

## **SPECIAL TWELFTH DIVISION**

**[ CA-G.R. CEB CV NO. 03602, January 29, 2015 ]**

**ENRIQUE A. RABAYA, PLAINTIFF-APPELLEE, VS. EMERENCIANA  
LABAYA-RABAYA, DEFENDANT-APPELLANT.**

### **D E C I S I O N**

**QUIJANO-PADILLA, J.:**

This is an appeal from the Decision<sup>[1]</sup> dated February 1, 2010 of the Regional Trial Court, 7<sup>th</sup> Judicial Region, Branch 24, Cebu City, declaring void *ab initio* the marital union of Enrique A. Rabaya and Emerenciana L. Rabaya under Article 36 of the Family Code in Civil Case No. CEB-30326.

#### *The Facts*

Plaintiff-appellee Enrique A. Rabaya [Enrique] had a cousin who is a photographer by profession. Sometime in 1969, defendant-appellant Emerenciana L. Rabaya [Emerenciana] attended her cousin's wedding and the hired photographer was Enrique's cousin. As fate would have it, the two of them met during that occasion. Enrique then started to court Emerenciana. Enrique at that time was 24 years old and was in college taking up Civil Engineering while Emerenciana, who hailed from Sindangan, Zamboanga was 18 years old and finished dressmaking, a vocational course.

Their relationship soon became intimate and eventually led to the pregnancy of Emerenciana. At that time, since Enrique has not yet finished his studies he frankly told Emerenciana that he could not marry her because his priority was to finish his course, so Emerenciana went back home in Zamboanga. When Enrique was about to graduate, Emerenciana returned to Cebu, threatening Enrique to marry her otherwise she would do all means in order to disqualify Enrique to take the Civil Engineering's Licensure Examinations. Feeling compelled, Enrique asked for Emerenciana's hand in marriage and they were wed on March 11, 1973. They bore five [5] children.

Enrique built a home for his own family at the Rabaya compound in Mandaue, near the homes of his parents and siblings so that he will remain close with his family. He had several stable jobs but rose to the ranks at the Development Bank of the Philippines as Assistant Manager of the Credit and Appraisal Department.<sup>[2]</sup>

The luck he was experiencing in his career could not be said of his family life. He soon found out that Emerenciana turned out to be very irresponsible in both her motherly and wifely duties. Moreover, she went into the habit of indiscriminately contracting loans behind his back, sometimes forging his signature when it was needed. She contracted loans from different people including his relatives and from several banks. Later on, when she failed to pay them, the creditors started suing her

and as her husband, he was impleaded in some of the cases. In order to pay off the loans, he started selling his personal and real properties to bail out Emerenciana from her indebtedness.

Since Emerenciana was not gainfully employed, Enrique financed the construction of a garment factory for her to manage. However, she was not able to sustain the business as she does not know how to manage its finances. Apart from that she got into altercations with her employees for treating them badly and not giving them the salaries due them. One occasion worth pointing out was that when one of her employees died, the other employees passed the hat and contributed from their meager salaries in order to extend financial aid to the bereaved family of the deceased. Emerenciana volunteered to personally hand the contribution to the family but instead she misappropriated the same.

In addition, Emerenciana often quarrels with Enrique's relatives in the compound and everyone else has to adjust to her temperament. She does not respect property rights as illustrated when without any permission she cut through the screen of the fence of Enrique's sister, which was built precisely to deter her from throwing their trash at the former's place. On another occasion, she got attracted to a set of earrings and necklace owned by Enrique's cousin and borrowed the same. Instead of returning the jewelry, she pawned the same and it only came to the knowledge of Enrique much later when the cousin asked for the pawn ticket and offered to redeem it instead. The pawn ticket was lost so the cousin did not recover the jewelry.

Because of her attitude, Enrique felt alienated from his wife so that sometime in 1994 when everything had taken its toll, Enrique decided to move out of their conjugal home and went back to the house of his mother as all their children were already grown-ups. In the end, all that he wanted was to sever their marriage. Thus, he filed the instant petition for declaration of nullity of marriage based on Article 36 of the Family Code on June 9, 2004.<sup>[3]</sup>

Psychologist Maryjun Y. Delgado who interviewed Enrique found out in her Psychological Assessment Report<sup>[4]</sup> dated May 3, 2006, the following:

"Enrique's family system and values have been intact and it provided him the basic emotional and mental batteries to face the problems brought about by his wife. The religious, harmonious and supportive family life he had been exposed with offered for him the development of a disciplined, responsible, calm, resilient, reliable and practical personality characteristics that indicates that he is normally functioning as a person, and that he reacted to various life's troubles sensibly.

