

THIRD DIVISION

[G.R. NO. 159521, December 16, 2005]

FRANCISCO L. GONZALES, PETITIONER, VS. ERMINDA F. GONZALES, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

This petition for review on *certiorari* seeks the reversal of the Decision dated April 2, 2003 and Resolution dated August 8, 2003, both issued by the Court of Appeals in CA-G.R. CV No. 66041, entitled, "*Erminda F. Gonzales, plaintiff-appellee versus Francisco L. Gonzales, defendant-appellant.*"

In March 1977, Francisco Gonzales, petitioner, and Erminda Gonzales, respondent, started living as husband and wife. After two (2) years, or on February 4, 1979, they got married. From this union, four (4) children were born, namely: Carlo Manuel, Maria Andres, Maria Angelica and Marco Manuel.

On October 29, 1992, respondent filed a complaint with the Regional Trial Court, Branch 143, Makati City, for annulment of marriage with prayer for support *pendente lite*, docketed as Civil Case No. 32-31111. The complaint alleges that petitioner is psychologically incapacitated to comply with the obligations of marriage. He beats her for no justifiable reason, humiliates and embarrasses her, and denies her love, sexual comfort and loyalty. During the time they lived together, they acquired properties. She managed their pizza business and worked hard for its development. She prays for the declaration of the nullity of their marriage and for the dissolution of the conjugal partnership of gains.

In his answer to the complaint, petitioner averred that it is respondent who is psychologically incapacitated. He denied that she was the one who managed the pizza business and claimed that he exclusively owns the properties "existing during their marriage."

In her reply, respondent alleged that "she controlled the entire generation of Fiesta Pizza representing 80% of the total management of the same and that all income from said business are conjugal in nature."

The public prosecutor, in compliance with the directive of the trial court, and pursuant Section 48 of the Family Code,^[1] certified that no collusion exists between the parties in asking for the declaration of the nullity of their marriage and that he would appear for the state to see to it that the evidence is not fabricated or suppressed.

Each party submitted a list of the properties with their valuation, acquired during

their union, thus:

	<u>Valuation</u> <u>of</u> <u>respondent</u> (Record, p. 110)	<u>Valuation</u> <u>of</u> <u>petitioner</u> (Record, p. 111)
1. Acropolis property	None	P 6,000,000
2. Baguio City property	10,000,000	P 10,000,000
3. Nasugbu, Batangas property	5,000,000	5,000,000
4. Corinthian house and lot	18,000,000	23,000,000
5. Sagitarius condominium	2,500,000	2,000,000
6. Office	30,000,000	24,000,000
7. Greenmeadows lot	10,000,000	15,000,000
8. White Plains	7,000,000	10,000,000
9. Corinthian lot	12,000,000	None

Personal Property (Vehicles)

1. Galant '83 model	None	P 120,000
2. Toyota Corona '79 model	-	80,000
3. Coaster '77 model	-	150,000
4. Pajero '89 model	-	500,000
5. Corolla '92 model		180,000
6. L-300 '90 model		350,000
7. Mercedes Sedan '79 model		220,000
8. Pick-up '89 model		100,000
9. Mercedes wagon '80 model	-	300,000
10. Nissan Sentra '89 model		200,000
11. 8'Tamaraws		-

Evidence adduced during the trial show that petitioner used to beat respondent without justifiable reasons, humiliating and embarrassing her in the presence of people and even in front of their children. He has been afflicted with satyriasis, a personality disorder characterized by excessive and promiscuous sex hunger manifested by his indiscriminate womanizing. The trial court found that:

"The evidence adduced by plaintiff was overwhelming to prove that the defendant by his infliction of injuries on the plaintiff, his wife, and excessive and promiscuous hunger for sex, a personality disorder called satyriasis, was, at the time of the celebration of marriage, psychologically incapacitated to comply with the essential obligations of marriage although such incapacity became manifest only after its solemnization. The defendant's evidence, on the other hand, on the psychological incapacity of plaintiff did not have any evidentiary weight, the same being doubtful, unreliable, unclear and unconvincing."

On February 12, 1997, the trial court rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is rendered:

1) Declaring the marriage contracted by and between FRANCISCO L. GONZALEZ and ERMINDA F. FLORENTINO solemnized by Rev. Fr. Alberto Ampil, S.J. on February 4, 1979, at the Manila Hilton Chapel, Nuestra de Guia Parish, Ermita, Manila, NULL and VOID *ab initio* with all legal effects as provided for under applicable laws;

2) Awarding the custody of minors Maria Andrea and Marco Manuel to the plaintiff, and Carlo Manuel and Maria Angela with rights of visitation given to both parties under an arrangement mutually acceptable to both of them;

3) Ordering the parties to deliver the children's legitimes pursuant to Article 50, in relation to Article 51 of the Family Code;

4) Ordering the defendant to give monthly support to Maria Andrea and Marco Manuel in the amount of Forty Thousand (P40,000.00) Pesos within five (5) days of each corresponding month delivered at the residence of the plaintiff starting January 1997 and thereafter;

5) Ordering the dissolution of the conjugal partnership of gains and dividing the conjugal properties between the plaintiff and the defendant as follows:

A. 1) Plaintiff's share of real properties:

1. Corinthian lot -----	P
-----	12,000,000
2. Acropolis property ----	6,000,000

3. Baguio property -----	10,000,000

4. Nasugbu property -----	5,000,000

5. Greenmeadows	12,500,000
property -----	
6. Sagitarius	
condominium -----	<u>2,250,000</u>
	P
	47,750,000

2) Personal:

1. Pajero '89 model -----	P 500,000

2. L-300 '90 model -----	350,000

3. Nissan Sentra '89	
model -----	<u>200,000</u>
	P
	1,050,000

B. 1) Defendant's share of real properties: