

## FIRST DIVISION

[ G.R. No. 180668, May 26, 2009 ]

**MARIETA C. AZCUETA, PETITIONER, VS. REPUBLIC OF THE PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the Decision of the Court of Appeals (CA) in CA-G.R. CV No. 86162 dated August 31, 2007,<sup>[1]</sup> and its Resolution dated November 20, 2007.<sup>[2]</sup>

Petitioner Marietta C. Azcueta and Rodolfo Azcueta met in 1993. Less than two months after their first meeting, they got married on July 24, 1993 at St. Anthony of Padua Church, Antipolo City. At the time of their marriage, petitioner was 23 years old while respondent was 28. They separated in 1997 after four years of marriage. They have no children.

On March 2, 2002, petitioner filed with the Regional Trial Court (RTC) of Antipolo City, Branch 72, a petition for declaration of absolute nullity of marriage under Article 36 of the Family Code, docketed as Civil Case No. 02-6428.

Meanwhile, respondent failed to appear and file an answer despite service of summons upon him. Because of this, the trial court directed the City Prosecutor to conduct an investigation whether there was collusion between the parties. In a report dated August 16, 2002, Prosecutor Wilfredo G. Oca found that there was no collusion between the parties.

On August 21, 2002, the Office of the Solicitor General entered its appearance for the Republic of the Philippines and submitted a written authority for the City Prosecutor to appear in the case on the State's behalf under the supervision and control of the Solicitor General.

In her petition and during her testimony, petitioner claimed that her husband Rodolfo was psychologically incapacitated to comply with the essential obligations of marriage. According to petitioner, Rodolfo was emotionally immature, irresponsible and continually failed to adapt himself to married life and perform the essential responsibilities and duties of a husband.

Petitioner complained that Rodolfo never bothered to look for a job and instead always asked his mother for financial assistance. When they were married it was Rodolfo's mother who found them a room near the Azcueta home and it was also his mother who paid the monthly rental.

Petitioner also testified that she constantly encouraged her husband to find

employment. She even bought him a newspaper every Sunday but Rodolfo told her that he was too old and most jobs have an age limit and that he had no clothes to wear to job interviews. To inspire him, petitioner bought him new clothes and a pair of shoes and even gave him money. Sometime later, her husband told petitioner that he already found a job and petitioner was overjoyed. However, some weeks after, petitioner was informed that her husband had been seen at the house of his parents when he was supposed to be at work. Petitioner discovered that her husband didn't actually get a job and the money he gave her (which was supposedly his salary) came from his mother. When she confronted him about the matter, Rodolfo allegedly cried like a child and told her that he pretended to have a job so that petitioner would stop nagging him about applying for a job. He also told her that his parents can support their needs. Petitioner claimed that Rodolfo was so dependent on his mother and that all his decisions and attitudes in life should be in conformity with those of his mother.

Apart from the foregoing, petitioner complained that every time Rodolfo would get drunk he became physically violent towards her. Their sexual relationship was also unsatisfactory. They only had sex once a month and petitioner never enjoyed it. When they discussed this problem, Rodolfo would always say that sex was sacred and it should not be enjoyed nor abused. He did not even want to have a child yet because he claimed he was not ready. Additionally, when petitioner requested that they move to another place and rent a small room rather than live near his parents, Rodolfo did not agree. Because of this, she was forced to leave their residence and see if he will follow her. But he did not.

During the trial of the case, petitioner presented Rodolfo's first cousin, Florida de Ramos, as a witness. In 1993, Ramos, the niece of Rodolfo's father, was living with Rodolfo's family. She corroborated petitioner's testimony that Rodolfo was indeed not gainfully employed when he married petitioner and he merely relied on the allowance given by his mother. This witness also confirmed that it was respondent's mother who was paying the rentals for the room where the couple lived. She also testified that at one time, she saw respondent going to his mother's house in business attire. She learned later that Rodolfo told petitioner that he has a job but in truth he had none. She also stated that respondent was still residing at the house of his mother and not living together with petitioner.

Petitioner likewise presented Dr. Cecilia Villegas, a psychiatrist. Dr. Villegas testified that after examining petitioner for her psychological evaluation, she found petitioner to be mature, independent, very responsible, focused and has direction and ambition in life. She also observed that petitioner works hard for what she wanted and therefore, she was not psychologically incapacitated to perform the duties and responsibilities of marriage. Dr. Villegas added that based on the information gathered from petitioner, she found that Rodolfo showed that he was psychologically incapacitated to perform his marital duties and responsibilities. Dr. Villegas concluded that he was suffering from Dependent Personality Disorder associated with severe inadequacy related to masculine strivings.

She explained that persons suffering from Dependent Personality Disorder were those whose response to ordinary way of life was ineffectual and inept, characterized by loss of self-confidence, constant self-doubt, inability to make his own decisions and dependency on other people. She added that the root cause of this psychological problem was a cross-identification with the mother who was the

dominant figure in the family considering that respondent's father was a seaman and always out of the house. She stated that this problem began during the early stages in his life but manifested only after the celebration of his marriage. According to Dr. Villegas, this kind of problem was also severe because he will not be able to make and to carry on the responsibilities expected of a married person. It was incurable because it started in early development and therefore deeply ingrained into his personality.

