

FIRST DIVISION

[CA-G.R. CV No. 97519, March 30, 2015]

**JESSICA CRUZ-CONANAN, PETITIONER-APPELLANT, VS.
GEOFFREY M. CONANAN, RESPONDENT-APPELLEE,**

DECISION

SORONGON, E.D., J.

This is an Appeal from the Decision^[1] dated December 15, 2010 of the Regional Trial Court (RTC), Branch 194 of Parañaque *City in Civil Case No. 06-0271*, which denied the petition of Jessica Cruz-Conanan (petitioner-appellant) to have her marriage with Geoffrey M. Conanan (respondent-appellee) declared null and void pursuant to Article 36 of the New Family Code.

Gathered from the records of this case are two different versions of the facts.

The version of petitioner-appellant

Petitioner-appellant met her husband, herein respondent-appellee while they were working at Metrobank Head Office. She was a teller while he was with the Engineering Department. They became closer to each other that they developed intimacy and sexual likeness resulting to petitioner-appellant getting pregnant. For this reason, the two entered into marriage on July 28, 1990 at the St. Pancratius Chapel in Paco Park, Manila.

After the celebration of the marriage, the couple lived in an apartment in Makati and six months thereafter they moved to the house of petitioner-appellant's grandparents in Sta. Ana, Manila and later to her parents house. She had a miscarriage on her first pregnancy but their union nonetheless bore three sons, namely, Jeffrey Raymond, born on July 17, 1992, Joseph Christopher, born on July 18, 1996 and John Paulo, born on June 27, 1997. Their married life was marred by years of lies, deceit, neglect, physical, financial and emotional abuse committed by respondent-appellee upon her person and their minor children. She discovered that while they were experiencing difficulties in trying to live in a place they could call it home, respondent-appellee bought a house and lot for his parents and siblings.

Petitioner-appellant never experienced the love, care, security and attention from respondent-appellee. He was irresponsible and a perverted person who just used her for his sexual comfort and convenience. Every time she got pregnant, respondent-appellee would always leave her to her mother and would prefer to stay with his drinking buddies and gamble heavily leaving their conjugal dwelling without telling her his whereabouts. When confronted of his attitude, he would snap and threaten to hurt her. He stole money from their savings just to gratify his drinking pleasure with his friends and gamble in the hope of getting "easy money". Respondent-appellee would also withdraw her money from the bank and use it for

his parents and siblings. Her married life had always been a constant struggle for her and their children due to respondent-appellee's addiction to alcohol, gambling and irresponsible behavior.

Petitioner-appellant stopped working in Metrobank when their eldest son got seriously ill. However, when respondent-appellee refused to help her for the medical needs of their son she was forced to look for another job. In 2000, she retired to focus in rearing their growing children while respondent-appellee had already gotten worse as he gambled more and drunk heavily. Later she discovered that he was heavily indebted^[2]. She finally decided to leave him in 2004.

The version of the respondent-appellee.

Respondent-appellee got petitioner-appellant pregnant that he agreed to marry her for the sake of their unborn child. After their marriage, he found her to be extravagant as he had to find money for luxury items that she really wanted to have. They had sex as a way for her to appease him for her extravagant lifestyle and carefree attitude of going out to engage in drinking, smoking, and nightly bar-hopping with friends. He cited their long marriage of fourteen (14) years and their three children as proof that he cared and loved her. When she was diagnosed with severe depression on account of her first two miscarriages, the death of their 11-day old daughter and her parents' family problems, he took care of her and became extra tolerant of her shortcomings. He denied having any extra-marital relations nor gambling and drinking problems. He did not leave their conjugal dwelling as in fact when she left for Cebu to work thereat together with her friends, he was the one attending to the needs of their children. He provided them the food, clothing, education, necessary medical expenses, and most importantly, paternal presence and support. He did not want an annulment of their marriage but in case it is granted the ground should be due to petitioner-appellant's own psychological incapacity, not his. As to the matter of support of their children, a compromise agreement was executed by the parties and duly approved by the court on June 13, 2007.

