

THIRD DIVISION

[G.R. No. 167523, June 27, 2008]

**NILDA V. NAVALES, PETITIONER, VS. REYNALDO NAVALES,
RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on *Certiorari* assailing the Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 76624 promulgated on February 16, 2005 which affirmed the Judgment^[2] of the Regional Trial Court (RTC) Branch 59 of Toledo City, in Civil Case No. T-799 dated January 2, 2002, declaring the nullity of the marriage of Reynaldo and Nilda Navales on the ground of psychological incapacity.

The facts are as follows:

Reynaldo Navales (Reynaldo) and Nilda Navales (Nilda) met in 1986 in a local bar where Nilda worked as a waitress. The two became lovers and Nilda quit her job, managed a boarding house owned by her uncle and studied Health Aide financed by Reynaldo. Upon learning that Nilda's uncle was prodding her to marry an American, Reynaldo, not wanting to lose her, asked her to marry him. This, despite his knowledge that Nilda was writing her penpals and was asking money from them and that she had an illegitimate son by a man whose identity she did not reveal to him.^[3] The two got married on December 29, 1988, before the Municipal Trial Court Judge of San Fernando, Cebu.^[4]

Reynaldo claims that during the first year of their marriage, their relationship went well. Problems arose, however, when Nilda started selling RTWs and cosmetics, since she could no longer take care of him and attend to household chores.^[5] Things worsened when she started working as an aerobics instructor at the YMCA, where, according to Reynaldo, Nilda's flirtatiousness and promiscuity recurred. She wore tight-fitting outfits, allowed male clients to touch her body, and introduced herself as single. Reynaldo received phone calls from different men looking for Nilda. There was also a time when Nilda chose to ride with another man instead of Reynaldo; and another when Nilda went home late, riding in the car of the man who kissed her. Reynaldo also claims that Nilda refused to have a child with him, as it would destroy her figure.^[6] On June 18, 1992, Reynaldo left Nilda and never reconciled with her again.^[7]

On August 30, 1999, Reynaldo filed a Petition for Declaration of Absolute Nullity of Marriage and Damages before the RTC, Toledo City, Cebu, docketed as Civil Case No. T-799 claiming that his marriage with Nilda did not cure Nilda's flirtatiousness and sexual promiscuity, and that her behavior indicates her lack of understanding

and appreciation of the meaning of marriage, rendering the same void under Article 36 of the Family Code.^[8]

Reynaldo testified in support of his petition and presented telephone directories showing that Nilda used her maiden name "Bacon" instead of "Navales."^[9] Reynaldo also presented Josefino Ramos, who testified that he was with Reynaldo when Reynaldo first met Nilda at the bar called "Appetizer," and that he (Ramos) himself was attracted to Nilda since she was sexy, beautiful, and jolly to talk with.^[10] Reynaldo also presented Violeta Abales, his cousin, who testified that she was a vendor at the YMCA where Nilda worked and was known by her maiden name; that she knows Nilda is sexy and wears tight fitting clothes; that her companions are mostly males and she flirts with them; and that there was one time that Reynaldo fetched Nilda at YMCA but Nilda went with another man, which angered Reynaldo.^[11]

Finally, Reynaldo presented Leticia Vatanagul, a Clinical Psychologist and Social Worker who drafted a Psychological Assessment of Marriage dated March 28, 2001.^[12] In said Assessment, Vatanagul concluded that Nilda is a nymphomaniac, who has a borderline personality, a social deviant, an alcoholic, and suffering from anti-social personality disorder, among others, which illnesses are incurable and are the causes of Nilda's psychological incapacity to perform her marital role as wife to Reynaldo.^[13]

Nilda, for her part, claims that Reynaldo knew that she had a child before she met him, yet Reynaldo continued courting her; thus, their eventual marriage.^[14] She claims that it was actually Reynaldo who was linked with several women, who went home very late, kept his earnings for himself, and subjected her to physical harm whenever she called his attention to his vices. She worked at the YMCA to cope with the needs of life, and she taught only female students. Reynaldo abandoned her for other women, the latest of whom was Liberty Lim whom she charged, together with Reynaldo, with concubinage.^[15] Nilda presented a certification from the YMCA dated October 17, 2001 stating that she was an aerobics instructress for a program that was exclusively for ladies,^[16] as well as a statement of accounts from PLDT showing that she used her married name, Nilda B. Navales.^[17]

