

TWENTIETH DIVISION

[CA-G.R. CV. NO. 04108, June 30, 2014]

**DIANA SAMEON BALUNGCAS, PETITIONER-APPELLANT, VS.
RYAN SUANA MICUBO, RESPONDENT-APPELLEE.**

DECISION

HERNANDO, J:

This is an appeal from the April 19, 2011 *Decision*^[1] of the Regional Trial Court (RTC), Branch 27 of Lapu-Lapu City in Civil Case No. 6924-L, a Petition for Declaration of Nullity of Marriage on the ground of the psychological incapacity of respondent-appellee Ryan Suana Micubo. The dispositive portion of the judgment states:

"WHEREFORE, premises considered, the instant petition is hereby ordered DISMISSED for insufficiency of evidence.

SO ORDERED."

ANTECEDENT FACTS

Petitioner-appellant Diana Sameon Balungcas and respondent-appellee Ryan Suana Micubo were married on May 4, 2005^[2] in Cebu City. The couple bore no children.^[3]

Less than three (3) years later or on January 24, 2008, petitioner filed before the RTC a *Petition*^[4] for declaration of nullity of their marriage on the ground of her husband's psychological incapacity to comply with the essential marital obligations of marriage. She alleged that her husband's psychological incapacity existed at the time of the celebration of their marriage until the filing of the petition.

Despite service^[5] of summons, respondent never filed any responsive pleading to the *Petition*. No collusion was established between the parties.^[6]

As manifestations of her husband's psychological incapacity, petitioner alleged his irresponsibility, immaturity and infidelity, to wit:

(a) After the marriage, he became jobless and chose to go back to his hometown, Siocon, Zamboanga del Norte, instead of living with petitioner.^[7]

(b) While in Zamboanga, he merely drank and did not bother applying for jobs. He inadvertently sent a text message containing words of endearment to petitioner that was addressed to another woman.^[8]

(c) When he left to work in Dubai in March 2006, he rarely communicated with petitioner and only made two (2) remittances to her, amounting to Fifteen Thousand Pesos (PhP 15,000.00).^[9] Respondent refused to

communicate with petitioner regarding his work, his employer, and his salary.^[10]

(d) Until the filing of the petition, respondent refuses to communicate with petitioner.^[11]

After the solemnization of the marriage, petitioner and her husband never lived together as husband and wife.^[12] After his return from Zamboanga, respondent did not live with his wife and opted to live at a boarding house in Lapu-Lapu.^[13]

In support of her *Petition*, petitioner presented Tina Espiritu-Velez, a psychologist, who stated that, based on her interview with petitioner and the latter's friend, Joan Arante, she found the respondent to be suffering from Narcissistic Personality Disorder.^[14]

Ms. Espiritu-Velez' testimony is supplemented by her Psychological Case Study Report^[15] which showed that petitioner and respondent first met in 2000 when respondent stayed at petitioner's house while searching for work in Cebu. In November 2001, the two became a couple.^[16]

During the relationship, the couple had a number of conflicts due to respondent's involvement with other women. Petitioner found out that respondent had been seeing another girl for a year.^[17] Respondent was also fond of flirting with other women while he was out in bars with his friends.^[18]

Even after the couple had married, respondent's involvement with other women continued. While waiting in Manila for his schedule to fly to Dubai for work, respondent had a relationship with a girl named Jane. Petitioner found out about this relationship through text messages that were meant for Jane but which respondent had inadvertently sent to her.^[19] Once he arrived in Dubai, respondent rarely communicated with petitioner. At present, petitioner has no contact with her husband.^[20]

Ms. Espiritu-Velez concluded that respondent is psychologically incapacitated to perform his marital obligations. She noted that he exhibited the following criteria of Narcissistic Personality Disorder, namely:

- (a) has a grandiose sense of self-importance;
- (b) is preoccupied with fantasies of unlimited success, power, brilliance, beauty, or ideal love;
- (c) has unreasonable expectations of specially favorable treatment or automatic compliance with his or her expectations;
- (d) is interpersonally exploitative or takes advantage of others to achieve his or her own ends;
- (e) lacks empathy; and
- (f) shows arrogant or haughty behaviors or attitudes.^[21]

Ms. Espiritu-Velez noted that the condition of Narcissistic Personality Disorder is grave to the marriage because, "it is identified as 'extreme love for self' by many clinical psychologist [sic]." She noted that the disorder "makes the person unable to recognize the existence and situations of others and is only able to recognize his/her own desires, needs, and wants."^[22]

Ms. Espiritu-Velez also observed that the disorder has juridical antecedence since respondent grew up in an environment that did not nurture discipline and self-control.^[23] Respondent was spoiled by his parents and grandmother. He was not reprimanded for not going to school regularly nor for going out drinking in bars and nightclubs.^[24] Ms. Espiritu-Velez explained that there is no known cure or treatment for Narcissistic Personality Disorder.^[25]

Petitioner presented herself and Leah Reyes, her first degree cousin and respondent's childhood friend, to show that prior to and during the marriage, her husband was heavily engrossed in womanizing^[26], drinking^[27] and gambling^[28].

In its April 19, 2011 *Decision*, the RTC dismissed the *Petition* for insufficiency of evidence. Hence, this appeal.

In her March 4, 2013 *Appeal Brief for the Petitioner*^[29] petitioner-appellant assigns the following errors^[30]:

ISSUES

I. THE LOWER COURT HAS [SIC] INCORRECTLY RULED THAT THERE IS ABSENCE OF PSYCHOLOGICAL INCAPACITY ON THE PART OF THE HUSBAND RESPONDENT.

II. THE LOWER COURT DID NOT CORRECTLY RULE WHEN IT SAID THAT THE REPORT OF THE PSYCHOLOGIST DESERVE [SIC] SCANT CONSIDERATION BECAUSE SHE FAILED TO HAVE A PERSONAL OBSERVATION ON [SIC] THE PERSON OF THE RESPONDENT.

THE COURT'S RULING

The appeal is bereft of merit.

I. The instant appeal should be dismissed at the outset for failure to comply with a condition precedent.

A.M. No. 02-11-10-SC, otherwise known as the *Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages*, requires the filing of a motion for reconsideration or new trial as a pre-condition to appealing a decision, to wit:

"Section 20. *Appeal*. –

(1) *Pre-condition*. – No appeal from the decision shall be allowed unless the appellant has filed a motion for reconsideration or new trial within fifteen days from notice of judgment. xxx" (*underscoring supplied*)

The record of this case indubitably shows appellant's failure to move for the reconsideration of the RTC Decision before resorting to the remedy of an appeal to this Court. Consequently, her appeal should be dismissed on this ground alone for failure to comply with a pre-condition.

II. Appellee's behavior does not warrant the declaration of his psychological incapacity.

In any event, We find that the totality of the evidence presented by appellant is not sufficient to sustain a finding that her husband is psychologically incapacitated to comply with the essential marital obligations, and thus, there is no basis to declare their marriage a nullity.

Appellant primarily argues that her husband failed to comply with his marital obligations of cohabitation, love, respect and fidelity. She asserts that her husband's infidelity and refusal to live and communicate with her amounted to a psychological incapacity to comply with the essential marital obligations. She asserts that her husband's actions are manifestations of a Narcissistic Personality Disorder (NPD), which psychologist Tina Espiritu-Velez diagnosed appellee to be afflicted with.

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

The "psychological incapacity" referred to under Art. 36 is not meant to comprehend all possible cases of psychoses. It is meant to cover no less than a mental and not a mere physical incapacity that causes a party to be truly incognitive of the basic marital obligations that must be assumed and complied with by the parties to the marriage which include their mutual obligation^[31] to live together, observe love, respect and fidelity, and render help and support.^[32] The psychological incapacity must be characterized by gravity, juridical antecedence, and incurability.^[33]

The mere showing of "irreconcilable differences" and "conflicting personalities" does not constitute psychological incapacity. Neither does the mere failure of the parties to meet their marital responsibilities and duties, by itself, constitute psychological incapacity.^[34]

The following guidelines are established in order to decide cases involving the nullity of a marriage on the ground of psychological incapacity:

"1) The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it 'as the foundation of the nation.' It decrees marriage as legally 'inviolable,' thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be 'protected' by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.

2) The root cause of the psychological incapacity must be: (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological-not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not