

SECOND DIVISION

[G.R. NO. 168328, February 28, 2007]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. LAILA
TANYAG-SAN JOSE AND MANOLITO SAN JOSE, RESPONDENTS.**

DECISION

CARPIO MORALES, J.:

Respondents Laila Tanyag-San Jose (Laila) and Manolito San Jose (Manolito) were married on June 12, 1988. Laila was 19 years and 4 months old, while Manolito was 20 years and 10 months old.^[1]

The couple begot two children: Joana Marie who was born on January 3, 1989,^[2] and Norman who was born on March 14, 1997.^[3]

For nine years, the couple stayed with Manolito's parents. Manolito was jobless and was hooked to gambling and drugs. As for Laila, she sold fish at the wet market of Taguig.^[4]

On August 20, 1998, Laila left Manolito and transferred to her parents' house.^[5]

On March 9, 1999, Laila filed a *Petition for Declaration of Nullity of Marriage*,^[6] under Article 36^[7] of the Family Code on the ground of psychological incapacity, before the Regional Trial Court (RTC) of Pasig where it was docketed as JDRC Case No. 4862.

Testifying for Laila, Dr. Nedy Tayag, a clinical psychologist at the National Center for Mental Health, declared that from the psychological test and clinical interview she conducted on Laila, she found Manolito, whom she did not personally examine, to be psychologically incapacitated to perform the duties of a husband.

Dr. Tayag's May 28, 1999 Report on the *Psychological Condition of LAILA T. SAN JOSE*^[8] was submitted in evidence. The pertinent portions of the Report read:

BACKGROUND DATA & BRIEF MARITAL HISTORY:

x x x x

. . . [Laila's] association with [Manolito] started with the game of basketball. As a youngster, petitioner often spent her free time seeking fun in the outdoors. She was then beginning to cast her interests on basketball games and eventually became one of the avid spectators when a minor league was staged at their place. Respondent happened to be one of the cagers who, with his hardcourt skills, greatly impressed

petitioner. The latter then became a fan of respondent. Eventually acquiring the upper hand, respondent introduced himself personally to his admirers and their initial encounter with petitioner proved to be a milestone for both of their fates. Courtship followed and after a short period, they were already steadies.

Savoring the momentum, petitioner and respondent decided to formally seal their union. They entered marriage on June 12, 1989 under religious ceremonies held in Taguig. After the occasion, the newlyweds then went on to lead a life of their own making. However, contrary to what was expected, their marriage turned out to be rocky right from the very start.

Claimed, respondent refused to get himself a job. Instead, he spent most of his available time with his friends drinking intoxicating substances and gambling activities. Petitioner was left without much choice but to flex her muscles and venture on several areas which could be a source of income. She tried to endure the situation with the hope that respondent would change for the better in no time. Their first child, Joana Marie, was born of January 3, 1989. Petitioner was apparently happy with the birth of their first born, thinking that her presence would make a difference in the family, particularly on the part of respondent.

Years had passed but no improvement was seen on respondent's behavior. He turned out to be worse instead and it was only later that petitioner discovered that he was into drugs. Said, he prefers to be with his friends rather than his own family. He seemed oblivious to the efforts rendered by petitioner just to make ends meet. She was the breadwinner of the family and whenever an argument occurred between her and respondent, she often received the brunt of her husband's irrationality. On one of such incidents, she decided to separate from respondent. The latter however pursued her and pleaded for another chance. He promised that he would change his behavior if only petitioner would give him a son. Seeing his sincerity and unwilling to give up the marriage, petitioner agreed to the compromise.

They reconciled and she did gave birth to a son, Norman, on March of 1997. Respondent was happy but his show of good nature was superficial. Briefly after the birth of their second child, respondent resumed his old ways and made them even worse.

Still, petitioner remained hopeful that something will turn out right in their union. However, with respondent's continuing irresponsibility, she realized that all her efforts proved nonsense to him. On August 20, 1998, respondent went out of their dwelling for his usual late night stints but he never came back the following morning. They never lived together since.

Respondent is MANOLITO SAN JOSE, 31 years old with last known address at 14-D Ibayo, Tipas, Taguig, Metro Manila. He is unemployed and stayed in school only to finish his secondary education. He was described to be a happy-go-lucky individual spending most of his time hanging out with friends. Considered to be a bad influence, he was into gambling, drinking sprees and prohibited drugs as well.

x x x x

REMARKS:

Through the evaluation of test data, correlated with clinical interviews and description of their marital plight, it is the opinion of the undersigned that the disintegration of the marriage between petitioner and respondent was **caused primarily by the latter's psychological incapacity to perform the essential roles and obligations of a married man and a father.**

His behavioral pattern characterized mainly by constant irresponsibility, lack of concern for the welfare of others, self-centered orientation, absence of remorse, violent tendencies and his involvement in activities defying social and moral ethics; suits under the classification of Anti-Social Personality Disorder.

Such disorder is considered to be grave and is deeply [immersed] within the system. It continues to influence the individual until the later stage of life.^[9] (Emphasis and underscoring supplied)

Branch 70 of the RTC of Pasig, by Decision of July 17, 2001, citing *Republic of the Philippines v. Court of Appeals*^[10] and *Leouel Santos v. CA, et al.*^[11] denied Laila's petition in this wise:

In the recent case of Republic of the Philippines vs. Court of Appeals and Roridel Olaviano Molina (268 SCRA 198), the Supreme Court, reiterated its ruling [in] the earlier case of [Leouel] Santos vs. Court of Appeals (240 SCRA 20), to the effect that "psychological incapacity should refer to no less than a mental (not physical incapacity x x x) and that there is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorder clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage and that such incapacity "must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability."

