, 1973, the petitioner and the respondent contracted marriage in a ceremony officiated by Reverend Juanito Reyes at a church in Tondo, Manila. The petitioner's family was apprehensive about this marriage because of the nature of the respondent's work and because she came from a broken family. Out of their union, the petitioner and the respondent begot four (4) children, namely: Erisque, Emmanuel, Evelyn, and Eymarey.

On March 1, 2001, the petitioner filed with the RTC a petition for the declaration of nullity of his marriage with the respondent, under Article 36 of the Family Code, as amended.^[5] The case was docketed as Civil Case No. 01-081. He alleged that the respondent was psychologically incapacitated to exercise the essential obligations of marriage as she was carefree and irresponsible, and refused to do household chores like cleaning and cooking; stayed away from their house for long periods of time; had an affair with a lesbian; did not take care of their sick child; consulted a witch doctor in order to bring him bad fate; and refused to use the family name Agraviador in her activities.

The petitioner likewise claimed that the respondent refused to have sex with him

since 1993 because she became "very close" to a male tenant in their house. In fact, he discovered their love notes to each other, and caught them inside his room several times.

The respondent moved to dismiss the petition on the ground that the root cause of her psychological incapacity was not medically identified and alleged in the petition.

[6] The RTC denied this motion in its order dated July 2, 2001. [7]

In her answer, [8] the respondent denied that she engaged in extramarital affairs and maintained that it was the petitioner who refused to have sex with her. She claimed that the petitioner wanted to have their marriage annulled because he wanted to marry their former household helper, Gilda Camarin. She added that she was the one who took care of their son at the hospital before he died.

The RTC ordered the city prosecutor and/or the Solicitor General to investigate if collusion existed between the parties. [9] The RTC, in its Order of November 20, 2001, allowed the petitioner to present his evidence *ex parte*. [10] The petitioner, thus, presented testimonial and documentary evidence to substantiate his claims.

In his testimony, the petitioner confirmed what he stated in his petition, *i.e.*, that the respondent was carefree, irresponsible, immature, and whimsical; stubbornly did what she wanted; did not stay long in the conjugal dwelling; refused to do household chores; refused to take care of him and their children; and consulted a witch doctor in order to bring bad luck upon him.

The petitioner further confirmed that the respondent abandoned their sick child, which led to the latter's death. The petitioner further stated that the respondent became very close to a male border of their house; he discovered their love notes to each other, and caught them inside his room several times.

The petitioner declared that he filed the petition for nullity because the respondent refused to change; he loves his children and does not want their children to be affected by their mother's conduct. He intimated that he might remarry if it would benefit their children.

Aside from his testimony, the petitioner also presented a certified true copy of their marriage contract (Exh. "B") [11] and the psychiatric evaluation report (Exh. "A") [12] of Dr. Juan Cirilo L. Patac.

In his Psychiatric Evaluation Report, Dr. Patac made the following findings:

REMARKS AND RECOMMENDATIONS

Based on the information gathered from Enrique, his son and their helper, the psychological report and the mental status examination, Enrique is found to be psychologically capable to fulfill the essential obligations of marriage. He coped with Erlinda's selfish and irresponsible behavior as he dutifully performed what she failed to do for the family. He patiently tried to understand her and exerted every effort to make her realize the harm caused by her neglect to the family. Throughout their

marriage, he provided emotional and material support for the family. He engaged in other business endeavors aside from his employment as he maintained to be financially productive.

The same data revealed that Erlinda failed to fulfill the essential obligations of marriage. She manifested inflexible maladaptive behavior even at the time before their marriage. She is known to be stubborn and uncaring who did things her way without regard to the feelings of others. She is an irresponsible individual who selfishly ignored and neglected her role as daughter to her parents as wife to Enrique and mother to their children. Before the marriage at a young age of 17, Erlinda defied her parents as she lived alone, rented a room for herself and allowed Enrique to sleep with her. She did not care about the needs of Enrique before and after marriage and she maintained to be so with her children. She abandoned and relegated her duty to her family to their helper. She never stayed long in their house despite pleadings from her children and Enrique. Her irresponsible, uncaring behavior even led to the death of one of their children. Likewise, she does not show concern and ignores a daughter who is presently manifesting behavioral problem. She kept secrets as she never allowed her husband and children know where she stays when she's not at work. She falsified documents as she hid her marital status when she used her maiden surname in her present employment. She is having illicit affairs and is reported to be presently having an affair with a lesbian. Her desire to bring bad fate and death to Enrique through her consultation with a "*mangkukulam*" point out her lack of care, love, and respect to Enrique.

Erlinda's lack of motivation and insight greatly affected her capacity to render love, respect and support to her family.

