

## FIRST DIVISION

[ G.R. No. 144763, September 03, 2002 ]

**REYMOND B. LAXAMANA, PETITIONER, VS. MA. LOURDES\* D. LAXAMANA, RESPONDENT.**

### DECISION

**YNARES-SANTIAGO, J.:**

This is another sad tale of an estranged couple's tug-of-war over the custody of their minor children. Petitioner Reymond B. Laxamana and respondent Ma. Lourdes D. Laxamana met sometime in 1983. Petitioner, who came from a well-to-do family, was a graduate of Bachelor of Laws, while respondent, a holder of a degree in banking and finance, worked in a bank. After a whirlwind courtship, petitioner, 31 years old and respondent, 33, got married on June 6, 1984.<sup>[1]</sup> Respondent quit her job and became a full-time housewife. Petitioner, on the other hand, operated buy and sell, fishpond, and restaurant businesses for a living. The union was blessed with three children – twin brothers Joseph and Vincent, born on March 15, 1985, and Michael, born on June 19, 1986.<sup>[2]</sup>

All went well until petitioner became a drug dependent. In October 1991, he was confined at the Estrellas Home Care Clinic in Quezon City. He underwent psychotherapy and psychopharmacological treatment and was discharged on November 16, 1991.<sup>[3]</sup> Upon petition of respondent, the Regional Trial Court of Quezon City, Branch 101, ordered petitioner's confinement at the NARCOM-DRC for treatment and rehabilitation.<sup>[4]</sup> Again, on October 30, 1996, the trial court granted petitioner's voluntary confinement for treatment and rehabilitation at the National Bureau of Investigation-TRC.<sup>[5]</sup>

On April 25, 1997, the court issued an order declaring petitioner "already drug-free" and directing him to report to a certain Dr. Casimiro "for out-patient counseling for 6 months to one (1) year."<sup>[6]</sup>

Despite several confinements, respondent claimed petitioner was not fully rehabilitated. His drug dependence worsened and it became difficult for respondent and her children to live with him. Petitioner allegedly became violent and irritable. On some occasions, he even physically assaulted respondent. Thus, on June 17, 1999, respondent and her 3 children abandoned petitioner and transferred to the house of her relatives.

On August 31, 1999, petitioner filed with the Regional Trial Court of Quezon City, Branch 107, the instant petition for *habeas corpus* praying for custody of his three children.<sup>[7]</sup> Respondent opposed the petition, citing the drug dependence of petitioner.<sup>[8]</sup>

Meanwhile, on September 24, 1999, respondent filed a petition for annulment of marriage with Branch 102 of the Regional Trial Court of Quezon City.<sup>[9]</sup>

On September 27, 1999, petitioner filed in the *habeas corpus* case, a motion seeking visitation rights over his children.<sup>[10]</sup> On December 7, 1999, after the parties reached an agreement, the court issued an order granting visitation rights to petitioner and directing the parties to undergo psychiatric and psychological examination by a psychiatrist of their common choice. The parties further agreed to submit the case for resolution after the trial court's receipt of the results of their psychiatric examination. The full text of said order reads:

The parties appeared with their respective lawyers. A conference was held in open Court and the parties agreed on the following:

Effective this Saturday and every Saturday thereafter until further order the petitioner shall fetch the children every Saturday and Sunday at 9:00 o'clock in the morning from the house of the sister of respondent, Mrs. Corazon Soriano and to be returned at 5:00 o'clock in the afternoon of the same days.

That the parties agreed to submit themselves to Dr. Teresito Ocampo for psychiatric/psychological examination. Dr. Ocampo is hereby advised to go over the records of this case to enable him to have a thorough background of the problem. He is hereby ordered to submit his findings directly to this Court without furnishing the parties copies of his report. And after the receipt of that report, thereafter, the case shall be deemed submitted for decision.<sup>[11]</sup>

On January 6, 2000, Dr. Ocampo submitted the results of his psychiatric evaluation on the parties and their children. Pertinent portions thereof state:

SINGLY and COLLECTIVELY, the following information was obtained in the interview of the 3 children:

(1) THEY were affected psychologically by the drug-related behavior of their father:

- a. they have a difficult time concentrating on their studies.
- b. they are envious of their classmates whose families live in peace and harmony.
- c. once, MICHAEL had to quit school temporarily.

