

## **ELEVENTH DIVISION**

**[ CA-G.R. CV NO. 98571, April 30, 2014 ]**

**MERVIN M. CRUZ, PETITIONER-APPELLEE, VS. JESSICA O. CRUZ,  
RESPONDENT, REPUBLIC OF THE PHILIPPINES, OPPOSITOR-  
APPELLANT.**

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

**ANTONIO-VALENZUELA, J.:**

This is the appeal filed by the Republic of the Philippines, through the Office of the Solicitor General ("oppositor-appellant OSG"), assailing the Decision dated 30 June 2011,<sup>[1]</sup> issued by the Regional Trial Court, Branch 113, Pasay City ("RTC"), which declared the marriage of Mervin M. Cruz ("petitioner-appellee Mervin") and Jessica Oledan Cruz ("respondent Jessica") void based on Article 36 of the Family Code.

The facts are as follows: in 2000, petitioner-appellee Mervin met respondent Jessica through Narciso Oledan, the brother of respondent Jessica; petitioner-appellee Mervin and respondent Jessica entered into a relationship in 2003; without the benefit of marriage, petitioner-appellee Mervin and respondent Jessica had two sons, Darius Oledan Cruz (born on 8 February 2004) and Rain Justice Oledan Cruz (born on 4 January 2006); in 2005, conflicts between petitioner-appellee Mervin and respondent Jessica started because petitioner-appellee Mervin had no job then; petitioner-appellee Mervin looked for a job and found one as a housekeeper in the United States of America ("U.S.A"); while petitioner-appellee Mervin was working abroad, petitioner-appellee Mervin's mother, Nida Magallanes, informed him that respondent Jessica was having an affair with another man, and that respondent Jessica failed to take care of their children; petitioner-appellee Mervin confronted respondent Jessica but respondent Jessica denied the accusations against her; despite the rumors, petitioner-appellee Mervin married respondent Jessica on 18 June 2008 in the Office of the Minister at #111 C. Pasadena Street, Pasay City; aside from support to their family, petitioner-appellee Mervin also gave money for the nursing studies of respondent Jessica, however petitioner-appellee Mervin's mother informed petitioner-appellee Mervin that respondent Jessica was not studying but was living a "happy-go-lucky" life; petitioner-appellee Mervin received information from his brother, that respondent Jessica was caught sleeping with another man, and that respondent Jessica was impregnated by this other man; petitioner-appellee Mervin initially did not believe the information, but later he was convinced, after seeing proof that respondent Jessica gave birth to a child named Cassandra Oledan on 5 July 2009; Cassandra Oledan could not have been petitioner-appellee Mervin's child because petitioner-appellee Mervin left the country in June 2008; after petitioner-appellee Mervin had knowledge of the birth of Cassandra Oledan, petitioner-appellee Mervin stopped communicating and giving support to respondent Jessica.

On 1 March 2010, petitioner-appellee Mervin filed the Petition for Annulment of Marriage/Declaration of Nullity of Marriage<sup>[2]</sup> before the RTC. The Petition alleged: respondent Jessica is psychologically incapacitated to perform the essential obligations of marriage, and such incapacity was shown to be clinically permanent, incurable and grave. The Petition prayed for: declaration of the marriage of petitioner-appellee Mervin and respondent Jessica as null and void pursuant to Article 36 of the Family Code; petitioner-appellee Mervin's custody of Darius Oledan Cruz and Rain Justice Oledan Cruz, subject to visitation rights of respondent Jessica.

Per Server's Return of Summons dated 15 March 2010,<sup>[3]</sup> three attempts to personally serve summons on respondent Jessica (*i.e.*, 5 March, 8 March, and 10 March 2010) were futile, because respondent Jessica leaves her residence early in the morning, and goes home late in the evening. Thus, the person serving the summons left the Petition with respondent Jessica's mother, Maruja R. Oledan.

On 24 May 2010, the RTC issued the Order,<sup>[4]</sup> directing the trial prosecutor to conduct an investigation to determine whether there was collusion between the parties, and to submit the appropriate report.