The above data shows that Erlinda is suffering from a Personality Disorder (Mixed Personality Disorder). She has been having this disorder since her adolescence. There is no definite treatment for this disorder. She is deemed psychologically incapacitated to perform the obligations of marriage.

In fairness to Erlinda, she is recommended to undergo the same examination as Enrique underwent.^[13]

The RTC Ruling

The RTC nullified the marriage of the petitioner and the respondent in its decision of April 26, 2002. It saw merit in the petitioner's testimony and Dr. Patac's psychiatric evaluation report, and concluded that:

Without contradiction the recitation by Petitioner and the findings of the doctor show that Respondent is indeed suffering from "Mixed Personality Disorder" that render her incapable of complying with her marital obligations. Respondent's refusal to commit herself to the marriage, her tendencies to avoid a close relationship with Petitioner, preferring to be

with her lover and finally abandoning their home for a lesbian, a disregard of social norm, show that she was never prepared for marital commitment in the first place. This incapacity is deeply rooted from her family upbringing with no hope for a cure. Therefore, for the good of society and of the parties themselves, it is best that this marriage between ENRIQUE AGRAVIADOR Y ALUNAN and ERLINDA AMPARO AGRAVIADOR be annulled as if it never took place at all. The Civil Registrar of the City of Manila and the General Civil Registrar, National Census and Statistics Office, East Avenue, Quezon City, are hereby requested to make the necessary correction of the civil record of the marriage between the parties and on their respective civil status.

The children ERISQUE AGRAVIADOR, EMMANUEL AGRAVIADOR, EVELYN AGRAVIADOR and EYMAREY AGRAVIADOR will however remain as their legitimate children.

It is SO ORDERED.^[14]

The CA Decision

The Republic of the Philippines, through the Office of the Solicitor General, appealed the RTC decision to the CA. The CA, in its decision^[15] dated May 31, 2005, reversed and set aside the RTC resolution, and dismissed the petition.

The CA held that Dr. Patac's psychiatric evaluation report failed to establish that the respondent's personality disorder was serious, grave and permanent; it likewise did not mention the root cause of her incapacity. The CA further ruled that Dr. Patac had no basis in concluding that the respondent's disorder had no definite treatment because he did not subject her to a mental assessment.

The CA added that the "psychiatric remarks" in the Report were nothing but a showcase of respondent's character flaws and liabilities. There was no proof of a natal or supervening factor that effectively incapacitated the respondent from accepting and complying with the essential obligations of marriage. If at all, these character flaws may only give rise to a legal separation suit.

The petitioner moved to reconsider this decision, but the CA denied his motion in its resolution of December 6, 2005.^[16]

The Petition and Issues

The petitioner now comes to us *via* the present petition to challenge and seek the reversal of the CA ruling, based on the following arguments:

I. THE EVIDENCE ADDUCED BY [HIM] WAS MORE THAN SUBSTANTIAL TO ESTABLISH THE PSYCHOLOGICAL INCAPACITY OF THE RESPONDENT[;]

II. THE GUIDELINES SET FORTH IN *REPUBLIC V. MOLINA* [HAD BEEN] SATISFIED[;]

III. THE ADMISSIBILITY XXX OF THE PSYCHIATRIC EVALUATION REPORT XXX STILL STANDS FOR NOT HAVING BEEN CONTESTED XXX BY THE STATE AND/THE RESPONDENT[; and]

IV. THE DEGREE OF PROOF REQUIRED IN CIVIL CASES HAD BEEN SATISFIED[.]

The issue in this case essentially boils down to *whether there is basis to nullify the petitioner's marriage to the respondent on the ground of psychological incapacity to comply with the essential marital obligations.*

The Court's Ruling

We resolve to **deny** the petition for lack of merit, and hold that no sufficient basis exists to annul the marriage, pursuant to Article 36 of the Family Code and its related jurisprudence.

The totality of evidence presented failed to establish the respondent's psychological incapacity

The petition for declaration of nullity of marriage is anchored on Article 36 of the Family Code which 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." It introduced the concept of psychological incapacity as a ground for nullity of marriage, although this concept eludes exact definition.

The initial common consensus on psychological incapacity under Article 36 of the Family Code was that it did not involve a species of vice of consent. Justices Sempio-Diy and Caguioa, both members of the Family Code revision committee that drafted the Code, conceded that the spouse may have given free and voluntary consent to a marriage but was, nonetheless, incapable of fulfilling such rights and obligations. Dr. Arturo Tolentino likewise stated in the 1990 edition of his commentaries on the Family Code that this "psychological incapacity to comply with the essential marital obligations does not affect the consent to the marriage."^[17]

In *Santos v. Court of Appeals*,^[18] the Court first declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. It 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."^[19] 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.