(2) THEY witnessed their father when he was under the influence of "shabu".

(3) THEY think their father had been angry at their paternal grandmother and this anger was displaced to their mother.

(4) THEY hope their father will completely and permanently recover from his drug habit; and their criteria of his full recovery include:

- a. he will regain his "easy-going" attitude.

b. he won't be hot-headed anymore and would not drive their van recklessly.

c. he would not tell unverifiable stories anymore.

d. he would not poke a gun on his own head and ask the children who they love better, mom or dad.

(5) At one point one of the sons, became very emotional while he was narrating his story and he cried. I had to stop the interview.

(6) THEIR mother was fearful and terrified when their father quarreled with her.

(7) THEY hope their visits to their father will not interfere with their school and academic schedules.

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(3) MARILOU is one of 4 siblings. She graduated from college with a degree in banking and finance. SHE was a carreer (sic) woman; worked for a bank for ten years; subsequently quit her job to devote more time to her family.

(4) REYMOND is one of 5 siblings in a well-to-do family. His father was a physician. During his developmental years, he recalled how his mother complained incessantly about how bad the father was; only to find later that the truth was opposite to the complaints of his mother; that his father was nice, logical and understanding. He recalled how he unselfishly served his father --- he opened the door when he arrived home; he got his portfolio; he brought the day's newspaper; he removed his shoes; he brought his glass of beer or his shot of whisky. In short, he served him like a servant. His father died of stroke in 1990.

REYMOND graduated from college with a degree in LAW in 1984; he did not pass the bar.

His work history is as follows:

a. 1985 to 1989 – he operated fishponds.

b. 1976 to 1991 – simultaneously, he operated restaurant.

c. 1991 he engaged in the trading of vegetable, cooking oil, and mangos.

d. HE handled the leasing of a family property to a fast food company.

The findings on the examination of the MENTAL STATUS and MENTAL PROCESSES OF MARILOU showed a woman who showed the psychological effects of the trauma she had in the past. She is slightly edgy and fidgety with any external noise. SHE answered all my questions coherently. Her emotional state was stable throughout the interview. She is of average intelligence. She was oriented to person, place and date. Her memory for recent and remote events was intact. She could process sets of figures and sets of similarities and differences. Her content of thought was negative for delusions, hallucinations, paranoia, suicidal and

homicidal ideation. She could process abstract ideas and general information. Her attention span was adequate. There was no evidence of impaired judgment.

The Rorschach ink blot test gave responses such as "man touching a woman..., 2 people on a hi-five ..., 2 women chatting,... beast..., stuffed animal..., etc". Her past reflected on her psyche. There is no creative process. There were no bizarre ideas.

The ZUNG anxiety/depression test highlighted "I get tired for no reason"; "I feel that I am useful and needed" (re, son). There is moderate depression. However, she could still make competent decisions.

The Social Adaptation Scale scored well in her capacity to adapt to her situation. There is no evidence of losing control.

The findings on the examination of the MENTAL STATUS and MENTAL PROCESSES of REYMOND showed an individual who presented himself in the best situation he could possibly be. He is cool, calm and collected. He answered all my questions coherently. He is of average intelligence. He was oriented to person, place and date. His memory for recent and remote events was intact (sic). His content of thought was negative for delusions, hallucinations, paranoia, suicidal and homicidal ideation. His attention span was adequate. He could process abstract ideas, sets of figures, and general information.

The Rorschach ink blot test gave responses such as "distorted chest ..., butterfly with scattered color..., cat ran over by a car..., nothing... 2 people..., monster etc". There is no central theme in his responses. There were no bizarre ideas.

The Zung anxiety/depression test: "My mind is as clear as it used to be" (most of the time). There was no evidence of brain damage. There is no significant affective response that would affect his rationality.

The Social Adaptive Scale scored well in his capacity to adapt to his situation. He reached out well to others. He is in very good control of his emotions.

**BASED ON MY FINDINGS I MADE THE FOLLOWING COMMENTS AND CONCLUSIONS:**

I. The CRITERIA for cure in drug addiction consist of:

1. 5-years and 10-years intervals of drug-free periods.
2. change for the better of the maladaptive behaviors of the addict consisting of telling lies, manipulative behavior, melodramatic and hysterical actions.
3. constructive and reproductive outlets for the mental and physical energies of the addict.
4. behavior oriented towards spiritual values and other things.