

## FOURH DIVISION

[ CA-G.R. CV NO. 72953, August 28, 2006 ]

**EVANGELINA F. MANUBAY, PETITIONER-APPELLEE, VS.  
REYNALDO A. FAJARDO, JR., RESPONDENT, REPUBLIC OF THE  
PHILIPPINES, OPPOSITOR-APPELLANT.**

### D E C I S I O N

#### **GUARIÑA III, J.:**

After eight years of married life with Reynaldo Fajardo Jr., the petitioner Evangelina Manubay<sup>[1]</sup> filed a case for declaration of nullity of marriage with the Regional Trial Court of Cabanatuan City<sup>[2]</sup> citing the psychological incapacity of her husband Reynaldo to comply with his essential marital obligations to her. According to her petition, procreation as the basic uncompromising object of marriage was not accomplished in her marriage to Reynaldo. She was a career woman in her mid-thirties who decided to settle down with the respondent and have a family only to be disillusioned by his senseless refusal to have sex with her. Until she left him for good, they had not acquired any common property nor begot any child.

The respondent has waived the white flag in this case. He did not oppose the petition and refrained from attending hearings. The case was thus submitted on the strength alone of the evidence of the petitioner. Two witnesses took the witness stand - the petitioner herself testifying on her experiences and the psychiatrist who profiled the spouses based on her interviews of the petitioner and the sister of the respondent.

From the case study presented by Dr. Adelita Medrano-Medina,<sup>[3]</sup> whose qualifications as a psychiatrist is admitted by the State, Evangelina Manubay, the petitioner, first met her husband Reynaldo Fajardo in 1977 at the Nueva Ecija Doctors College and School of Nursing at Cabanatuan City where they were nursing students. After becoming licensed nurses, they both went abroad to work. Although stationed in different places, they did not lose touch with each other. They returned to the Philippines together and contracted marriage in 1990. They first entered into a civil wedding in January, did not immediately live under one roof, and had a church wedding two months later in March. In September, the respondent left for Canada as an immigrant, leaving the petitioner behind to pursue her masteral studies.

The communication between the two was soon cut to the bone. A year later, she left for Saudi Arabia to work. In 1993, the husband sent word to her that he was in Brunei. She returned occasionally to the Philippines, but did not bother to look for him, saying nonchalantly that he knew where to find her. The couple were inevitably drifting apart. The psychiatrist discerned that they both became uncaring of each other. In 1997, while on vacation again in the Philippines, the wife decided to file the annulment case.

The testimony of the petitioner filled the gaps in the case study. Coming in two parts, it bore a marked inconsistency.

She was 33 years old when she got married. The man Reynaldo was some two years older. They first married civilly in January 1990, but did not live together immediately because her father wanted them to get married in church. They exchanged vows in church in March, but were still not able to consummate the marriage because she was having her monthly period. There was by then an incident that seared the memory of the petitioner for years. The respondent told her that he was fooled by her into believing that she was a rich woman. She was turned off ever since by this remark.<sup>[4]</sup>

They went their separate ways in 1991 due to the demands of their careers.<sup>[5]</sup> They wrote to each other infrequently until 1993. She seemed to suggest that she met him again in 1993, because she revealed that *he did not visit her since 1993 until she filed the petition in 1998.*<sup>[6]</sup> She was asked frankly : *Since the time of your marriage (until) you parted ways (did ) you have carnal knowledge (of) the respondent ?* She answered : *None. We (did) not have any.*<sup>[7]</sup>

Towards the end of the first hearing, the petitioner made an unwitting admission that spoke volumes of her final split with the respondent. She was narrating that in 1996 or 1997 she called him up to tell him that she wanted an annulment. Then she added that *he was asking for another chance.* She said this to him : *I do not know you anymore.*<sup>[8]</sup>

The allegation that she never had sex with her husband turned out to be untrue. Twice at the next hearing, she indicated that she actually had sex with him. When she was asked to reaffirm the absence of coitus, she said : *Initially there was none, but then because we were married, we had to have a family. I want to have children.*<sup>[9]</sup> Several responses later, the following colloquy transpired between the court and her :

"Q: Do you have children with Reynaldo Fajardo, Jr.?

A : None, Your Honor.

Q: Would that mean that nothing happened between you and Reynaldo Fajardo, Jr. from the celebration of your marriage up to now?

A: Nothing happened? What do you mean, Your Honor.

Q: Nothing happened between you and Reynaldo Fajardo, Jr., you (had) no sexual intercourse?

A: There was, Your Honor, but what can I do, I did not become pregnant, so, we have no child.

Q: Now after, if this is given due course, I am referring to your petition, do you intend to marry again?

A: To marry again, at present, what happened is still traumatic but I don't know what is the score for me tomorrow, I cannot tell, but at present none, Your Honor."<sup>[10]</sup>

It would appear that the spouses had, indeed, consummated their marriage. The disappointment of the petitioner was actually the result of her perception that the husband was not cooperating enough with her to make her pregnant rather than