



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 March 2022** which reads as follows:*

“**UDK-17203 (Mary Cris Bedonia Guinalon v. Nelson Guinalon, Jr.)**. — The Court resolves to **GRANT** petitioner Mary Cris Bedonia Guinalon’s (petitioner) motion for extension of thirty (30) days from the expiration of the reglementary period within which to file a petition for review on certiorari.

Before the Court is a petition for review on *certiorari*¹ filed by petitioner assailing the Decision² dated December 19, 2019 and the Resolution³ dated June 9, 2021 of the Court of Appeals (CA) in CA-G.R. CEB CV. No. 06842, which denied petitioner’s appeal for her failure to show that her marriage with respondent Nelson Guinalon, Jr. (respondent) is void *ab initio*, thereby affirming *in toto* the Decision⁴ dated October 3, 2017,⁵ of the Regional Trial Court of Silay City, Branch 69 (RTC).

The Facts

Petitioner alleged that she and respondent met in 2003 through a common friend when they were both applying for employment with the Philippine National Police. In May 2005, she discovered that she was pregnant with respondent’s child. Thus, in June of the same year, they were married in a civil ceremony which was solemnized by Presiding Judge Demosthenes L. Magallanes (Presiding Judge Magallanes). However, petitioner averred that they did not cohabit with each other for five (5) years prior to their marriage, since petitioner was living at their family home in E.B. Magalona while respondent was at the Regional Mobile Group (RMG) Headquarters in Victorias City.⁶

When she was about eight (8) months pregnant, petitioner learned from a friend that respondent was having an extra-marital affair, which prompted her to go

¹ *Rollo*, pp. 12-24.

² *Id.* at 30-48. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Marilyn B. Lagura-Yap and Alfredo D. Ampuan, concurring.

³ *Id.* at 49-50. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Marilyn B. Lagura-Yap and Lorenza Redulla Bordios, concurring.

⁴ RTC Decision is not attached in the *rollo*; see *id.* at 34-35.

⁵ See *id.* at 30.

⁶ *Id.* at 31.

to the house shared by respondent and his paramour Claire Bajos (Bajos). There, she met Bajos and introduced herself as respondent's wife, which caught Bajos by surprise. Bajos then called respondent, but when the latter realized that petitioner was beside Bajos, he turned off his phone. After meeting Bajos, petitioner headed for Bacolod to look for respondent. Not having found him, petitioner just went home. As she was about to go to sleep, she noticed that she was bleeding. Thus, petitioner was rushed to the hospital where the doctors decided to induce the child's birth. The following day, or on December 31, 2005, she gave birth to their son. Thereafter, she continued to search for respondent but to no avail. When they finally met, respondent agreed to give petitioner and their child monthly support but because of his loan, he was only able to give a net pay of ₱1,500.00. After some time, petitioner got tired of asking for support from respondent so she left him. Petitioner also found out that respondent continued to live with Bajos, and that the last time she saw respondent was in 2013.⁷ The foregoing circumstances prompted petitioner to file a petition for declaration of absolute nullity of marriage before the RTC, alleging that: (a) their marriage was celebrated without a marriage license; and (b) respondent is psychologically incapacitated as manifested by his abandonment, infidelity, and failure to give support.⁸

Despite receipt of summons, respondent did not file his answer. Nonetheless, the case proceeded to trial.⁹ Petitioner presented her own testimony and her witnesses, namely: fellow police officers Marilyn Dumudumaya Arriola (Arriola), Alfonso Separo Arriola, Jr. (Arriola Jr.), expert witness Milagros Hinayan Lagman (Lagman), and Social Worker Officer II Judy Ybias-Empio (Ybias-Empio).¹⁰

Arriola testified that respondent was assigned to the RMG Headquarters in Victorias City, and that for four months after the parties were married, everything went well. After four months, however, petitioner and respondent started to fight. Respondent eventually left petitioner and lived at the RMG Headquarters.¹¹

On the other hand, Arriola, Jr. testified that after the wedding, petitioner and respondent lived in the house of petitioner's parents at Brgy. Manta-angan, E.B. Magalona. But after the birth of their child, petitioner and respondent parted ways, and respondent would just visit petitioner at her family's house. However, when petitioner and respondent fought, the latter no longer visited the former. Moreover, respondent used to support petitioner by giving forty percent (40%) of his salary to the latter, which stopped after some time.¹²

Meanwhile, in her report, expert witness Lagman stated that both petitioner and respondent are psychologically incapacitated. Notably, however, she only explained that petitioner is suffering from a Conduct Disorder that might harm her psychologically and emotionally if in close proximity with respondent.¹³

⁷ Id. at 33.

⁸ Id. at 31-32.

⁹ Id. at 14-15.

¹⁰ Id. at 32.

¹¹ Id. at 33-34.

¹² Id. at 33.

¹³ Id. at 34.

Lastly, in her report, social worker Ybias-Empio noted that petitioner has long been playing the dual role of a father and a mother to their son, and that in the best interest of the child, sole custody must be granted to petitioner.¹⁴

The RTC Ruling

In a Decision¹⁵ dated October 3, 2017, the RTC upheld the marriage of petitioner and respondent, and denied the petition for lack of merit.¹⁶ The RTC opined that the psychologist presented by petitioner failed to make any direct and conclusive finding that respondent suffers from a psychological disorder which renders him incapacitated to fulfill his obligations as a husband. The RTC likewise found that except for the certificate of marriage, petitioner failed to present any other evidence to support her claim that her marriage with respondent was solemnized without the requisite marriage license.¹⁷

Dissatisfied, petitioner moved for reconsideration but was denied.¹⁸ Hence, petitioner appealed to the CA.

The CA Ruling

In a Decision¹⁹ dated December 19, 2019, the CA denied the appeal and affirmed *in toto* the RTC ruling.²⁰ With regard to the absence of marriage license, the CA declared that the marriage of petitioner and respondent was exempted from the license requirement for having complied with the five (5)-year cohabitation requirement. It noted that the solemnizing officer, Presiding Judge Magallanes, personally examined the petitioner and respondent and their affidavit of cohabitation before performing their marriage ceremony under Article 34 of the Family Code. Having found the same to be in order, Judge Magallanes certified that 'no marriage license was necessary, the marriage being solemnized under Art. 34 of Executive Order No. 209' and signed the Oath of Solemnizing Officer.²¹

As to the claim of psychological incapacity, the CA held that there is nothing in the psychologist's report to suggest the existence of respondent's psychological incapacity. Moreover, it cannot accept the claim of petitioner that she is likewise psychologically incapacitated since her petition did not contain such allegation. In any event, the CA found that petitioner failed to prove her own psychological incapacity, as there is no indication of any behavioral problems on her part, and that her supposed Conduct Disorder was not deeply rooted prior to their marriage. Neither was it shown that the same was incurable.²²

¹⁴ Id. at 34.

¹⁵ RTC Decision is not attached in the *rollo*; see *id.* at 34-35.

¹⁶ See *id.* at 34-35.

¹⁷ See *id.* at 35.

¹⁸ The judgment denying petitioner's motion for reconsideration was not attached in the *rollo*.

¹⁹ *Id.* at 30-48. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Marilyn B. Lagura-Yap and Alfredo D. Ampuan, concurring.

²⁰ *Id.* at 48.

²¹ *Id.* at 37-39.

²² *Id.* at 39-47.

Undaunted, petitioner moved for reconsideration but was denied in a Resolution²³ dated June 9, 2021; hence, this petition.²⁴

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in ruling that the marriage between petitioner and respondent is not void *ab initio*.

The Court's Ruling

The petition lacks merit.

At the outset, it must be pointed out that as correctly found by the CA, the marriage of petitioner and respondent was exempted from the license requirement for having complied with the five (5)-year cohabitation requirement. Article 34 of the Family Code states:

ARTICLE 34. No license shall be necessary for the marriage of a man and a woman who have lived together as husband and wife for at least five years and without any legal impediment to marry each other. The contracting parties shall state the foregoing facts in an affidavit before any person authorized by law to administer oaths. The solemnizing officer shall also state under oath that he ascertained the qualifications of the contracting parties and found no legal impediment to the marriage.