Viewed in the light of the above guidelines, the present petition must necessarily be denied.

Petitioner's portrayal of respondent as jobless and irresponsible is not enough. As the Supreme Court said in the Molina case (supra), "(I)t is not enough to prove that the parties failed to meet their responsibilities and duties as married persons; it is essential that they must be shown to be incapable of doing so, due to some psychological (not physical) illness."

Petitioner's case is not in any way enhanced by the psychological evaluation and assessment done by psychologist Nedy Tayag as per her Psychological Report (Exhs. "C" to "C-1"). Although the body of the report mentions that the respondent is affected with "Anti-Social

Personality Disorder", the same cannot sway this Court from its above disposition. **There is no showing that [Dr.] Tayag was able to interview the respondent or any of his relatives in order to arrive at the above conclusion. Obviously, the data upon which the finding or conclusion was based is inadequate.**^[12] (Emphasis and underscoring supplied)

Laila's motion for reconsideration of the trial court's decision was, by Order of November 13, 2001,^[13] denied. Laila thus appealed to the Court of Appeals which docketed it as CA G.R. CV No. 73286, faulting the trial court in holding that she failed to comply with the guidelines enumerated in *Molina*.

By Decision dated February 15, 2005,^[14] the appellate court, finding Manolito psychologically incapacitated after considering "the totality of the evidence," reversed the decision of the trial court and declared the marriage between him and Laila void *ab initio*. Thus the appellate court held:

. . . We perused the records of the present case and unearthed that the totality of the evidence presented in the present case - including the testimony of the petitioner, were enough to sustain a finding that Manolito San Jose is psychologically incapacitated within the contemplation of the Family Code. We believe that his (respondent's) defects were already present at the inception of the marriage or that they are incurable. **If being jobless (since the commencement of the marriage up to the filing of the present petition) and worse, a gambler, can hardly qualify as being mentally or physically ill - what then can We describe such acts? Are these normal manners of a married man?** We are not at all swayed that a union affirmed in church rites and subsequently having children, are proofs that either of the spouses is mature and responsible enough to assume marital responsibilities.

Accordingly, We can safely conclude that said deficiency is so grave and so permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume. This Court, finding the gravity of the failed relationship in which the parties found themselves trapped in its mire of unfulfilled vows and unconsummated marital obligations, can do no less but to declare the marriage between the herein petitioner and the respondent herein dissolved. While the law provides that the husband and the wife are obliged to live together, observe mutual love, respect and fidelity ([A]rticle 68 of the Family Code), however, what is there to preserve when the other spouse is **an unwilling party to the cohesion and creation of a family as an inviolable social institution.** In fine, Laila Tanyag-San Jose must be allowed to rise from the ashes and begin a new life-freed from a marriage which, to Us, was hopeless from the beginning and where the bonding could not have been possible.

x x x x

While We may not have strictly adhered to the ruling in the *Molina* case in arriving at Our present conclusion - We have reason to deviate from

the same. In view of the peculiar circumstances attendant in this case, We were constrained to take exception from the Molina case. Note that the "(c) ommittee did not give any example of psychological incapacity for the fear that the giving of examples would limit the applicability of the provision under the principle of *ejusdem generis*. Rather, the Committee would like the judge to apply the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decision of Church tribunals which although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law." (page 37, Handbook of the Family Code of the Philippines, Sempio-Diy, 1991 reprinted). Hence, whether or not psychological incapacity exists is for Us to establish, as there is no hard and fast rule in the determination of what maybe considered *indicia* of psychological incapacity. To Our mind there are sufficient grounds for Us to conclude that indeed psychological incapacity exists so as to warrant declaration of the marriage void *ab initio*.^[15] (Italics and underscoring in the original; emphasis supplied)

Petitioner, Republic of the Philippines, filed a Motion for Reconsideration^[16] of the appellate court's decision which was denied, by Resolution dated June 2, 2005,^[17] hence, its present Petition for Review,^[18] positing that:

I

IT WAS NOT PROVEN THAT MANOLITO'S ALLEGED DEFECTS ARE CONSTITUTIVE OF PSYCHOLOGICAL INCAPACITY AS CONTEMPLATED UNDER ARTICLE 36 OF THE FAMILY CODE AND THAT THE SAME HAS JURIDICAL ANTECEDENCE, IS GRAVE AND INCURABLE[, AND]

II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT ADHERING TO THE RULING OF THE MOLINA CASE AND THE DOCTRINE OF STARE DECISIS.^[19]

Petitioner contends that Laila failed to prove that Manolito is psychologically incapacitated to perform his marital obligations as she merely relied on the report of Dr. Tayag; and granted that the psychological examination of Manolito is not a requirement for a declaration of his psychological incapacity, the totality of the evidence presented does not show Manolito's psychological incapacity.

Petitioner further contends that the appellate court erred in believing that the "defects" of Manolito already existed at the inception of the marriage or are incurable; and in any event, "belief" cannot substitute for proof which the law and jurisprudence require.

Petitioner finally contends that a deviation from the Molina ruling is not proper in the present case.

Laila, as petitioner, had the burden of proof to show the nullity of the marriage.

Psychological incapacity, as a ground for nullity of marriage, has been succinctly