



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
JUL 05 2022
BY: *[Signature]*
TIME: _____

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BEBERY O. SANTOS-MACABATA,
Petitioner,

G.R. No. 237524

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

- versus -

**HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.**

**FLAVIANO MACABATA, JR. and
REPUBLIC OF THE PHILIPPINES,**
Respondents.

Promulgated:

APR 06 2022

[Signature]

X ----- X

DECISION

HERNANDO, J.:

Assailed in this petition for review on *certiorari*¹ are the June 16, 2017 Decision² and the November 16, 2017 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 100665, which reversed the December 28, 2011 Decision⁴ of Branch 90 of the Regional Trial Court (RTC) of Dasmariñas City, Cavite in Civil Case No. 4658-11, which declared the marriage of petitioner

¹ *Rollo*, pp. 3-29.

² Id. at 30-40. Penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justice Normandie B. Pizarro and Associate Justice Samuel H. Gaerlan (now a Member of this Court).

³ Id. at 51-53.

⁴ Id. at 54-57. Penned by Executive Judge Perla V. Cabrera-Faller.

Bebery O. Santos-Macabata (petitioner), and respondent Flaviano Macabata, Jr. (respondent), null and void on the ground of the latter's psychological incapacity.

The Facts:

Sometime in October 1996, petitioner and respondent were working as factory workers in separate electronic companies in Taiwan.⁵ Shortly after their introduction to each other, petitioner and respondent started dating.⁶ As they grew closer to each other, petitioner confided in respondent that she experienced a traumatic ordeal in her past relationship.⁷ Respondent reassured petitioner that he still accepted her despite her past.⁸ Petitioner and respondent continued their courtship and later learned that petitioner was pregnant with their first child.

After the termination of their employment contracts in Taiwan, petitioner and respondent returned to the Philippines. They got married on June 19, 1997 before Judge Ofelia Arellano Marquez of the Metropolitan Trial Court of Quezon City.⁹ The couple moved to a rented house in Bagong Barrio, Caloocan City and soon welcomed their first child,¹⁰ followed by their second child.¹¹

The couple initially enjoyed a peaceful marriage, but when petitioner became the breadwinner of the family, the couple would often argue about respondent's unemployment during their quarrels, respondent would insult petitioner by bringing up her traumatic past.¹² Petitioner and respondent would also argue over respondent's drinking, gambling, and womanizing.¹³ Encountering difficulties in supporting their family, the couple moved to the house of petitioner's parents.¹⁴

In February 2000, respondent eventually found work as an entertainer in Japan.¹⁵ Petitioner claimed that she was shocked to learn that respondent indicated his civil status as "single" in his passport, and when she confronted him, respondent simply claimed that he was advised by his manager to represent himself as "single" as it is the common practice for male entertainers in Japan.¹⁶

⁵ TSN, September 26, 2011, p. 4.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id., Records, p. 7.

¹⁰ TSN, September 26, 2011, p. 5.

¹¹ Id.

¹² Id. at 5-6.

¹³ Id.

¹⁴ Id. at 6.

¹⁵ Id. at 7.

¹⁶ Id.

Respondent would nonetheless proceed to work in Japan and send money to petitioner, but such remittances were not enough to support their family.¹⁷ Sometime in June 2002, respondent failed to send money to petitioner and ultimately ceased all contact with his family.¹⁸

After two years of no communication with respondent, petitioner was able to talk to respondent after he called his sister to tell petitioner that he was no longer coming back to her, and that he was already living with another woman.¹⁹ Respondent told her, “*Wag mo na akong hintayin pa at ako’y di na uuwi pa dahil may babae na ako dito. Kung gusto mo, mag-asawa ka na rin.*”²⁰ Petitioner sent a letter to respondent pleading for him to come back, but it was respondent’s mistress who responded to petitioner.²¹ Petitioner also later learned from her brother-in-law that sometime in 2007, respondent had been going to the Philippines from abroad several times, and that respondent was hiding from petitioner.²²

Aggrieved, petitioner filed before the RTC a petition dated August 13, 2010, seeking the declaration of nullity of her marriage to respondent on the ground of the latter’s psychological incapacity.²³

The respondent did not file any responsive pleading. The Office of the Solicitor General (OSG) entered its appearance in this case. Pursuant to the RTC Order dated July 8, 2011, an investigation was conducted to determine if there is collusion between the parties.²⁴ In a compliance dated August 22, 2011, it was confirmed therein that no collusion exists between the parties.²⁵

Petitioner submitted as evidence, among others, a report on the psychological condition of petitioner and respondent (report), conducted by clinical psychologist Dr. H. Nedy L. Tayag (Dr. Tayag), based on information provided by petitioner, and the couple’s two children, as well as a visit to the residence of respondent. As indicated in the report, since respondent was not found in his home, Dr. Tayag interviewed respondent’s youngest brother, Nelson Macabata (Nelson). Dr. Tayag concluded in her report that respondent

¹⁷ Id.

¹⁸ Id.

¹⁹ Id. at 8.

²⁰ Id.

²¹ Id. at 9.

²² Id. at 10.

²³ Records, p. 10-18.

²⁴ Id. at 28.

²⁵ Id. at 31.

suffered from antisocial personality disorder stemming from his childhood years, and “being afflicted with said disorder, respondent lacked depth when it concerned his marital duties and obligations.”²⁶

Ruling of the Regional Trial Court:

In its December 28, 2011 Decision,²⁷ the RTC granted the petition declaring the marriage of the parties null and void *ab initio*. The RTC relied on the findings in the report and held that the petitioner provided sufficient evidence to prove that respondent is psychologically incapacitated to perform his marital obligations even prior to the celebration of his marriage to the petitioner.²⁸

The OSG filed on January 24, 2012 a motion for reconsideration (Re: Decision dated December 28, 2011) wherein the OSG asserted that the petitioner failed to satisfactorily discharge the burden of proving that respondent was truly incapable of complying with his marital obligations due to a serious form of psychological disorder.²⁹ In an Order dated March 23, 2012, the RTC denied the motion for reconsideration filed by the OSG.³⁰

Ruling of the Court of Appeals:

In its June 16, 2017 Decision,³¹ the CA reversed the December 28, 2011 Decision of the RTC, and held that the RTC erred in declaring the marriage of the parties null and void, considering that the totality of the evidence presented is insufficient to establish respondent’s psychological incapacity to fulfill his marital obligations. The CA found that Dr. Tayag’s report failed to fully explain the symptoms of the antisocial personality disorder, and establish a link between respondent’s acts to respondent’s alleged psychological incapacity to comply with his marital obligations.

Petitioner filed a motion for reconsideration on July 7, 2017,³² which was denied in the assailed Resolution dated November 16, 2017.³³ Hence, the instant petition.

²⁶ TSN, November 21, 2011, p. 5-6.

²⁷ *Rollo*, pp. 54-57.

²⁸ *Id.* at 55-57.

²⁹ *Id.* at 58-71.

³⁰ *Id.* at 72-73.

³¹ *Id.* at 31-40.

³² *Id.* at 41-50.

³³ *Id.* at 52-53.

Issue

The issue before Us is whether or not the CA erred when it reversed the Decision of the RTC and issued a Decision finding that petitioner failed to provide sufficient evidence that respondent is psychologically incapacitated to perform his marital obligations.

Our Ruling

The petition is bereft of merit.

Article 36 of the Family Code provides that a marriage may be declared void on the ground of psychological incapacity, to wit:

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.

The Court declared in *Santos v. Court of Appeals*³⁴ that the term “psychological incapacity” under Article 36 of the Family Code is characterized by **(a) gravity** which entails that such “psychological incapacity” must be so grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; **(b) juridical antecedence** (*i.e.*, the “psychological incapacity” must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage); and **(c) incurability** or, even if it were otherwise indeed curable, the cure would be beyond the means of the party involved.

