

THIRD DIVISION

[G.R. No. 173138, December 01, 2010]

**NOEL B. BACCAY, PETITIONER, VS. MARIBEL C. BACCAY AND
REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

DECISION

VILLARAMA, JR., J.:

This petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assails the Decision^[1] dated August 26, 2005 and Resolution^[2] dated June 13, 2006 of the Court of Appeals (CA) in CA-G.R. CV No. 74581. The CA reversed the February 5, 2002 Decision^[3] of the Regional Trial Court (RTC) of Manila, Branch 38, which declared the marriage of petitioner Noel B. Baccay (Noel) and Maribel Calderon-Baccay (Maribel) void on the ground of psychological incapacity under Article 36^[4] of the Family Code of the Philippines.

The undisputed factual antecedents of the case are as follows:

Noel and Maribel were schoolmates at the Mapua Institute of Technology where both took up Electronics and Communications Engineering. Sometime in 1990, they were introduced by a mutual friend and became close to one another. Noel courted Maribel, but it was only after years of continuous pursuit that Maribel accepted Noel's proposal and the two became sweethearts. Noel considered Maribel as the snobbish and hard-to-get type, which traits he found attractive.^[5]

Noel's family was aware of their relationship for he used to bring Maribel to their house. Noel observed that Maribel was inordinately shy when around his family so to bring her closer to them, he always invited Maribel to attend family gatherings and other festive occasions like birthdays, Christmas, and fiesta celebrations. Maribel, however, would try to avoid Noel's invitations and whenever she attended those occasions with Noel's family, he observed that Maribel was invariably aloof or snobbish. Not once did she try to get close to any of his family members. Noel would talk to Maribel about her attitude towards his family and she would promise to change, but she never did.

Around 1997, Noel decided to break up with Maribel because he was already involved with another woman. He tried to break up with Maribel, but Maribel refused and offered to accept Noel's relationship with the other woman so long as they would not sever their ties. To give Maribel some time to get over their relationship, they still continued to see each other albeit on a friendly basis.

Despite their efforts to keep their meetings strictly friendly, however, Noel and Maribel had several romantic moments together. Noel took these episodes of sexual contact casually since Maribel never demanded anything from him except his

company. Then, sometime in November 1998, Maribel informed Noel that she was pregnant with his child. Upon advice of his mother, Noel grudgingly agreed to marry Maribel. Noel and Maribel were immediately wed on November 23, 1998 before Judge Gregorio Dayrit, the Presiding Judge of the Metropolitan Trial Court of Quezon City.

After the marriage ceremony, Noel and Maribel agreed to live with Noel's family in their house at Rosal, Pag-asa, Quezon City. During all the time she lived with Noel's family, Maribel remained aloof and did not go out of her way to endear herself to them. She would just come and go from the house as she pleased. Maribel never contributed to the family's coffer leaving Noel to shoulder all expenses for their support. Also, she refused to have any sexual contact with Noel.

Surprisingly, despite Maribel's claim of being pregnant, Noel never observed any symptoms of pregnancy in her. He asked Maribel's office mates whether she manifested any signs of pregnancy and they confirmed that she showed no such signs. Then, sometime in January 1999, Maribel did not go home for a day, and when she came home she announced to Noel and his family that she had a miscarriage and was confined at the Chinese General Hospital where her sister worked as a nurse.

Noel confronted her about her alleged miscarriage sometime in February 1999. The discussion escalated into an intense quarrel which woke up the whole household. Noel's mother tried to intervene but Maribel shouted "*Putang ina nyo, wag kayo makialam*" at her. Because of this, Noel's mother asked them to leave her house. Around 2:30 a.m., Maribel called her parents and asked them to pick her up. Maribel left Noel's house and did not come back anymore. Noel tried to communicate with Maribel but when he went to see her at her house nobody wanted to talk to him and she rejected his phone calls.^[6]

On September 11, 2000 or after less than two years of marriage, Noel filed a petition^[7] for declaration of nullity of marriage with the RTC of Manila. Despite summons, Maribel did not participate in the proceedings. The trial proceeded after the public prosecutor manifested that no collusion existed between the parties. Despite a directive from the RTC, the Office of the Solicitor General (OSG) also did not submit a certification manifesting its agreement or opposition to the case.^[8]

On February 5, 2002, the RTC rendered a decision in favor of Noel. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered declaring the marriage of the parties hereto celebrated on November 23, 1998 at the sala of Judge Gregorio Dayrit of the Metropolitan Trial Court in Quezon City as NULL and VOID.

The Local Civil Registrar of Quezon City and the Chief of the National Statistics Office are hereby directed to record and enter this decree into the marriage records of the parties in their respective marriage registers.

The absolute community property of the parties is hereby dissolved and,

henceforth, they shall be governed by the property regime of complete separation of property.

With costs against respondent.

SO ORDERED.^[9]

The RTC found that Maribel failed to perform the essential marital obligations of marriage, and such failure was due to a personality disorder called Narcissistic Personality Disorder characterized by juridical antecedence, gravity and incurability as determined by a clinical psychologist. The RTC cited the findings of Nedy L. Tayag, a clinical psychologist presented as witness by Noel, that Maribel was a very insecure person. She entered into the marriage not because of emotional desire for marriage but to prove something, and her attitude was exploitative particularly in terms of financial rewards. She was emotionally immature, and viewed marriage as a piece of paper and that she can easily get rid of her husband without any provocation.^[10]

On appeal by the OSG, the CA reversed the decision of the RTC, thus:

WHEREFORE, in view of the foregoing, the decision of the Regional Trial Court of Manila Branch 38 declaring as null and void the marriage between petitioner-appellee and respondent is hereby REVERSED. Accordingly, the instant Petition for Declaration of Nullity of Marriage is hereby DENIED.

