

FIRST DIVISION

[CA-G.R. CV NO. 97632, June 16, 2014]

CARINA O. AVENA, PETITIONER-APPELLEE, VS. EPHRAIM A. AVENA, RESPONDENT. VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

DECISION

BARRIOS, M. M., J.:

This is an appeal by the Office of the Solicitor General from the Decision dated 15 December 2009^[1] of the Regional Trial Court, Branch 17, Bulacan which declared the marriage between petitioner and respondent to be *void ab initio* on account of the latter's psychological incapacity.

The Antecedents

Petitioner Carina Osdaña Avena (*Carina*) and respondent Ephraim A. Avena (*Ephraim*) were married on 28 March 1982 in a ceremony officiated by Rev. Fr. Pablo Dimagiba, Parish Priest of San Jose del Monte, Bulacan. At the time of their marriage, Carina was 17 years old while Ephraim was 22 years of age.

Petitioner Carina testified that during the early stage of their relationship, respondent was overly jealous and possessive. He gets upset when she goes out with friends; he did not even want her to use make-up. Worse, when respondent gets jealous, he would inflict physical harm on her. Carina had thought of breaking up with respondent Ephraim, but she was deterred because of Ephraim's suicidal tendencies, as his two siblings have committed suicide on account of problems of the heart.

During their marriage, Carina and Ephraim lived with the latter's parents who supported them. Their relationship, however, never blossomed nor became enriched. Respondent refused to work and spent the whole day either sleeping or loitering around. This led to quarrels and squabbles that often resulted to violence.

In February 1983, Carina became pregnant, and considering her husband's irresponsibility, she sought financial assistance from her parents to embark on a livelihood. They moved out from the house of respondent's parents so that they can live independently. Sadly, however, despite Carina's efforts, respondent Ephraim continued with his laid back lifestyle and did not care to assist petitioner in attending to their hog raising business.

When Carina was about to give birth to their eldest child, respondent Ephraim insisted that Carina give birth at home, rather than in a hospital, because he considered it to be a waste of money. Carina finally gave birth on 05 October 1983 to a son who was named Erwin. Being now a parent, Carina had hoped that Ephraim would change for the better, but she was mistaken. Respondent remained irresponsible and spent his time loitering around and engaging in drinking sprees.

Unable to bear the situation, Carina moved to her parent's house, but respondent pleaded for her to return. He threatened to kill himself if she refused; and Carina eventually decided to give their marriage a second chance and again lived with Ephraim. On 17 March 1988, the spouses begot their second child, a daughter whom they named Camille.

In 2001, Carina learned of Ephraim's marital infidelity. Whenever she confronted him about his illicit affairs, Ephraim would often inflict physical harm on Carina and their children. His irrational behavior even worsened; at one time, he hog tied her and kept her inside a pigpen when she refused to give him money to spend for his paramour. In March 2002, Ephraim abandoned his family to live with his other woman.

On 10 May 2007, or some five (5) years after their separation, Carina filed the instant petition for judicial declaration of nullity of marriage under Article 36 of the Family Code^[2] asserting that Ephraim was psychologically incapacitated to comply with the essential obligations of marriage. Ephraim did not file an Answer to the petition; neither did he submit himself to a psychological examination. After investigation, the trial prosecutor found that there was no collusion, and trial proceeded.

Psychologist Nedy Tayag testified in court and presented her psychological report.^[3] It pertinently stated, viz:

x x x

"REMARKS:

Taken from a thorough analysis of all data gathered, it is the strong opinion of the undersigned that the marriage of petitioner and respondent failed to last due to respondent's psychological incapacity to assume and discharge his essential roles and obligations (sic) being a married man.

*Respondent manifests the diagnostic features of a deficit classified as **ANTISOCIAL PERSONALITY DISORDER**. As seen, he acts in a way that disregards the feelings and rights of other people, most particularly his wife. He never really cared about her. He never provided for his family's needs as he was never employed. He only cared about his own needs such that he could not recognize that he is already neglecting his wife and children. He preferred to be out with his friends than spend time with his family. He failed to sense that she needs to be loved, caressed, and assured that they are real partners in life as they had vowed to be. Financially, materially, and emotionally, he failed to do his part as Carina's husband. As for being a father, the only thing he gave to his children was his surname. He never had a share in raising their kids, nor showed any interest to have a part in raising them. Not even a single cent was given for the children's needs. He only used his wife to advance his longing for an intimate partner, to have someone to satisfy his own needs. During the marriage, he engaged in an (sic) illicit affairs even if he is still rightfully and lawfully married to Carina. He used to come home any time he wished from a drinking spree. Moreover, he is very irritable and would haughtily assert his authority to make his wife shake with*