For Emerenciana, her family system had been disparaging, and so she formed and developed personality traits and behavior pattern that reflect a person with so much inner conflicts within herself. As she was growing up, the hard life did not create good and positive influence upon her. Instead, it twisted her beliefs and as a way to cope with the harsh reality of being lowly, she came to develop and nurture behavior patterns that are so irresponsible, impulsive, selfish, over-bearing, irritable, insensitive, deceitful and materialistic style of life.

Emerenciana's anti-social personality disorder is an INCURABLE personality aberration. This is for the fact that one of its diagnostic criterion indicates that it is stable and of long duration and traces its origin and onset from childhood experiences and adolescence stages. She developed her behavior from modeling of a mother who had no options but to loan and borrow money so that Emerenciana and her other siblings would be able to survive from poverty. As such, her personality structure is permanent to be an anti-social personality disorder. Cure is impossible and next to never.

Anti-social personality disorder is GRAVE and SERIOUS personality dysfunction. It disrupts and destroys relationships and even other people because individuals like Emerenciana do not care about how they feel. Her selfish wishes will always be a priority in her list, and she is the type who would not stop at anything just to have or get what she wants.

As a person Emerenciana is impaired to function in a harmonious relationship. Her arrogant and selfish disposition destroys her capacity for engaging in such kind. She could never appreciate other people and their deeds; she could only look into what they have because this is the permanent frame of reference she have kept for herself as a person.

Anti-social personality disorder probes into the personality structure of a person at an early age. It slowly offers the growth of thwarted personality traits and behavior pattern especially if the developing person has no one to guide her, or when the model is one twisted and dysfunctional person herself. Thus, persons like Emerenciana will be having a real hard time committing to a sustainable, harmonious and loving relationship.

At this juncture, it is finally concluded that Emerenciana is psychologically dysfunctional or psychologically incapacitated to perform her basic and essential obligations to Enrique especially that she is suffering from a grave, serious and incurable personality disorder.

It is then recommended that the marriage of Enrique A. Rabaya and Emerenciana Labaya-Rabaya on March 11, 1973 be declared absolutely null and void.”<sup>[5]</sup>

Emerenciana in her answer declared that she married Enrique on August 19, 1969 in a civil ceremony and they subsequently had a church ceremony on March 11, 1973, which was a simultaneous celebration of their wedding and the passing of her husband of the board exams.<sup>[6]</sup> At first, she was not yet sure about what she felt towards Enrique but since he was always kissing her and asked for her hand in marriage, she acceded to the proposal despite observing that the latter was a very jealous person. After their marriage and after having children, she developed feelings for Enrique and was in fact obligated to love him.<sup>[7]</sup>

When they were still together, Enrique did not extend any financial aid to her or to their children even if she only asked for a portion of his salary. Hence, she was constrained to look for ways and means to support their children.<sup>[8]</sup> She even

resorted to borrowing money as capital for her garments manufacturing business. By 1994, they were in domestic squabble already because Enrique had an illicit affair with one Jasmine Salvacion Rabaya,<sup>[9]</sup> one of her employees in her tailoring business. Enrique continued to cohabit with the other woman and converted into Islam in order to marry her. This prompted Emerenciana to file a Bigamy case against Enrique before RTC Branch 4, Iligan City, which found Enrique guilty of the said crime.<sup>[10]</sup> The case is still on appeal.

Thus, from the foregoing, Emerenciana prayed that their marriage be severed declaring Enrique as the one psychologically incapacitated.<sup>[11]</sup>

On August 9, 2004, the RTC in its Order<sup>[12]</sup> directed the prosecutor to investigate within 30 days if collusion exists. Records do not bear any compliance from the prosecutor.