Records reveal that it was only after personally interviewing and examining the parties and their evidence that the solemnizing officer, Presiding Judge Magallanes, certified that 'no marriage license was necessary, the marriage being solemnized under Art. 34 of Executive Order No. 209,' and thereafter, signed the Oath of Solemnizing Officer. The execution of the certification and the oath is the solemnizing officer's official duty, and is thus presumed to have been regularly performed absent other evidence to the contrary.²⁵ In this regard, it is settled that the presumption of regularity of official acts may be rebutted by affirmative evidence of irregularity or failure to perform a duty,²⁶ which petitioner failed to show in this case.

On the claim of psychological incapacity, it is well to emphasize that in the recent case of *Tan-Andal v. Andal (Tan-Andal)*,²⁷ the Court abandoned the previous jurisprudential framework on psychological incapacity, clarifying that the said concept is '*neither a mental incapacity nor only 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 dysfunctionality that undermines the family.* The spouse's personality structure must make it impossible for him or her to understand and, more importantly, to comply with his or her essential marital obligations.'²⁸

²³ Id. at 49-50. Penned by Associate Justice Gabriel T. Ingles with Associate Justices Marilyn B. Lagura-Yap and Lorenza Redulla Bordios, concurring.

²⁴ Id. at 12-24

²⁵ See Section 3 (m) of Rule 131 of the Rules of Court.

²⁶ *Abbas v. Abbas*, 702 Phil. 578, 592 (2013).

²⁷ G.R. No. 196359, May 11, 2021.

²⁸ Id.

In *Tan-Andal*, the Court further held that in psychological incapacity cases, petitioner spouse must prove his or her case with **clear and convincing evidence**. However, **proof of a spouse's personality aspects 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.'**²⁹

In light of the Court's fundamental paradigm shift in viewing psychological incapacity as a **purely legal, rather than a medical or clinical concept**, the requisites in determining psychological incapacity, namely: **incurability, gravity, and juridical antecedence**, were refined accordingly.

In particular, psychological incapacity is **incurable** only in the legal (not medical) sense in 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 the inevitable and irreparable breakdown of the marriage.' In order for the said requisite to obtain, there must be '**[a]n undeniable pattern of a persisting failure to be a present, loving, faithful, respectful, and supportive spouse that must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other.**'³⁰

Meanwhile, for psychological incapacity to be considered as **grave**, it should be shown that the same is **not merely based on 'mild characterological peculiarities, mood changes [or] occasional emotional outbursts' nor mere 'refusal, neglect[,] difficulty, much less ill will'**³¹ **of the alleged incapacitated party**. In this regard, 'a deeper and fuller assessment of the alleged incapacity must be done such that it is clearly and convincingly shown that the fulfillment of the essential marital obligations is not merely feigned or cumbersome but rather, **practically impossible because of the distinct psychological makeup of the person relative to his or her spouse.**'³²

Lastly, **juridical antecedence** – which, to note, is based on the phrase 'at the time of the celebration of the marriage' in Article 36 of the Family Code – means that **the incapacity is determined to exist during the time the marriage is celebrated, although it manifests thereafter.**

While it may indeed be difficult—if not scientifically impossible—to determine the existence of psychological incapacity at the exact point in time that the couple exchanged their 'I dos', **it is sufficient, however, that the petitioner demonstrates, by clear and convincing evidence, that the incapacity, in all reasonable likelihood, already exists at the time of the marriage's celebration.**³³ To determine the reasonable likelihood of its existence at the time of the celebration of the marriage, the Court, in *Tan-Andal*, held that '**proof of juridically antecedent**

²⁹ *Tan-Andal v. Andal*, G.R. No. 196359, 11 May 2021.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *Id.*

psychological incapacity may consist of testimonies describing the environment where the supposedly incapacitated spouse lived that may have led to a particular behavior.