On January 2, 2002, the RTC rendered its Decision disposing as follows:

WHEREFORE, premises considered, judgment is hereby rendered in the above-entitled case declaring defendant Nilda B. Navales as psychologically incapacitated to fulfill her marital obligations with plaintiff Reynaldo V. Navales and further declaring their marriage contracted on December 29, 1988, before the Municipal Judge of the Municipal Trial Court of San Fernando, Cebu, as null and void.^[18]

The RTC held that:

x x x From the testimonies and evidences x x x adduced, it was clearly established that the defendant had no full understanding of [the] effects of marriage and had no appreciation of [the] consequences of marriage as shown by her x x x act of concealing her marital status by using her maiden name "Nilda T. Bacon", augmenting her pretense of being still

single through the telephone directories; by her refusal to accompany with [sic] her husband despite of the latter's insistence, but rather opted to ride other man's jeep, whose name her husband did not even know; by her act of allowing a man other than her husband to touch her legs even in her husband's presence; by allowing another man to kiss her even in the full view of her husband; by preferring to loss [sic] her husband rather than losing her job as aerobic instructress and on top of all, by refusing to bear a child fathered by her husband because it will destroy her figure, is a clear indication of the herein defendant's psychological incapacity.^[19]

Nilda filed a Motion for Reconsideration, which the RTC denied on April 10, 2002.^[20]

The CA dismissed Nilda's appeal, ruling that the RTC correctly held that Nilda concealed her marital status, as shown by the telephone listings in which Nilda used her maiden name; that nymphomania, the condition which the expert said Nilda was afflicted with, was a ground for psychological incapacity; and that the RTC correctly gave weight to the four pieces of testimonial evidence presented by Reynaldo *vis-a-vis* the lone testimony of Nilda.^[21]

Nilda now comes before the Court alleging that:

I

The petitioner is not psychologically incapacitated to comply [with] her marital obligations as a wife.

II

Psychological incapacity, if ever existing, of the wife is NOT PERMAMENT or INCURABLE and was NEVER EXISTING AT THE TIME OF THE CELEBRATION OF MARRIAGE.

III

The petitioner is not a nymphomaniac.

IV

The effort of herein petitioner into the case shows that she is consciously and nobly preserving and continue to believe that marriage is inviolable rather [sic].

V

The guidelines of Molina case in the application of Article 36 of the New Family Code has not been strictly complied with. ^[22]

Nilda claims that she did not fail in her duty to observe mutual love, respect and fidelity; that she never had any illicit relationship with any man; that no case for in chastity was initiated by Reynaldo against her, and that it was actually Reynaldo

who had a pending case for concubinage.^[23] She questions the lower courts' finding that she is a nymphomaniac, since she was never interviewed by the expert witness to verify the truth of Reynaldo's allegations. There is also not a single evidence to show that she had sexual intercourse with a man other than her husband while they were still living together.^[24]

Nilda also avers that the guidelines in *Republic of the Philippines. v. Molina*^[25] were not complied with. The RTC resolved the doubt on her motive for using her maiden name in the telephone directory in favor of the dissolution of the marriage instead of its preservation. The expert opinion was given weight, even though it was baseless to establish that petitioner had psychological incapacity to comply with her marital obligations as a wife; and that, assuming that such incapacity existed, it was already existing at the time of the marriage; and that such incapacity was incurable and grave enough to bring about the disability of the wife to assume the essential obligations of marriage.^[26]

Reynaldo, for his part, argues that while the petition is captioned as one under Rule 45, it is actually a petition for *certiorari* under Rule 65, since it impleads the CA as respondent and alleges that the CA acted without or in excess of jurisdiction or with grave abuse of discretion amounting to lack of or excess of jurisdiction.^[27] Reynaldo also claims that the issues raised by Nilda necessarily require a review of the factual findings of the lower courts, which matters have already been decided and passed upon, and factual findings of the courts *a quo* are binding on this Court; that only questions of law may be raised before this Court; that the RTC, in reaching its decision, complied with the requirements of *Molina*; that the Solicitor General was represented by the City Prosecutor of Toledo City; and that Reynaldo discharged the burden of proof to show the nullity of his marriage to Nilda.