Petitioner-appellant presented Dr. Elias Adamos, a clinical psychologist to support her theory that respondent-appellee is psychologically incapacitated to fulfill his marital duties. Dr. Adamos testified that he was unable to meet respondent-appellee because the latter ignored his letter of invitation. He thus based his psychological impression^[3] of respondent-appellee from the statements made by petitioner-appellant and her two undisclosed informants and correlated them with his testing data. Based on his findings both parties are suffering from incurable and grave psychological abnormalities under the Diagnostic Statistical Manual for Mental Disorders, which means that both of them are suffering from psychological incapacity under Article 36 of the Family Code. This was based on the following facts he gathered from his interview; *i.e.*: the parties have been separated in fact since 2004; respondent-appellee's alcoholism, which adversely affected his family relationship and his profession; respondent-appellee's violent nature brought about by his excessive and regular drinking; respondent-appellee's compulsive gambling habit, rendering him inundated with debts; and respondent-appellee's irresponsibility and immaturity as shown by his failure and refusal to give regular financial support to his family. As a result, their marriage became an avenue for deceit, filled with violence inside their conjugal home, which eventually made

petitioner-appellant a battered-woman^[4].

According to the Psychological Impression prepared by Dr. Adamos, respondent-appellee is psychologically incapacitated to enter into or comply with the essential marital obligations of marriage, and that this psychological incapacity is rooted in his "*Mixed Personality Disorder*", a disorder clinically known, identified and recognized in the field of psychology. Such disorder is so grave, severe, incurable in nature, and characterized by judicial antecedence (present at the time of, and even prior to, the celebration of the marriage) that it rendered him, unable to function, as a husband and father, to comply with his essential marital obligations^[5].

For his part, respondent-appellee presented Mr. Noel Ison, a psychologist, who disputed the findings of Dr. Adamos regarding his psychological incapacity. In his report,^[6] Mr. Ison found that respondent-appellee is not suffering from any personality disorder and based on the totality of facts presented the situation which the parties are now in is just a simple case of a marital couple drifting apart or becoming strangers to each other wherein the wife fell out of love and wants a way out. He opined that the showing of irreconcilable differences and conflicting personalities does not constitute psychological capacity. His conclusions were made after subjecting respondent-appellee to clinical interviews and a series of tests, and after gathering information from his two siblings.

As mentioned at the outset, the trial court by Decision^[7] dated December 15, 2010 denied the petition for declaration of nullity of marriage. On February 24, 2011, petitioner moved^[8] for reconsideration but the same was similarly denied in the Order^[9] dated May 13, 2011. On June 6, 2011, petitioner filed a "Notice of Partial Appeal"^[10], which the trial court approved by Order¹¹ dated June 7, 2011.

In this appeal, petitioner-appellant alleged:

- I. THE COURT A *QUO* SERIOUSLY ERRED IN HEAVILY RELYING ON THE FINDINGS MADE BY MR. NOEL ISON, IN UTTER DISREGARD OF THE TOTALITY OF CIRCUMSTANCES CONSTITUTING RESPONDENT-APPELLEE'S PSYCHOLOGICAL INCAPACITY TO PERFORM THE ESSENTIAL MARITAL OBLIGATIONS OF MARRIAGE AS PROVIDED FOR IN ARTICLE 68 OF THE FAMILY CODE ;
- II. THE COURT A *QUO* SERIOUSLY ERRED IN RULING THAT THERE WAS NO EVIDENCE SHOWING A LINK, MEDICAL OR THE LIKE, BETWEEN THE ACTS OF RESPONDENT-APPELLEE THAT MANIFESTS PSYCHOLOGICAL INCAPACITY AND THE PSYCHOLOGICAL DISORDER ITSELF;
- III. THE COURT A *QUO* SERIOUSLY ERRED IN DENYING THE PETITION FOR DECLARATION OF NULLITY OF MARRIAGE NOTWITHSTANDING THE OVERWHELMING EVIDENCE ADDUCED AND PRESENTED DURING THE PROCEEDINGS SHOWING RESPONDENT-APPELLEE'S DISTORTED AND PERVERTED ACTS, NOT TO MENTION HIS LACK OF REMORSE WHICH CONSTITUTES PSYCHOLOGICAL INCAPACITY.