Further, the concept of juridical antecedence must be understood to include the ordinary experiences of the spouses in making their essential decision to enter into marriage not only prior to the marriage itself but more importantly during their 'lived conjugal life' together since – as the law itself states, a marriage can be declared null and void under Article 36 of the Family Code '**even if such incapacity becomes manifest only after its solemnization**'. As the parties have yet to assume any of the essential marital obligations prior to being married, the Court discerns that **the experience of marriage itself is the litmus test of self-realization, reflecting one's true psychological makeup as to whether or not he or she was indeed capable of assuming the essential marital obligations to his or her spouse at the time the marriage was entered into.** Thus, to determine whether psychological incapacity is juridically antecedent, 'judges must reconstruct the marital decision-making process of an individual, just like inquisitive investigators. The judge must trace back and examine all the manifestations before and during marriage to find out if such non-fulfillment relates to the intrinsic psychological makeup of the person relative to his or her specific partner, and not just some mere difficulty that ordinary spouses, at some point in time, are bound to go through. Accordingly, the judge must confirm that the non-fulfillment was not caused solely by any factor that emerged only during the marriage but one which, in all reasonable likelihood, existed at the time the marriage was entered into.'

Applying the foregoing, the Court finds that the totality of evidence presented failed to clearly and convincingly prove the existence of psychological incapacity in accordance with the above-stated jurisprudential parameters.

To recount, petitioner averred that respondent's psychological incapacity is manifested by his acts of infidelity, abandonment, and failure to give support.

With respect to respondent's infidelity, petitioner narrated that during her eighth month of pregnancy, she discovered that respondent was having an extra-marital affair. Thereafter, respondent continued to live with his paramour. Anent the claim of abandonment, the witnesses testified that the parties were harmoniously living together after their wedding up until they started to fight. Because of their quarrels, respondent left the house and completely stopped visiting petitioner.

As the Court sees it, the foregoing acts demonstrate an undeniable pattern of persisting failure on respondent's part to fulfill his duty as a present, loving, faithful, respectful, and supportive spouse to petitioner. Respondent's unfaithfulness and abandonment were not just a singular incident/affair. Instead, it endured and persisted, as in fact it has been nine (9) years since petitioner last saw respondent in 2013. Consequently, respondent's non-compliance with his essential marital obligations cannot be considered as merely feigned. On the contrary, his acts show that it is already highly improbable for him to live together with petitioner and their child, and thus, fulfill his duties and obligations as a husband and a father. As pointed out by petitioner, '***he was not just incapacitated to perform his marital obligation, he in fact never performed his marital obligation.***'³⁴ Hence, as to

³⁴ *Rollo*, p. 22.

respondent's infidelity and abandonment, the requisites of gravity and incurability are present.

This notwithstanding, the Court finds that petitioner failed to prove the requisite of juridical antecedence. Indeed, it is difficult to fully ascertain whether a person is truly capable of giving his or her self at the time the marriage was entered into. Thus, it is sufficient that petitioner demonstrates by clear and convincing evidence that the incapacity, **in all reasonable likelihood**, already exists at the time of the celebration of marriage. **This may be achieved by looking into the circumstances prior to the couple's marriage, and most especially, during their lived conjugal life.**

In this case, petitioner and respondent had been living together for five (5) years prior to their marriage. However, petitioner failed to present any proof demonstrating respondent's tendencies or any other similar behavior prior to their marriage. Likewise, there was no evidence describing the environment where respondent lived that may have led him to perform his alleged behaviors. As such, the Court cannot conclude that there is clear and convincing evidence that, in all reasonable likelihood, respondent was already predisposed prior to their marriage to behave as he did. On the contrary, it appears that respondent's behaviors were merely brought about by a circumstance that surfaced during their marriage. To note, everything was well between petitioner and respondent after their wedding, and they only started to fight four (4) months thereafter. This event triggered respondent to leave petitioner and to stop visiting her. Hence, respondent's manifestations appear to have happened during their marriage and not at the time of its celebration. In all, since petitioner has not submitted any evidence relative to respondent's behavior, character, or background prior to the marriage, there is no clear and convincing showing of the 'durable or enduring aspects of (respondent's) personality, called "personality structure,"' as required in *Tan-Andal*.

On this score, it is well to point out that sexual infidelity and abandonment are grounds for legal separation under Article 55³⁵ of the Family Code. Hence, for these grounds to rise to the level of psychological incapacity that would justify the nullification of marriage, the requisite of juridical antecedence must be clearly and convincingly shown to exist. Otherwise, if the Court were to treat psychological incapacity as a condition that arises only after the marriage's celebration, then the concept would not be any different from legal separation, which allows the spouses to live apart from each other at the time the grounds manifest themselves. While sexual infidelity and abandonment can be both manifestations of psychological incapacity and grounds for legal separation, the Court must view these acts under the lens of gravity, incurability, and juridical antecedence in order to declare a marriage null and void under Article 36. Verily, these three requisites are the defining factors of psychological incapacity that separate the said concept from legal separation, albeit the manifestations and grounds thereof overlap in theory.