In the case of *Republic v. Court of Appeals and Molina*³⁵ (*Molina*), the Court further expounded on these characteristics, and provided guidelines in the interpretation and application of Article 36 of the Family Code. However, the succeeding cases of *Ngo Te v. Yu-Te*³⁶ (*Ngo Te*) and *Kalaw v. Fernandez*³⁷ (*Kalaw*), among others, criticized the rigidity of the *Molina* guidelines, which led to the rejection of certain petitions for the nullification of marriage based on Article 36 of the Family Code. Thus, in *Kalaw*, citing *Ngo Te*, although the Court did not abandon the *Molina* guidelines, the Court declared that “every court should approach the issue of nullity ‘not on the basis of *a priori* assumptions, predilections or generalizations, but according to its own facts’

³⁴ 310 Phil. 21, 39 (1995)

³⁵ 335 Phil. 664, 674 (1997).

³⁶ 598 Phil. 666 (2009).

³⁷ 750 Phil. 482 (2015)

in recognition of the verity that no case would be on ‘all fours’ with the next one in the field of psychological incapacity as a ground for the nullity of marriage; hence, every ‘trial judge must take pains in examining the factual milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court.’”³⁸

In view of the foregoing observations, and considering the continued tendency of courts to rigidly apply the *Molina* guidelines, the Court meticulously reviewed and revised the *Molina* guidelines in the case of *Tan-Andal v. Andal*³⁹ (*Tan-Andal*). The guidelines, as modified by current case law, are summarized below:

(1) The first *Molina* guideline states that “[t]he 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.”⁴⁰

In addition to the foregoing guideline, the Court in *Tan-Andal* emphasized that there is a presumption of validity of marriage, and that such presumption can only be rebutted by a **clear and convincing evidence**.⁴¹ Hence, the plaintiff-spouse in an action to nullify a valid marriage based on Article 36 of the Family Code has the burden of proving his or her case with clear and convincing evidence.

(2) The second *Molina* guideline which provides that “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”⁴² was modified in the *Tan-Andal* case. In the *Tan-Andal* case, the Court categorically abandoned the requirement that psychological incapacity must be medically or clinically identified and proven through expert opinion as the term “**psychological incapacity**” **does not refer to a mental incapacity or a personality disorder**, to wit:

In light of the foregoing, this Court now categorically abandons the second *Molina* guideline. Psychological incapacity is *neither* a mental incapacity nor a personality disorder that must be proven through expert opinion. There must be proof, however, of the durable or enduring aspects of a person’s personality, called ‘personality structure,’ which manifests itself through clear acts of

³⁸ Id. at 499-500.

³⁹ G.R. No. 196359, May 11, 2021.

⁴⁰ *Republic v. Molina*, supra note 35 at 676.

⁴¹ Id.

⁴² *Republic v. Molina*, supra note 35 at 677.

dysfunctionality that undermines the family. The spouse's personality structure must make it impossible for him or her to understand and, more important, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the latter contracted marriage may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse. From there, the judge will decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.⁴³

Reiterating this Court's pronouncement in *Marcos v. Marcos*,⁴⁴ the medical examination by an expert of the spouse concerned is no longer required as courts may rely on the **totality of evidence** to sustain a finding of psychological incapacity.⁴⁵

(3) The third *Molina* guideline entails that "incapacity must be proven to be existing at 'the time of the celebration of the marriage,'"⁴⁶ which is also clearly stated in Article 36 of the Family Code. Although the "psychological incapacity" may not be perceivable at the time of the celebration of the marriage, such "psychological incapacity" must have attached at such moment, or prior thereto.⁴⁷

(4) The fourth *Molina* guideline which requires that "[s]uch incapacity must also be shown to be medically or clinically permanent or incurable"⁴⁸ has already been abandoned.

The case of *Tan-Andal* clarifies that "the psychological incapacity contemplated in Article 36 of the Family Code is incurable, *not* in the medical, but the legal sense", and that the requirement of incurability means that "the incapacity is so enduring and persistent with respect to a specific partner, and contemplates a situation where the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be inevitable and irreparable breakdown of marriage."⁴⁹ The *Tan-Andal* case further refers to the Concurring Opinion of Senior Associate Justice Perlas-Bernabe which provides that "an undeniable pattern of such persisting failure [to be a present, loving, faithful, respectful, and supportive spouse] must be established as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other."⁵⁰

⁴³ *Tan-Andal v. Andal*, supra note 39.

⁴⁴ 397 Phil. 840, 850-851 (2000).