On September 10, 2004, defendant-appellant filed her pre-trial brief<sup>[13]</sup> while plaintiff-appellee filed his pre-trial brief<sup>[14]</sup> on September 14, 2004.

After the presentation of their testimonial evidence, plaintiff-appellee offered Exhibits "A" to "L"<sup>[15]</sup> which were all duly admitted by the RTC.<sup>[16]</sup> Defendant-appellant did not offer any documentary evidence.

The RTC in the assailed Decision dated February 1, 2010, found both parties incapable of complying with their mutual obligations therefore declaring null and void the marriage. The pertinent portion of the decision, reads:

"To the mind of the Court, both parties are incapable of complying their mutual obligations towards love, fidelity, trust and respect for each other. There is no showing they exerted efforts to preserve the marriage which indicate psychological incapacitated (sic) to maintain the relationship. The Court finds that petitioner's actuations towards each other indeed manifest unmistakable signs of psychological incapacity to comply with the marital duties. With this frame of mind, undoubtedly, the parties would not and could not work in harmony with each other since they work against the concept of a healthy marriage.

The personality behavior of the herein parties, along with their grave indiscretion, made them unable to see the significance of their matrimonial rights and duties, thus, making them incapable to perform and fulfill such marital obligations. There is no point for the Court to unreasonably deny the prayer for the declaration of nullity of their marriage when both of them could not uphold a healthy spousal relationship with each other, which has consequently foreclosed all possibilities of reconciliation.

Although the Constitution protects marriage as a sacred union, there are instances when an aggrieved spouse may be entitled to the declaration of his or her marriage as so provided under the Family Code. In this case, the Court finds that both parties are bereft of the ability to comply with their corresponding marital obligations, and such incapacity already existed at the time of the marriage as clearly manifested by their attitude

towards marriage. The nature and gravity of their personality disorder prevented them to recognize, much less fulfill the basic duties and obligations that come with the marriage as so provided by the Family Code.

WHEREFORE, judgment is hereby entered declaring the marriage of ENRIQUE RABAYA and EMERENCIANA LABAYA-RABAYA on August 19, 1969 in Talisay City and the subsequent church wedding on MARCH 11, 1973 at the St. Joseph Parish Church, Tabunok, Talisay City as NULL and VOID ab initio in accordance with Article 36 of the Family Code. The property regime of the parties is hereby ordered dissolved pursuant to Article 99 of the Family Code, as there is no more marriage to speak of.

The Local Civil Registrar of Talisay City is hereby ordered to enter in the Marriage Registry, this Decree of Nullity and in compliance with the Absolute Nullity of Void Marriages.

Furnish copy of this decision to the Office of the Local Civil Registrar of Cebu City.

SO ORDERED.”<sup>[17]</sup>

Upon denial<sup>[18]</sup> of defendant-appellant's Motion for Reconsideration,<sup>[19]</sup> defendant-appellant raised the lone assignment of error which reads:

“THE TRIAL COURT ERRED IN DECLARING THE MARRIAGE OF THE DEFENDANT-APPELLANT AND PLAINTIFF-APPELLEE AS NULL AND VOID AB INITIO DUE TO THE PSYCHOLOGICAL INCAPACITY OF BOTH PARTIES.”<sup>[20]</sup>

### ***Our Ruling***

The Republic through the Office of the City Prosecutor in its appeal alleged that the testimony of the plaintiff-appellee was insufficient to prove that defendant-appellant was psychologically incapacitated. The fact that defendant-appellant had contracted several loans which she could not pay, does not in any way amount to her inability to perform her marital obligations. In assessing the evidence presented by plaintiff-appellee, Corazon Badayos' testimony should not be given weight and credence being plaintiff-appellee's sister, her testimony is biased. The testimony of the psychologist declaring defendant-appellant to have suffered from an anti-social personality disorder is baseless and one sided since the report was derived from the sole testimony of plaintiff-appellee only. The said psychologist did not endeavor to hear the other side of the story by interviewing defendant-appellant. Finally, the finding of the RTC that both parties are psychologically incapacitated was unsupported by evidence.

In the instant case, We have observed that the pre-trial took place even without the collusion report from the prosecutor.

Be that as it may, even with the absence of the collusion report, records reveal that the fiscal actively participated in the proceedings suffice it to say that his