

NINTH DIVISION

[CA-G.R. CV NO. 94686, April 29, 2014]

DOMINADOR CALUZA, PETITIONER-APPELLANT, VS. JOCELYN D. CALUZA, RESPONDENT-APPELLEE,

PEOPLE OF THE PHILIPPINES, OPPOSITOR-APPELLEE,

D E C I S I O N

GARCIA-FERNANDEZ, J.:

This is an appeal filed by petitioner-appellant from the decision dated June 6, 2009^[1] issued by the Regional Trial Court of Pasig City, Taguig City Station Br. 163 in JDRC No. 6978, which dismissed the petition for declaration of nullity of marriage pursuant to Article 36 of the Family Code.

The factual antecedents are as follows:

On October 21, 2005 petitioner-appellant Dominador Caluza filed a petition^[2] with the Regional Trial Court of Pasig City Taguig City Station (RTC) for declaration of nullity of marriage based on Article 36 of the Family Code of the Philippines alleging that he and respondent-appellee Jocelyn D. Caluza decided to get married on January 13, 1990^[3], three (3) years after having a child and living separately. During the marriage, they sired three (3) more children, the youngest of whom was born on November 8, 1996. Despite having four children, petitioner-appellant claims that they had an "on-and-off" relationship, due to the fact that respondent-appellee is a persistent gambler, neglects her household duties and responsibilities, and often utters verbal curses to their children. As a result, they only lived together for a few years, eventually separating from each other on October 2003 until the present.

In her answer^[4], respondent-appellee alleged that petitioner-appellant instituted the action because he has a mistress, with whom he has a daughter. Respondent-appellee claims that petitioner-appellant has not given any support to her and their four children until the present.

Upon the public prosecutor's finding that there exists no collusion between the parties^[5], the RTC ordered the continuation of proceedings.

After trial, the RTC, issued a decision dated June 6, 2009^[6], dismissing the petition for lack of merit, saying that:

"At any rate, between Petitioner and Respondent, taking into consideration their respective demeanors on the witness stand, the Court found Respondent and her testimony to be more credible.

Respondent testified that Petitioner was a womanizer and that he let her paramour live in their conjugal dwelling while Respondent and their children were still there. Yet, Respondent [sic] did not present any evidence to rebut the same. The Court is inclined to think that if Respondent's claim was not true at least one common child of theirs, who, for sure, would have had personal knowledge of the existence or non-existence of such circumstance in the family home, would have been willing to testify on the matter if only to save the marriage of his or her parents. But none of the children who, at the time Respondent rested her case, were grown enough to be able to testify, did. All children even opted to be in the company of their mother, herein Respondent.

Having said this, the Court finds that it was the Petitioner who was remiss in the performance of his obligations as father and husband but his failures are obviously not found by the Respondent to be sufficient to dissuade her from keeping the marriage and family intact. XXX"

Petitioner-appellant's motion for reconsideration^[7] was denied by the RTC for lack of merit in the order dated October 6, 2009. Hence, this appeal.

Petitioner-appellant alleges that the RTC gravely abused its discretion amounting to lack of jurisdiction when it concluded that there exists no sufficient ground to declare his marriage to respondent-appellee void ab initio under Article 36 of the Family Code despite all the evidence to the contrary. In support thereof, petitioner-appellant claims that the clinical psychologist he presented concluded that both he and respondent-appellee are psychologically incapacitated to enter into a contract of marriage at the time of its celebration. Further, petitioner-appellant claims that the behavior of both parties, i.e., petitioner-appellant being a womanizer and allowing his mistress to live in the conjugal dwelling and respondent-appellee who subjected petitioner-appellant to verbal abuse, among others, show that both are unable to give meaning and significance to the marriage.

The appeal is devoid of merit.

Article 36 of the Family Code, as amended, provides:

Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

The Supreme Court defined psychological incapacity under Article 36 of the Family as follows:

"Psychological incapacity is the downright incapacity or inability to take cognizance of and to assume the basic marital obligations. The burden of proving psychological incapacity is on the plaintiff. The plaintiff must prove that the incapacitated party, based on his or her actions or behavior, suffers a serious psychological disorder that completely disables him or her from understanding and discharging the essential obligations of the marital state. The psychological problem must be grave, must have existed at the time of marriage, and must be incurable."^[8]
[Citations omitted.]