⁴⁵ *Tan-Andal v. Andal*, supra note 39, citing *Marcos v. Marcos*, id.

⁴⁶ *Republic v. Court of Appeals and Molina*, supra note 35 at 677.

⁴⁷ Id.

⁴⁸ Id. Underscoring supplied.

⁴⁹ *Tan-Andal v. Andal*, supra note 39.

⁵⁰ Id., citing S.A.J. Perlas-Bernabe, Concurring Opinion, p. 26.

(5) The *Tan-Andal* case retains the fifth *Molina* guideline that requires that “[s]uch illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage”, but further provides that there must be a clear and convincing evidence showing that such incapacity is caused by a genuinely serious psychic cause.⁵¹ The Court, in the *Molina* case, further elaborates:

Thus, ‘mild characterological peculiarities, mood changes, occasional emotional outbursts’ cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.⁵²

(6) The sixth *Molina* guideline identifies the essential marital obligations to be the obligations “embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.”⁵³ The *Tan-Andal* case affirms that the obligation of the spouses to their children becomes part of their obligations to each other as spouses and, thus, failure to attend to their obligations to their children may be a ground to nullify the marriage of the parties.⁵⁴ However, it must be clearly shown that such failure reflects on the capacity of at least one of the spouses.⁵⁵

(7) The seventh *Molina* guideline which provides that the interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, is persuasive⁵⁶ is retained in the *Tan-Andal* case.⁵⁷

(8) The eighth and final *Molina* guideline provides that “[t]he trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be,

⁵¹ Id.

⁵² *Republic v. Court of Appeals and Molina*, supra note 35 at 678.

⁵³ Id.

⁵⁴ Id. *Tan-Andal v. Andal*, supra note 39

⁵⁵ Id.

⁵⁶ *Republic v. Court of Appeals and Molina*, supra note 35 at 678.

⁵⁷ *Tan-Andal v. Andal*, supra note 39.

to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the *defensor vinculi* contemplated under Canon 1095.”⁵⁸

Applying the foregoing pronouncements, this Court finds that the petitioner failed to prove and substantiate by clear and convincing evidence that respondent suffers from such “psychological incapacity” that prevents him from complying with his marital obligations as contemplated under Article 36 of the Family Code.

Indeed, the respondent has clearly failed to fulfill his essential obligations to his wife and children when he abandoned his family. Petitioner admits that respondent stopped providing sufficient support to his family starting June 2002, informed his wife that he will not return to their home, and that he is in a relationship with another woman, and he continues to hide from his wife and cease all contact with his family. However, the totality of evidence does not show that such failure to fulfill his essential marital obligations is caused by a genuinely serious and incurable psychic cause which exists prior to or at the time of celebration of the marriage of the parties.

Although the report claims that respondent’s antisocial personality disorder was “brought about by diversified unconstructive factors during his early years that affected his rather healthy childhood development[,] and has[,] thus[] resulted to the existence of his pathological personality disposition,” other than the claims of the petitioner, the other sources of information of the report, namely the parties’ two children and respondent’s brother, did not provide any input that would support such a conclusion. In fact, the information provided by the children of the parties, and especially respondent’s younger brother, contradict such findings.

In the report, it is shown that petitioner briefly mentioned quarrels before the parties got married which may have elicited doubts into entering the marriage, but petitioner failed to expound on the same in her testimony.⁵⁹ Mere disagreements between spouses, uncorroborated by any other evidence, are not necessarily indicative of the presence of psychological incapacity.

⁵⁸ *Republic v. Court of Appeals and Molina*, supra note 35 at 679-680.

⁵⁹ Records, p. 58.