SO ORDERED.^[11]

The appellate court held that Noel failed to establish that Maribel's supposed Narcissistic Personality Disorder was the psychological incapacity contemplated by law and that it was permanent and incurable. Maribel's attitudes were merely mild peculiarities in character or signs of ill-will and refusal or neglect to perform marital obligations which did not amount to psychological incapacity, said the appellate court. The CA noted that Maribel may have failed or refused to perform her marital obligations but such did not indicate incapacity. The CA stressed that the law requires nothing short of mental illness sufficient to render a person incapable of knowing the essential marital obligations.^[12]

The CA further held that Maribel's refusal to have sexual intercourse with Noel did not constitute a ground to find her psychologically incapacitated under Article 36 of the Family Code. As Noel admitted, he had numerous sexual relations with Maribel before their marriage. Maribel therefore cannot be said to be incapacitated to perform this particular obligation and that such incapacity existed at the time of marriage.^[13]

Incidentally, the CA held that the OSG erred in saying that what Noel should have filed was an action to annul the marriage under Article 45 (3)^[14] of the Family Code. According to the CA, Article 45 (3) involving consent to marriage vitiated by

fraud is limited to the instances enumerated under Article 46^[15] of the Family Code. Maribel's misrepresentation that she was pregnant to induce Noel to marry her was not the fraud contemplated under Article 45 (3) as it was not among the instances enumerated under Article 46.^[16]

On June 13, 2006, the CA denied Noel's motion for reconsideration. It held that Maribel's personality disorder is not the psychological incapacity contemplated by law. Her refusal to perform the essential marital obligations may be attributed merely to her stubborn refusal to do so. Also, the manifestations of the Narcissistic Personality Disorder had no connection with Maribel's failure to perform her marital obligations. Noel having failed to prove Maribel's alleged psychological incapacity, any doubts should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.^[17]

Hence, the present petition raising the following assignment of errors:

- I. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE CASE OF CHI MING TSOI vs. COURT OF APPEALS DOES NOT FIND APPLICATION IN THE INSTANT CASE.
- II. THE HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE RESPONDENT IS NOT SUFFERING FROM NARCISSISTIC PERSONALITY DISORDER; AND THAT HER FAILURE TO PERFORM HER ESSENTIAL MARITAL OBLIGATIONS DOES NOT CONSTITUTE PSYCHOLOGICAL INCAPACITY.^[18]

The issue to be resolved is whether the marriage between the parties is null and void under Article 36 of the Family Code.

Petitioner Noel contends that the CA failed to consider Maribel's refusal to procreate as psychological incapacity. Insofar as he was concerned, the last time he had sexual intercourse with Maribel was before the marriage when she was drunk. They never had any sexual intimacy during their marriage. Noel claims that if a spouse senselessly and constantly refuses to perform his or her marital obligations, Catholic marriage tribunals attribute the causes to psychological incapacity rather than to stubborn refusal. He insists that the CA should not have considered the pre-marital sexual encounters between him and Maribel in finding that the latter was not psychologically incapacitated to procreate through marital sexual cooperation. He argues that making love for procreation and consummation of the marriage for the start of family life is different from "plain, simple and casual sex." He further stresses that Maribel railroaded him into marrying her by seducing him and later claiming that she was pregnant with his child. But after their marriage, Maribel refused to consummate their marriage as she would not be sexually intimate with him.^[19]

Noel further claims that there were other indicia of Maribel's psychological incapacity and that she consistently exhibited several traits typical of a person suffering from

Narcissistic Personality Disorder before and during their marriage. He points out that Maribel would only mingle with a few individuals and never with Noel's family even if they lived under one (1) roof. Maribel was also arrogant and haughty. She was rude and disrespectful to his mother and was also "interpersonally exploitative" as shown by her misrepresentation of pregnancy to force Noel to marry her. After marriage, Maribel never showed respect and love to Noel and his family. She displayed indifference to his emotional and sexual needs, but before the marriage she would display unfounded jealousy when Noel was visited by his friends. This same jealousy motivated her to deceive him into marrying her.

Lastly, he points out that Maribel's psychological incapacity was proven to be permanent and incurable with the root cause existing before the marriage. The psychologist testified that persons suffering from Narcissistic Personality Disorder were unmotivated to participate in therapy session and would reject any form of psychological help rendering their condition long lasting if not incurable. Such persons would not admit that their behavioral manifestations connote pathology or abnormality. The psychologist added that Maribel's psychological incapacity was deeply rooted within her adaptive system since early childhood and manifested during adult life. Maribel was closely attached to her parents and mingled with only a few close individuals. Her close attachment to her parents and their over-protection of her turned her into a self-centered, self-absorbed individual who was insensitive to the needs of others. She developed the tendency not to accept rejection or failure.^[20]

On the other hand, the OSG maintains that Maribel's refusal to have sexual intercourse with Noel did not constitute psychological incapacity under Article 36 of the Family Code as her traits were merely mild peculiarities in her character or signs of ill-will and refusal or neglect to perform her marital obligations. The psychologist even admitted that Maribel was capable of entering into marriage except that it would be difficult for her to sustain one. Also, it was established that Noel and Maribel had sexual relations prior to their marriage. The OSG further pointed out that the psychologist was vague as to how Maribel's refusal to have sexual intercourse with Noel constituted Narcissistic Personality Disorder.

The petition lacks merit.

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.

The Court held in *Santos v. Court of Appeals*^[21] that the phrase "psychological incapacity" is not meant to comprehend all possible cases of psychoses. It refers to no less than a mental (not physical) incapacity that causes a party to be truly noncognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as expressed by Article 68^[22] of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. The intendment of the law has