On 6 September 2010, Assistant City Prosecutor Ma. Theresa Bueno-Cabalum filed the Report<sup>[5]</sup> which found no collusion between the parties.

Pre-trial was conducted and terminated.

Trial proceeded.

Petitioner-appellee Mervin<sup>[6]</sup> and Dr. Gloria M. Granado ("Dr. Granado")<sup>[7]</sup> testified for petitioner-appellee Mervin. The evidence for petitioner-appellee Mervin is summarized thus: in 2003, while petitioner-appellee Mervin and respondent Jessica were still in a relationship, respondent Jessica had another relationship with another man; when they reconciled after a month, petitioner-appellee Mervin found out that respondent Jessica was seeing another man again; petitioner-appellee Mervin asked respondent Jessica to choose between him and the other man and respondent Jessica chose petitioner-appellee Mervin; during their relationship, petitioner-appellee Mervin found respondent Jessica nice because of her good sense of humor, but petitioner-appellee Mervin noticed that respondent Jessica usually did not care about him; petitioner-appellee Mervin and respondent Jessica had two children, Darius Oledan Cruz and Rain Justice Oledan Cruz; in 2005, problems started between petitioner-appellee Mervin and respondent Jessica because petitioner-appellee Mervin had no job, and respondent Jessica treated petitioner-appellee Mervin as if he were a worthless man; fortunately, petitioner-appellee Mervin found a job as a housekeeper in the U.S.A.; while petitioner-appellee Mervin was working abroad, petitioner-appellee Mervin's mother, Nida Magallanes, informed petitioner-appellee Mervin that respondent Jessica was having an affair with another man, and that respondent Jessica failed to take care of their children; petitioner-appellee Mervin confronted respondent Jessica, but respondent Jessica denied the accusations against her; when petitioner-appellee Mervin returned to the Philippines in 2008, he married respondent Jessica upon the advice of respondent Jessica's mother, although the marriage was not known to the mother of petitioner-appellee Mervin; after the marriage, petitioner-appellee Mervin went back to the U.S.A, and gave money for the nursing studies of respondent Jessica; petitioner-appellee Mervin's mother informed petitioner-appellee Mervin that respondent Jessica was

not studying, and was living a "happy-go-lucky" life; when petitioner-appellee Mervin got back from the U.S.A., petitioner-appellee Mervin's brother informed him that respondent Jessica slept with another man in the matrimonial room; thereafter, while in U.S.A., petitioner-appellee Mervin heard that respondent Jessica was pregnant, but the child could not have been petitioner-appellee Mervin's, because he left the country in June 2008, and respondent Cruz was due to give birth in July 2009; initially petitioner-appellee Mervin did not believe the rumors, but upon his return to the Philippines on 22 January 2010, petitioner-appellee Mervin was convinced after he saw proof that respondent Jessica gave birth to a child named Cassandra Oledan on 5 July 2009; when petitioner-appellee Mervin asked respondent Jessica who the father of Cassandra Oledan was, respondent Jessica replied that there was no reason for petitioner-appellee Mervin to know the identity of the real father; petitioner-appellee Mervin stopped giving support to respondent Jessica because he believed the money was going to be used for dating respondent Jessica's new boyfriend; the children, Darius Oledan Cruz and Rain Justice Oledan, lived with the mother of petitioner-appellee Mervin, and respondent Jessica did not visit nor support the children; petitioner-appellee Mervin sought counseling with Clinical Psychologist Dr. Granado in February 2010, and Dr. Granado found that the marital problem of the couple was beyond reconciliation; Dr. Granado interviewed petitioner-appellee Mervin, and administered psychological tests (*i.e.*, Raven Progressive Matrices, Bender Gestalt Test, Draw a Person Test, Rhodes Sentence Completion and MMPI) on petitioner-appellee Mervin, and found that petitioner-appellee Mervin did not have any psychological incapacity, however respondent Jessica suffered from Narcissistic Personality Disorder, a major psychological incapacity, which existed prior to the couple's marriage; the root cause of respondent Jessica's Narcissistic Personality Disorder is the fact that respondent Jessica's immediate family and caregiver pampered respondent Jessica during her adolescent years.