Reynaldo further averred that he testified on his behalf; presented corroborating witnesses, one of whom is an expert clinical psychologist, as well as documentary evidence in support of his cause of action; that *Molina* did not require that the psychologist examine the person to be declared psychologically incapacitated; that Nilda did not rebut the psychologist's findings and did not present her own expert to disprove the findings of Vatanagul; that Nilda's psychological incapacity, caused by nymphomania, was duly proven to have been existing prior to and at the time of her marriage to Reynaldo and to have become manifest during her marriage, based on the testimonies of Reynaldo and his witnesses; and that such incapacity was proven to be incurable, as shown by the report of Vatanagul.^[28]

Nilda filed a Reply, and both parties filed their respective memoranda reiterating their arguments.^[29] Simply stated, the issue posed before the Court is whether the marriage between Reynaldo and Nilda is null and void on the ground of Nilda's psychological incapacity.

The answer, contrary to the findings of the RTC and the CA, is in the negative.

Preliminarily, let it be stressed 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.^[30] The Constitution decrees marriage as legally inviolable and protects it from dissolution at the whim of the parties.^[31] The Family

Code under Article 48 [32] therefore requires courts to order the prosecuting attorney or fiscal assigned, in cases of annulment or declaration of absolute nullity of marriage, to appear on behalf of the State in order to take steps to prevent collusion between the parties and to take care that the evidence is not fabricated or suppressed. Indeed, only the active participation of the Public Prosecutor or the Office of the Solicitor General (OSG) will ensure that the interest of the State is represented and protected in proceedings for annulment and declarations of nullity of marriage by preventing collusion between the parties, or the fabrication or suppression of evidence. [33]

While the guidelines in *Molina* requiring the OSG to issue a certification on whether or not it is agreeing or objecting to the petition for annulment has been dispensed with by A.M. No. 02-11-10-SC or the Rule on the Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, [34] still, Article 48 mandates the appearance and active participation of the State through the fiscal or the prosecuting attorney. [35]

In this case, contrary to the assertion of the RTC that the OSG actively participated in the case through the Office of the City Prosecutor, records show that the State's participation consists only of the Report dated November 29, 1999 by Assistant City Prosecutor Gabriel L. Trocio, Jr. stating that no collusion exists between the parties; [36] the OSG's Opposition to the petition for declaration of nullity of marriage dated June 2, 2000; [37] and the cross-examination conducted by Prosecutor Trocio on Reynaldo [38] and his witness Abales. [39] There were no other pleadings, motions, or position papers filed by the Public Prosecutor or OSG; and no controverting evidence presented by them before the judgment was rendered. Considering the interest sought to be protected by the aforesaid rules, the Court finds the State's participation in this case to be wanting. [40]

But even on the merits, the Court finds that the totality of evidence presented by Reynaldo, contrary to its appreciation by the RTC and the CA, is insufficient to sustain a finding that Nilda is psychologically incapacitated.

Generally, factual findings of trial courts, when affirmed by the CA, are binding on this Court. Such principle however is not absolute, such as when the findings of the appellate court go beyond the issues of the case; run contrary to the admissions of the parties; fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; or when there is a misappreciation of facts. [41] Such is the case at bar.

Psychological incapacity, in order to be a ground for the nullity of marriage under Article 36 [42] of the Family Code, refers to a serious psychological illness afflicting a party even before the celebration of marriage. It is a malady that is so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume. As all people may have certain quirks and idiosyncrasies, or isolated traits associated with certain personality disorders, there is hardly any doubt that the intention of the law has been to confine the meaning of psychological incapacity to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage. [43]