

FOURTH DIVISION

[CA-G.R. CV No. 100473, November 20, 2014]

**DINDO CAPARAS, PETITIONER-APPELLANT, VS. CHERRYLYNN
LACANILAO-CAPARAS, RESPONDENT-APPELLEE.**

D E C I S I O N

CARANDANG, J.:

This is an appeal to reverse and set aside the 1] Decision^[1] dated October 10, 2012 of the Regional Trial Court, Branch 225 of Quezon City, in Civil Case No. Q-09-65681, dismissing for insufficiency of evidence the petition for the declaration of nullity of marriage and 2] its Order dated January 02, 2013 denying the petitioner's motion for reconsideration.

The facts are:

On September 24, 2009, petitioner Dindo Caparas (*or* Dindo) filed a petition^[2] for declaration of nullity of his marriage with Cherrylynn Lacanila-Caparas (*or* Cherrylynn), docketed as Civil Case Q-09-65681 before the Regional Trial Court, Branch 225 of Quezon City. He anchored his petition on ground of psychological incapacity under Article 36 of the Family Code. Petitioner claimed that both of them were psychologically incapacitated to comply with the essential marital obligations of their marriage, and such incapacity became manifest only after marriage.

The Office of the Solicitor General (OSG) filed its "Notice of Appearance" on November 27, 2009 and it deputized the Office of the City Prosecutor of Quezon City to appear on the State's behalf. On February 4, 2010, summons^[3] was served, by substituted service, to Cherrylynn but she did not answer the petition.

On April 15, 2010, the trial court issued an Order^[4] directing the prosecutor to conduct an investigation to determine whether there is collusion between the parties. On February 04, 2010, Assistant City Prosecutor Kaime C. Villanueva filed an "Investigation Report" manifesting that only the petitioner appeared despite notice. Prosecutor Villanueva reported that he found no collusion between the parties in filing the instant petition and he recommended that trial on the merits be conducted. The pre-trial proceeding was terminated on September 20, 2010. Trial then ensued.

Petitioner presented himself and two (2) witnesses Nedy L. Tayag, a Clinical Psychologist, and Novelita Zingapan, a friend. As documentary evidence, he offered the following documents: 1] Certificate of Marriage issued by the NSO/Office of the Civil Registrar General of Quezon City;^[5] 2] Psychologist Evaluation Report of Nedy L. Tayag;^[6] 3] Investigation Report of Asst. City Prosecutor Villanueva;^[7] 4] Notice of Appearance filed by OSG;^[8] 5] Judicial-Affidavit of Nedy Tayag;^[9] 6] Judicial-

Affidavit of Petitioner Dindo Caparas;^[10] and, 7] Judicial- Affidavit of Novelita Zingapan.^[11]

Petitioner affirmed the contents of his Judicial Affidavit and he also identified in court all of the supporting documents he offered as evidence. According to petitioner, he met respondent Cherrylynn in San Mateo, Rizal where he was assigned as a youth pastor for the Evangelical Church. He courted her and they became sweethearts. On February 20, 2003, he married Cherrylynn in civil rites. To keep their marriage a secret, they did not cohabit as husband and wife but they continued to see each other. Several months thereafter, Cherrylynn developed a very strong desire to work abroad as a caregiver. Slowly, her attitude changed and she lost interest in his company. When he confronted her, Cherrylynn admitted that she wanted out of their relationship and she even confessed of her extra-marital affair. Petitioner tried to win her back but he failed. No children were born out of their marriage and they have no conjugal properties. At present, Cherrylynn is living with her paramour and has a child with him.

Novelita Zingapan corroborated the testimony of petitioner that respondent had been seeing other men before and even after her marriage with petitioner. She was a friend not only of the petitioner but also of the respondent. Even before their marriage, both of them confided to her their respective personal problems. Respondent once told her that her parents wanted a rich man for her and to escape from such pressure, she wed petitioner. But after the wedding ceremony, respondent continued staying with her parents.

Petitioner sought the services of a Clinical Psychologist, Nedy Tayag, who found him as well as his wife Cherrylynn suffering from personality disorder.

Testifying for petitioner, Nedy Tayag declared that she interviewed petitioner and one of petitioner's friend. Cherrylynn did not appear despite proper invitation. He affirmed the contents of her Judicial Affidavit as well as his report on the psychological condition of petitioner and respondent. Based on her psychological evaluation, petitioner is suffering from a disorder known as "Passive-Aggressive Personality Disorder" while respondent is afflicted with grave psychological disorder known as "Narcissistic Personality Disorder". The pertinent portion of his report reads:

"REMARKS:

After a careful study on the facts presented, the undersigned has come up with an undisputable finding that the eventual downfall of marriage between petitioner and respondent was brought forth by the inability of **both parties** from properly assuming their respective marital roles. Both petitioner and respondent were found to be totally unfit in handling mature responsibilities and obligations due mainly to their ingrained inflexible and maladaptive patterns of relating to and perceiving both their environment and themselves. Such had completely hampered their functioning especially in terms of maintaining a healthy heterosexual dealing.

On the part of petitioner, he is found to be suffering from a disorder

known as PASSIVE-AGGRESSIVE PERSONALITY DISORDER as manifested by his pervasive pattern of negativistic attitudes and passive resistance to the demands of his milieu particularly to his roles as the other half of respondent. x x x.

x x x

x x x

Respondent on the other hand is found suffering from a grave psychological disorder known as NARCISSISTIC PERSONALITY DISORDER which is mainly manifested through her grandiosity, need for admiration and lack of empathy. x x x.

x x x

x x x

The personality disorders of petitioner and respondent are deemed to be severe, serious, permanent, grave and chronic in proportion and are incapable of treatment amidst available interventions. Such have already been deeply embedded in their system as such have started since their childhood years which made it to be the basic component of their personality structure.

The psychological incapacity of petitioner and respondent is of a juridical antecedence as it was already in their system even prior to the solemnization of their marriage. Their relationship is absolutely irreconcilable since it was not founded on mutual love, trust, respect and commitment to each other. Hence, the undersigned recommends the absolute nullity of marriage between petitioner and respondent be granted."

On October 10, 2012, the petition was dismissed for insufficiency of evidence. The RTC was not convinced that the totality of the evidence presented is adequate to sustain a finding that petitioner and respondent are psychologically incapacitated to comply with the essential marital obligations. The trial court ruled that there is nothing extra-ordinary in petitioner's life, including his family background, that could have caused his psychological disturbance. Likewise, the trial court doubted the psychologist's evaluation that respondent is suffering from Narcissistic Personality Disorder because the information about respondent's childhood was given by petitioner, an interested party, who did not live with her during her childhood days, and others interviewed only narrated about respondent's relationship with petitioner.

Petitioner's motion for reconsideration was denied, hence, the instant appeal on the following grounds:

I. The trial court erred in missing out manifestations of the appellee's inability to comply with the essential marital obligations.

II. The trial court erred in missing out the proof of juridical antecedence.

III. The trial court erred in missing out that appellant was found