

FIRST DIVISION

[G.R. No. 173294, February 27, 2008]

RENNE ENRIQUE BIER, G.R. No. 173294 Petitioner, vs. MA. LOURDES A. BIER and THE REPUBLIC OF THE PHILIPPINES, Respondents.

D E C I S I O N

CORONA, J.:

This petition for review on certiorari^[1] seeks to set aside the March 20, 2006 decision^[2] and July 3, 2006 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 66952.

Petitioner Renne Enrique E. Bier met respondent Ma. Lourdes A. Bier through his sister. Their courtship, which blossomed as a result of the exchange of long distance calls between them, lasted six months. Back then, petitioner observed respondent to be a very sweet and thoughtful person. This, he said, made him fall in love with her.

On July 26, 1992, six months after their first meeting, they were married at the UST Santissimo Rosario Parish Church. Everything went well for the first three years of their marriage. Respondent was everything petitioner could hope for in a wife — sweet, loving and caring. She also took good care of the house. As petitioner was based in Saudi Arabia as an electronics technician at Saudia Airlines, the parties decided to maintain two residences, one in the Philippines and another in Saudi Arabia. They took turns shuttling between the two countries just so they could spend time together.

The couple started experiencing marital problems after three years of marriage. According to petitioner, respondent ceased to be the person he knew and married. She started becoming aloof towards him and began to spend more time with her friends than with him, refusing even to have sexual relations with him for no apparent reason. She became an alcoholic and a chain-smoker. She also started neglecting her husband's needs and the upkeep of their home, and became an absentee wife. After being gone from their home for days on end, she would return without bothering to account for her absence. As a result, they frequently quarreled. Finally, on April 10, 1997, respondent suddenly left for the United States. Petitioner has not heard from her since.

On April 1, 1998, petitioner instituted in the Regional Trial Court (RTC) of Quezon City, Branch 89, a petition for the declaration of nullity of marriage on the ground that respondent was psychologically incapacitated to fulfill her essential marital obligations to petitioner. It was docketed as Civil Case No. Q-98-33993.

Per sheriff's return, summons was served through substituted service as personal

service proved futile. Respondent, however, did not file an answer.

Thereafter, the RTC ordered Assistant City Prosecutor Edgardo T. Paragua to investigate if there was collusion between the parties and to intervene for the State to see to it that evidence was not fabricated. Assistant City Prosecutor Paragua manifested that, since both parties failed to appear before him, he was unable to make a ruling on the issue of collusion and determine if the evidence was fabricated.

After petitioner filed his pre-trial brief, Prosecutor Paragua filed a second manifestation stating that petitioner had appeared before him and that, after investigation, he was convinced that there was no collusion between the parties and that the evidence was not fabricated.

At pre-trial, only petitioner appeared. As respondent failed to attend the same, the RTC declared her to have waived the pre-trial. Thereafter, trial on the merits ensued. Again, respondent did not take part in the proceedings.

Petitioner filed a written offer of exhibits which was admitted by the trial court.

The Office of the Solicitor General (OSG) filed a certification and manifested its disfavor towards declaring the marriage null and void. It argued that no persuasive evidence was presented warranting the grant of the petition, specially since petitioner failed to comply with the guidelines laid down in *Republic v. CA and Molina*^[4] (*Molina*).

After trial, the trial court rendered judgment^[5] granting the petition:

WHEREFORE, premises considered, judgment is hereby rendered declaring as VOID, based upon the respondent's psychological incapacity, the marriage contracted on July 26, 1992 between Renne Enrique E. Bier and Ma. Lourdes A. Bier. As such, their property relations shall be governed by the rules on co-ownership pursuant to Article 147 of the Family Code. Henceforth, their property relations shall be governed by the regime of complete separation of property.

Let a copy of this decision be furnished the Civil Registrar General, National Census and Statistics Office and the Local Civil Registrar of Manila, ordering them to attach a copy of this Decision to the Marriage Contract of herein petitioner and respondent on file with respective office.

With costs against the respondent.

SO ORDERED.

