

TENTH DIVISION

[CA-G.R. CV NO. 74986, August 31, 2006]

**LUCIA TALABONG, PETITIONER-APPELLEE, VS. HENRY
TALABONG, RESPONDENT. REPUBLIC OF THE PHILIPPINES,
OPPOSITOR-APPELLANT.**

D E C I S I O N

TAYAG, J.:

On Appeal is the February 12, 2002 Decision^[1] of the Regional Trial Court (RTC), Branch 68, Binangonan, Rizal, in Civil Case No. 97-0060-B, declaring the marriage between Lucia A. Talabong and Henry R. Talabong void on the ground of psychological incapacity.

The facts as culled from the records, are as follows:

Lucia A. Talabong (herein petitioner) and Henry R. Talabong (hereinafter respondent) were married on June 19, 1969 before the Parish Priest of Magdalena, Laguna. They were blessed with three children, namely: Frederick who was born on July 13, 1971; Herbert on January 31, 1974; and Henry on December 17, 1979, respectively.

Sometime in 1975, respondent was alleged to show acts of irresponsibility towards the petitioner and their children. Respondent became a drunkard and often arrived home late at night. Respondent likewise maintained a mistress in an apartment in Cubao. (TSN, April 6, 1999, pp. 8-11, 17-18)

Sometime in January 1991, petitioner confronted respondent about her decision to separate with him but respondent got mad at her. Since then, they had been living separately from each other.

On August 8, 1997, petitioner filed a petition praying that her marriage with her husband be declared void by reason of psychological incapacity.

Summons was served on respondent. In his answer, respondent alleged that it was not him but the petitioner who should be declared psychologically incapacitated as the latter failed to comply with her obligations as a wife. The Court directed Prosecutor Beppo Jerome L. Diloy to conduct an investigation to determine if there was collusion between the parties. On October 12, 1998, Prosecutor Diloy then filed a manifestation that there was no collusion between the parties and that the evidence was not fabricated. Thereafter, trial on the merits proceeded.

On February 12, 2002, the RTC rendered a decision granting the petition, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered GRANTING the Petition. The marriage entered into by the petitioner with the respondent on June 19, 1969 is declared VOID.

Let a copy of this Decision be furnished the Local Civil Registrar of Magdalena, Laguna and Binangonan, Rizal.

No costs.

SO ORDERED."^[2]

Hence, this appeal questioning the nullification of the marriage on the ground that:

THE TRIAL COURT ERRED IN GRANTING THE COMPLAINT FOR DECLARATION OF NULLITY OF MARRIAGE UNDER ARTICLE 36 OF THE FAMILY CODE WITHOUT CREDIBLE PROOF THAT THE HUSBAND WAS PSYCHOLOGICALLY INCAPACITATED TO PERFORM THE ESSENTIAL MARITAL DUTIES.^[3]

In its Appellant's Brief, the Office of the Solicitor General contends that petitioner failed to establish the psychological incapacity of respondent warranting the dissolution of their marriage. Respondent's alleged excessive indulgence to alcohol and illicit relation with another woman do not constitute grounds to declare him as suffering from psychological incapacity. At best, the OSG asserts that such grounds would just fall under the grounds for legal separation under *Article 55 of the Family Code*.

We find the appeal impressed with merit.

Article 36 of the Family Code of the Philippines states:

"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."

In *Santos vs. Court of Appeals, G.R. No. 112019, January 4, 1995*, the Supreme Court held that the psychological incapacity 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 which, as so expressed by *Article 68 of the Family Code*, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intendment of the law has been to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.

Moreover, the Supreme Court in the case of *Republic vs. Court of Appeals and Molina, G.R. No. 108763, February 13, 1997*, laid down the guidelines in the interpretation of the afore-quoted provision of the Family Code, to wit: *First*, the incapacity must be psychological or mental not physical, in nature; *Second*, the psychological incapacity must relate to the inability, not mere refusal, to understand, assume and discharge the basic marital obligations of living together, observing