Based on petitioner's evidence, the RTC rendered a Decision dated October 25, 2004, declaring the marriage between petitioner and Rodolfo as null and *void ab initio*, thus:

With the preponderant evidence presented by the petitioner, the court finds that respondent totally failed in his commitments and obligations as a husband. Respondent's emotional immaturity and irresponsibility is grave and he has no showing of improvement. He failed likewise to have sexual intercourse with the wife because it is a result of the unconscious guilt felling of having sexual relationship since he could not distinguish between the mother and the wife and therefore sex relationship will not be satisfactory as expected.

The respondent is suffering from dependent personality disorder and therefore cannot make his own decision and cannot carry on his responsibilities as a husband. The marital obligations to live together, observe mutual love, respect, support was not fulfilled by the respondent.

Considering the totality of evidence of the petitioner clearly show that respondent failed to comply with his marital obligations.

Thus the marriage between petitioner and respondent should be declared null and void on the account of respondent's severe and incurable psychological incapacity.

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Wherefore premises considered, the marriage between Marietta Azcueta and Rodolfo B. Azcuata is hereby declared null and void abinitio pursuant to Article 36 fo the Family Code.

The National Statistics Office and the Local Civil Registrar of Antipolo City are ordered to make proper entries into the records of the parties pursuant to judgment of the court.

Let copies of this decision be furnished the Public Prosecutor and the Solicitor General.

SO ORDERED. [3]

On July 19, 2005, the RTC rendered an Amended Decision<sup>[4]</sup> to correct the first name of Rodolfo which was erroneously typewritten as "Gerardo" in the caption of the original Decision.

The Solicitor General appealed the RTC Decision objecting that (a) the psychiatric report of Dr. Villegas was based solely on the information provided by petitioner and was not based on an examination of Rodolfo; and (b) there was no showing that the alleged psychological defects were present at the inception of marriage or that such defects were grave, permanent and incurable.

Resolving the appeal, the CA reversed the RTC and essentially ruled that petitioner failed to sufficiently prove the psychological incapacity of Rodolfo or that his alleged psychological disorder existed prior to the marriage and was grave and incurable. In setting aside the factual findings of the RTC, the CA reasoned that:

**The evidence on record failed to demonstrate that respondent's alleged irresponsibility and over-dependence on his mother is symptomatic of psychological incapacity as above explained.**

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**Also worthy of note is petitioner-appellee's failure to prove that respondent's supposed psychological malady existed even before the marriage. Records however show that the parties were living in harmony in the first few years of their marriage and were living on their own in a rented apartment.** That respondent often times asks his mother for financial support **may be brought about by his feeling of embarrassment that he cannot contribute at all to the family coffers**, considering that it was his wife who is working for the family. Petitioner-appellee likewise stated **that respondent does not like to have a child on the pretense that respondent is not yet ready to have one. However this is not at all a manifestation of irresponsibility. On the contrary, respondent has shown that he has a full grasp of reality and completely understands the implication of having a child especially that he is unemployed. The only problem besetting the union is respondent's alleged irresponsibility and unwillingness to leave her (sic) mother, which was not proven in this case to be psychological-rooted.**

**The behavior displayed by respondent was caused only by his youth and emotional immaturity which by themselves, do not constitute psychological incapacity** (*Dedel vs. Court of Appeals*, 421 SCRA 461, 466 [2004]). At all events, petitioner-appellee has utterly failed, both in her allegations in the complaint and in her evidence, to make out a case of psychological incapacity on the part of respondent, let alone at the time of solemnization of the contract, so immaturity and irresponsibility, invoked by her, cannot be equated with psychological incapacity (*Pesca vs. Pesca*, 356 SCRA 588, 594 [2001]). As held by the Supreme Court:

Psychological incapacity must be more than just a difficulty, refusal or neglect in the performance of some marital obligations, it is essential that they must be shown to be incapable of doing so, due to some psychological illness existing at the time of the celebration of the marriage.

(*Navarro, Jr. vs. Cecilio-Navarro*, G.R. No. 162049, April 13, 2007).

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WHEREFORE, in the light of the foregoing, the appealed decision dated July 19, 2005 fo the Regional Trial Court (RTC) of Antipolo City, Branch 72 in Civil Case No. 02-6428 is REVERSED and SET ASIDE. The marriage between petitioner-appellee Marietta C. Azcueta and respondent Rodolfo B. Azcueta remains VALID.<sup>[5]</sup> (emphasis ours)

The basic issue to be resolved in the instant case is whether or not the totality of the evidence presented is adequate to sustain a finding that Rodolfo is psychologically incapacitated to comply with his essential marital obligations.

The Office of the Solicitor General, in its Comment, submits that the appellate court correctly ruled that the "totality of evidence presented by petitioner" failed to prove her spouse's psychological incapacity pursuant to Article 36 of the Family Code and settled jurisprudence.

We grant the petition.

Prefatorily, it bears stressing that it is the policy of our Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family.<sup>[6]</sup> Our family law is based on the policy that marriage is not a mere contract, but a social institution in which the state is vitally interested. The State can find no stronger anchor than on good, solid and happy families. The break up of families weakens our social and moral fabric and, hence, their preservation is not the concern alone of the family members.<sup>[7]</sup>

Thus, the Court laid down in *Republic of the Philippines v. Court of Appeals and Molina*<sup>[8]</sup> stringent guidelines in the interpretation and application of Article 36 of the Family Code, to wit:

(1) **The burden of proof to show the nullity of the marriage belongs to the plaintiff.** Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it "as the foundation of the nation." It decrees marriage as legally "inviolable," thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

(2) **The root cause of the psychological incapacity must be: (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision.** Article 36 of the Family Code requires that the incapacity must be psychological - not physical, although its manifestations and/or