As regards respondent's purported failure to provide support, records show that respondent supported petitioner by giving her forty percent (40%) of his salary.

³⁵ Art. 55. A petition for legal separation may be filed on any of the following grounds:
x x x x
(8) Sexual infidelity or perversion;
x x x x
(10) Abandonment of petitioner by respondent without justifiable cause for more than one year.
x x x x

In fact, one of petitioner's witnesses even testified that respondent entrusted him to bring the money to petitioner. Moreover, petitioner even admitted that respondent used to give his net pay of ₱1,500.00, and that she was the one who decided to stop asking for support from the latter. In any event, it was not shown that respondent deliberately withheld the same for unjustifiable reasons. Consequently, respondent's supposed failure to provide financial support cannot also be equated to psychological incapacity.

Relevantly, even considering the psychological report, there is nothing therein to suggest the existence of respondent's psychological incapacity. Indeed, as the CA pointed out:

The [petitioner] heavily relied on the psychological evaluation report which does not even explain how the [respondent's] condition could be characterized as grave, deeply-rooted and incurable within the contemplation of the law and settled jurisprudence thereon. In fact, there is nothing in the report to suggest the existence of [respondent's] psychological incapacity.³⁶

Meanwhile, with respect to petitioner's contention that she was also psychologically incapacitated, her supposed 'Conduct Disorder' was not shown to have made it impossible for her to understand and comply with her essential marital obligations. The expert witness' report is wanting in details as it failed to indicate how her conduct disorder constitutes an undeniable pattern of persisting failure on her part to be a present, loving, faithful, respectful, and supportive spouse so as to demonstrate a psychological anomaly or incongruity relative to respondent. In fact, as petitioner herself had demonstrated, the report contradicts her characterization as being responsible and dependable. As aptly pointed out by the CA:

Significantly, Psychologist Lagman's report is not consistent, too, with the social worker's evaluation of [petitioner]. It was established in the Social Case Study Report that [petitioner] took care of her son since birth, and has long assumed dual role of the single parent. The social worker's assessment of [petitioner] as someone responsible and dependable is corroborated by the two witnesses who both know [petitioner] and [respondent]. What is more, these two witnesses attested to the fact of [petitioner's] effort to keep her relationship with [respondent] intact.³⁷

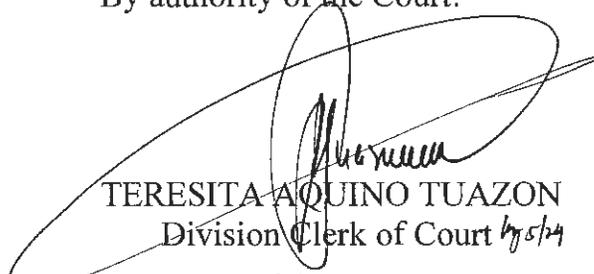
WHEREFORE, the petition is **DENIED**. The Decision dated December 19, 2019 and the Resolution dated June 9, 2021 of the Court of Appeals in CA-G.R. CEB CV. No. 06842 are hereby **AFFIRMED**. Accordingly, the Petition for Declaration of Nullity of Marriage is **DISMISSED**.

SO ORDERED."

³⁶ *Rollo*, p. 40.

³⁷ *Id.* at 46.

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by s/ty*
25 MAY 2022

MANLAPAO AND MANLAPAO LAW OFFICE (reg)
Counsel for Petitioner
759 Javelona Street
Brgy. Villamonte, 6100 Bacolod City

OFFICE OF THE PROVINCIAL PROSECUTOR (reg)
Hall of Justice
Silay City, Negros Occidental

NELSON GUINALON, JR. (reg)
Respondent
Lot 29, Block 17, Capitol Kabugwason Homes
Brgy. Mansilingan, 6100 Bacolod City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 69
Silay City
(Civil Case No. 2861-69)

JUDGMENT DIVISION (x)
Supreme Court, Manila

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