Petitioner-appellee Mervin filed Formal Offer of Documentary Evidence.<sup>[8]</sup>

On 30 June 2011, the RTC issued the assailed Decision, the dispositive portion of which stated:

WHEREFORE, the herein petition is hereby granted, ordering as follows:

1. *The marriage contracted by Jessica Oledan and Mervin M. Cruz, on June 18, 2008, in Pasay City is hereby declared null and void, ab initio;*
2. *The City Civil Registrar of Pasay City is hereby ordered to cause the cancellation of the entries of the said marriage, from the Book of Marriage, under Registry No. 2008-2702;*
3. *In lieu thereof, to record or register the herein decision, according to law;*
4. *As regards the care and custody over the common children of the herein parties, since they are already grown up, they can choose with whom they should live with, with their father or their mother.*
5. *Be it noted, that neither personal nor real properties were jointly acquired by the herein parties, during their coverture.*

SO ORDERED.

Oppositor-appellant OSG filed the Motion for Reconsideration.<sup>[9]</sup> Petitioner-appellee Mervin filed Comment/Opposition (To Motion for Reconsideration dated September 15, 2011).<sup>[10]</sup>

On 18 November 2011, the RTC denied the Motion for Reconsideration.<sup>[11]</sup>

Thus, this appeal by the oppositor-appellant OSG with the lone assignment of error, thus:

THE PSYCHOLOGICAL INCAPACITY OF RESPONDENT-APPELLEE (*sic*) WAS NOT SUFFICIENTLY ESTABLISHED.

The pertinent issue is whether the RTC erred in declaring the marriage of petitioner-appellee Mervin and respondent Jessica void based on respondent Jessica's psychological incapacity.

#### THE OPPOSITOR-APPELLANT'S ARGUMENTS

The oppositor-appellant OSG answers in the affirmative. The RTC erred in declaring the marriage of petitioner-appellee Mervin and respondent Jessica void because the psychological incapacity of respondent Jessica was not sufficiently established.

The Brief for Oppositor-Appellant<sup>[12]</sup> thrusts: the totality of evidence of petitioner-appellee Mervin failed to satisfactorily prove that respondent Jessica is psychologically incapacitated to perform the essential obligations of marriage; in issuing the assailed Decision, the RTC relied solely on the testimonies of petitioner-appellee Mervin and the Clinical Psychologist Dr. Granado; Dr. Granado's conclusion that respondent Jessica suffers from Narcissistic Personality Disorder was based on an interview with petitioner-appellee Mervin only, and no other persons (*i.e.*, relatives, friends or other persons privy to the marital relationship of the couple) were interviewed to prove that respondent Jessica suffers from Narcissistic Personality Disorder; aside from petitioner-appellee Mervin's allegations, no other evidence was presented to prove respondent Jessica's infidelity and neglect of the couple's children; despite knowing the real character of respondent Jessica, petitioner-appellee Mervin was willing to marry respondent Jessica; respondent Jessica's character imperfections, and the couple's irreconcilable differences, do not warrant the conclusion that respondent Jessica is psychologically incapacitated to assume her marital obligations.

#### THE PETITIONER-APPELLEE'S ARGUMENTS

Petitioner-appellee Mervin answers in the negative. The RTC did not err in declaring that respondent Jessica was psychologically incapacitated to perform her marital obligations.

The Appellee's Brief<sup>[13]</sup> parries: respondent Jessica's psychological incapacity was proven by the Petition, judicial affidavits of the witnesses, and the Report on the Psychological Condition<sup>[14]</sup> by Dr. Granado; personal interview with respondent Jessica was not indispensable for a declaration of nullity of marriage based on psychological incapacity because Dr. Granado, as expert witness, exhaustively examined petitioner Mervin; expert witnesses, such as Dr. Granado, are presumed to have conducted an in-depth and stringent analysis of the parties before finding of psychological incapacity in one or both of the parties, thus Dr. Granado, by