fear. He would hurt her whenever she tried to confront him. Moreover, he remained to be very dependent on others to provide for him. He doesn't care about the future and has totally abandoned his marital and parental obligations. In spite of all these, he fails to understand that his behavior is dysfunctional because his ability to feel guilty, remorseful, and emphatic is impaired.

Said disorder of the respondent has a root cause traceable from his shaping years, apparently raised from overbearing caregivers who treated him with exceptional attention. Ephraim is obviously a product of faulty rearing practices that he grew up misguided and very self-oriented. His parents are a spoiler and have raised their son more than is appropriate. They failed to teach Ephraim a sense of responsibility that he became dependent on her and could not get himself to look for means to support himself. Also, his mother was always there at his side that he became too reliant and confident that someone would provide for him and look after him even if he doesn't work. She tolerates wrongdoings in her own household and instead of correcting her children's mistakes, she would still rally behind them and cover up for their transgressions. Ephraim then failed to develop the ability to discern right from wrong. Such had been deeply engrained within his system that therapy is no longer possible.

The psychological incapacity of respondent is characterized by juridical antecedence, as it already existed long before they entered into marriage. Since it started early in life, it has been deeply engrained within his system and becomes an integral part of his personality structure, thereby rendering such to be permanent and incurable.

As such, spouses could never live together harmoniously as authentic husband and wife. The hope of reconciliation along with a functional or normal marital union is viewed to be uncertain if not totally impossible. The essential obligations of love, respect, fidelity, mutual help and support, and commitment did not and will no longer exist between them.

With due consideration on the aforementioned findings, the undersigned recommends that the ties between them be severed and declared null and void."

x x x

In due time, the court *a quo* rendered the assailed Decision dated 15 December 2009 where the decretal part reads:

x x x

"WHEREFORE, judgment is hereby rendered declaring the marriage between herein petitioner and respondent void ab initio, with all the legal effect thereof, pursuant to Article 50 of the Family Code of the Philippines.

Accordingly, the City Civil Registrar of San Jose del Monte Bulacan, and the Director of the National Census and Statistics Office, are hereby ordered to cancel from their respective books of marriage the marriage of

petitioner and respondent that was solemnized on March 28, 1982 at the Municipality of San Jose del Monte, Bulacan.

In the event that no appeal is filed in this case, the Clerk of Court is directed to issue an Entry of Final Judgment, upon expiration of (sic)15-day reglementary period within which to appeal.

Petitioner is directed to submit certified true copies, each of the Decision and the Entry of Final Judgment, to the Local Civil Registrar of San Jose del Monte, Bulacan, where her marriage to the respondent is registered, the Local Civil Registrar of Malolos City, where this Family Court is situated (Sec. 19, A.M. No. 02-11-10-SC), and the National Census and Statistics Office, after which, the Court shall issue the Decree of Annulment of Marriage which should, likewise be registered in the said Offices.

Furthermore, the petitioner is directed to submit to the Court, his compliance herewith, within thirty (30) days from receipt of this Decision.

SO ORDERED."

X X X

Oppositor moved for reconsideration, but the same was denied. Hence, the OSG brings this appeal before Us arguing that:

THE COURT A QUO ERRED IN FINDING RESPONDENT TO BE PSYCHOLOGICALLY INCAPACITATED TO PERFORM HIS ESSENTIAL MARITAL OBLIGATIONS.

The Court's Ruling

The appeal has merit.

Psychological incapacity as a ground for the declaration of nullity of marriage is provided in Article 36 of the Family Code of the Philippines, which provides:

X X X

"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."

X X X

This ground was particularly discussed in the case of *Leouel Santos vs. Court of Appeals, et al.*,^[4] where the Supreme Court declared that psychological incapacity must be characterized by (a) gravity; (b) juridical antecedence; and (c) incurability. The defect should refer to "no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage." It must be confined to "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage."^[5] In the case of *Republic of the Philippines vs. Court of Appeals*