The report also contains the following conjectures, among others: respondent lacked “appropriate fatherly guidance” as his father had a first family, and thus “neglected them during their growing up years;” that “his mother was busy with her newspaper business that she missed time with her children,” and that, “being the middle child, he grew up thinking that his family never listened to his sentiments in life.”⁶⁰ The report further concluded that his parents neglected, and failed to give him a healthy home environment:

With his growing confusion and emotional dilemma, he has sought refuge outside his family and has built his own family where he thought that he could feel special. However, his selfish, immature[,] and irresponsible nature as well as his unethical behavior, being the effect of his parent’s neglect and failure to give him a healthy home environment consistent with love and good discipline, has contributed to his self-centered, immature, irresponsible[,] and pleasure-oriented disposition which was not corrected at an early age, but has been rather intensified to become his defective pattern of behavior which, in the duration of time, has full bloom during his adulthood, thereby, rendering him incapacitated to execute his spousal roles and functions.⁶¹

The children of the parties both confirm that they barely remember their father since the eldest was two years old and the youngest was two months old when their father left the Philippines to work in Japan.⁶² Nonetheless, despite the foregoing assessment detailed in the report, both children note that respondent is “*mabait*” or kind and would give them whatever they may need.⁶³ The eldest daughter also stated that they still visit their paternal grandparents from time to time.⁶⁴

Respondent’s younger brother, Nelson, gave insight into their childhood and family life, as well as the personality, attitude, and demeanor of his parents and siblings. The petitioner’s opinion on the family life of the respondent is echoed in the report, but petitioner also admits that she did not know respondent’s father as the latter had already passed away before the parties got married.⁶⁵ Respondent’s brother, however, described their father as strict “if ever one of them had done wrong,” but “nice, never played favorites, and supportive.”⁶⁶ In contrast to the finding in the report, respondent’s brother considers their family happy and described respondent as friendly and similar to their father.⁶⁷

⁶⁰ Id. at 75.

⁶¹ Id.

⁶² Id.

⁶³ Id. at 64-66.

⁶⁴ Id.

⁶⁵ Id. at 55.

⁶⁶ Id.

⁶⁷ Id. at 67.

From the foregoing, it is apparent that there are inconsistencies in the information provided in the report, and the conclusion of the clinical psychologist therein. A thorough reading of the report would show that the conclusion therein is grounded on general observations nitpicked from certain aspects of respondent's life and based primarily on petitioner's assessment of his upbringing, none of which are fully supported by the information provided by respondent's younger brother who grew up with the respondent. Hence, there is doubt as to whether the report is sufficient evidence to show that the acts of respondent are manifestations of a certain form of psychological incapacity, and that the alleged psychological incapacity of the respondent exists prior to, or at the time of, celebration of the marriage of the parties.

For failure to show by clear and convincing evidence that the respondent is incapable of fulfilling his essential marital obligations due to a genuinely serious and incurable psychic cause which exists prior to or at the time of celebration of the marriage of the parties, the Court is compelled to deny the petition.

This Court commiserates with the parties who find themselves in an unsatisfactory marriage, but the Court emphasizes that a petition for declaration of nullity of marriage on the ground of psychological incapacity under Article 36 of the Family Code is limited to cases where there is a downright incapacity or inability to assume and fulfill the basic marital obligations, not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse.⁶⁸ Expert opinion may be persuasive but, ultimately, the totality of evidence must show that an adverse integral element in the personality structure of the respondent effectively incapacitates him from accepting, and thereby complying with his essential marital obligations,⁶⁹ and such incapacity must be proven to exist prior to, or at the time of celebration, of the marriage of the parties. Absent any such clear and convincing evidence, the petition must be denied.

WHEREFORE, the petition is hereby **DENIED**. The June 16, 2017 Decision and the November 16, 2017 Resolution of the Court of Appeals in CA-G.R. CV No. 100665 are **AFFIRMED**. Accordingly, the petition for declaration of nullity of marriage filed under Article 36 of the Family Code, as amended, is **DISMISSED**.

⁶⁸ See *Republic v. Romero II*, 781 Phil. 737, 747 (2016); *Republic v. Deang*, G.R. No. 236279, March 25, 2019; *Republic v. Court of Appeals and Molina*, supra note 35 at 678.

⁶⁹ *Id.*

SO ORDERED.

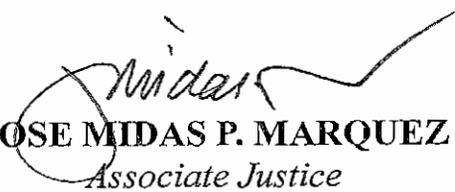

RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