Respondent Republic of the Philippines, through the OSG, appealed the decision of the RTC to the CA, docketed as CA-G.R. CV No. 66952. The CA held that petitioner failed to comply with the guidelines laid down in *Molina* as the root cause of respondent's psychological incapacity was not medically or clinically identified. Worse, the same was not even alleged in the petition filed in the court *a quo*. As such, it granted the appeal and reversed the decision of the trial court. The dispositive portion of the assailed decision^[6] read:

WHEREFORE, premises considered, the appeal is **GRANTED**. The Decision dated 06 March 2000 of the Regional Trial Court of Quezon City, Branch 89 in Civil Case No. Q-98-33993, which declared as void the marriage between appellee and respondent, is **REVERSED and SET ASIDE**. The marriage of Renne Enrique E. Bier and respondent Ma. Lourdes A. Bier remains **valid and subsisting**. No costs.

SO ORDERED.

Petitioner moved for reconsideration of the CA decision. The same was denied. Hence, this recourse.

Petitioner contends that the guidelines enunciated in *Molina*, specifically its directive that the root cause of the psychological incapacity must be identified as a psychological illness and its incapacitating nature fully explained, and that it must be proven to be existing at the inception of the marriage, need not be strictly complied with as *Molina* itself stated the guidelines were merely "handed down for the guidance of the bench and bar" and were not meant to be a checklist of requirements in deciding cases involving psychological incapacity. Furthermore, even assuming *arguendo* that the *Molina* doctrine should be applied, the RTC erred in ruling that he failed to comply therewith.

The petition must fail.

Preliminarily, we must pass upon petitioner's argument that the finding of the trial court on the existence or non-existence of psychological incapacity is final and binding on us absent any showing that its factual findings and evaluation of the evidence were clearly and manifestly erroneous.^[7] Petitioner's position is of course the general rule. In the instant case, however, it is the exception to the general rule which must be applied; the court a quo clearly erred in granting the petition. It stated in the body of its decision that:

While this Court agrees with the observation of the Office of the Solicitor General that the juridical antecedence of the psychological disorder and its root cause were not established, the same will not serve as a hindrance for the Court to declare that respondent is indeed suffering from a psychological incapacity. The failure of the Psychological Report to identify the root cause of respondent's psychological incapacity is not a fatal flaw that will prevent the Court from declaring a marriage a nullity based on psychological incapacity. (Emphasis supplied)

The trial court apparently overlooked the fact that this Court has been consistent in holding that if a petition for nullity based on psychological incapacity is to be given due course, its gravity, root cause, incurability and the fact that it existed prior to or at the time of celebration of the marriage must always be proved.^[8] As early as *Santos v. CA, et al.*,^[9] we already held that:

[P]sychological incapacity 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 emerge only after the marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.

xxx **This psychologic condition must exist at the time the marriage is celebrated.** xxx (Emphasis supplied)

These must be strictly complied with as the granting of a petition for nullity of marriage based on psychological incapacity must be confined only to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.^[10] This is specially so since the Family Code does not define psychological incapacity. The determination thereof is left solely to the discretion of the courts and must be made on a case-to-case basis.^[11]

Also, even if *Molina* was never meant to be a checklist of the requirements in deciding cases involving Article 36 (psychological incapacity) of the Family Code, a showing of the gravity, juridical antecedence and incurability of the party's psychological incapacity and its existence at the inception of the marriage cannot be dispensed with. In *Marcos v. Marcos (Marcos)*,^[12] a case cited by petitioner to support his argument that the totality of evidence presented was enough to prove the existence of respondent's psychological incapacity, this Court reiterated that:

The [*Molina*] guidelines incorporate the three basic requirements earlier mandated by the Court in *Santos v. Court of Appeals*: "psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. The foregoing guidelines do not require that a physician examine the person to be declared *psychologically* incapacitated. In fact, the root cause may be "medically or *clinically* identified." What is important is the presence of evidence that can adequately establish the party's psychological condition. For indeed, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to.

xxx xxx xxx

[t]he totality of his acts does not lead to a conclusion of psychological incapacity on his part. **There is absolutely no showing that his "defects" were already present at the inception of the marriage or that they are incurable.** (Emphasis supplied)

Furthermore, the 2005 case of *Republic v. Iyoy* ^[13] held that even if *Marcos* (2000) relaxed the rules such that the personal examination of the party alleged to be psychologically incapacitated by a psychiatrist or psychologist is no longer mandatory for the declaration of nullity of the marriage under Article 36 of the Family Code, the totality of evidence must still prove the gravity, juridical antecedence and incurability of the alleged psychological incapacity. Failure in this regard will spell the failure of the petition.

From the foregoing, one can conclude that petitioner's insistence that *Marcos*