



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

EDWARD N. RIVO,

Petitioner,

G.R. No. 210780

Present:

GESMUNDO, C.J.,

Chairperson,

HERNANDO,

ZALAMEDA,

ROSARIO,* and

MARQUEZ, JJ.

- versus -

DOLORES S. RIVO,

Respondent.

Promulgated:

JAN 25 2023

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DECISION

HERNANDO, J.:

Before this Court is a Petition for Review on *Certiorari*¹ challenging the September 9, 2013 Decision² and the January 9, 2014 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 94751. The CA granted the appeal filed by respondent and set aside the October 30, 2009 Decision⁴ of the Regional Trial Court (RTC) of Las Piñas City, Branch 199 in Civil Case No. 05-0086, granting petitioner's Petition for Declaration of Nullity of Marriage under Article 36 of the Family Code.

* On official leave.

¹ *Rollo*, pp. 49-76.

² *Id.* at 10-24. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang.

³ *Id.* at 45-46. Penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Celia C. Librea-Leagogo and Melchor Q.C. Sadang.

⁴ *Id.* at 142-162. Penned by Presiding Judge Joselito dj. Vibandor.

The Antecedent Facts

Edward N. Rivo (petitioner) and Dolores S. Rivo (respondent) were officemates when they started dating in 1978 and got married on January 19, 1979 in a civil ceremony. On March 14, 1979, they celebrated their church wedding. Prior to their marriage, respondent begot a child with her former lover. Petitioner accepted respondent's son and treated him as his own son.⁵ On the other hand, petitioner and respondent have three children.⁶

On April 26, 2005, petitioner filed a Petition for Declaration of Nullity of Marriage⁷ against respondent. Petitioner alleged that respondent was psychologically incapable of assuming the essential obligations of marriage, and the incapacity existed at the time of the celebration of the marriage although he discovered it only after their marriage.⁸

During their marriage, petitioner observed that respondent gave priority to her work and devoted little time with petitioner and their children. Even on Sundays, respondent would tend to her family's grocery store rather than spend time with her family. Respondent was always too tired and unconcerned about her physical appearance. Most of the time, she went to bed without cleaning herself thus, petitioner did not have the urge to be intimate with her.⁹

In addition, petitioner noticed that respondent was unfair to her children. She showed more care and love towards Eduardo and Eugene while she often mistreated Jor-el. This prompted petitioner to take custody of Jor-el after they separated.¹⁰

However, petitioner admitted that he was partly responsible for the failure of their marriage. He revealed that he had two extra-marital affairs and even sired two children with her second mistress, Perla. In 1989, petitioner abandoned his family and did not disclose his whereabouts for two years.¹¹

On January 20, 2005, petitioner sought professional help from a clinical psychologist, Dr. Natividad Dayan (Dr. Dayan). After the interview conducted by Dr. Dayan upon petitioner, the physician concluded that petitioner is suffering from a Narcissistic Personality Disorder. On the other hand, Dr. Dayan opined that respondent is encumbered with a Compulsive Personality Disorder based on the collated information provided by petitioner. Moreover, their marriage was marked with a Partner Relational Problem. Dr. Dayan

⁵ Id. at 11.

⁶ Id.

⁷ Id. at 142.

⁸ Id. at 12.

⁹ Id. at 11.

¹⁰ Id.

¹¹ Id.

remarked that the parties would continue to experience misery and psychological distress if they remain married to each other.¹²

For her part, respondent belied petitioner's allegation that she was a neglectful wife to him and mother to her children. On the contrary, she was a model wife. Respondent claimed that the grocery store adverted to by petitioner belongs to petitioner and respondent because the latter took over it from her family. Necessarily, she had to manage it. However, it is not true that she was in the store even during Sundays because it was her mother who tended the store on Sundays so she could spend the day with petitioner and her children.¹³ She added that petitioner benefited largely from the operation of the grocery business because respondent bought a brand new car for him out of the profit gained from the business.

Respondent also denied petitioner's accusation that she was not very particular with her hygiene which caused their sexual life to suffer. Contrariwise, respondent averred that they had a normal sexual life until petitioner started womanizing. In fact, she filed a concubinage case against petitioner which is pending before the Metropolitan Trial Court of Quezon City as of the time of filing of the petition for declaration of nullity of their marriage.¹⁴

Moreover, while respondent admitted that she had the tendency to take her anger towards Jor-el, who is the look-a-like of petitioner, this was, however, the consequence of her emotional distress arising from petitioner's infidelity. Aware that she was being unfair to Jor-el, respondent asked her sister-in-law to take temporary custody of Jor-el. However, unknown to respondent, petitioner took Jor-el home to live with his mistress.¹⁵

Respondent likewise submitted herself to a battery of psychological tests and based on the evaluation conducted by Dr. Nimia Hermilia C. De Guzman (Dr. De Guzman), it was found that respondent is psychologically capacitated to understand and comply with her marital obligations.¹⁶

Ruling of the Regional Trial Court

In a Decision dated October 30, 2009, the RTC granted the petition and declared void *ab initio* the marriage between petitioner and respondent. The trial court found petitioner psychologically unfit to discharge his responsibilities as a husband. Petitioner's inability to understand the needs of her wife for financial support, his constant complaining of respondent's hygiene despite knowing the nature of their business, and his act of encouraging Jor-el to harbor antagonistic

¹² Id. at 12.

¹³ Id.

¹⁴ Id. at 13.

¹⁵ Id.

¹⁶ Id.

attitude against his own mother knowing that he has contributed to the pains suffered by respondent due to his infidelity, are indicative of inconsiderate, selfish and narcissistic thought, and a distorted understanding of his essential obligations as a father and husband.¹⁷

Finding petitioner's psychological incapacity to be serious, long standing and incurable, and given the gravity of the parties' failed relationship, the trial court declared their marriage void *ab initio*. The decretal portion of the RTC Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

(1) Declaring the marriage contracted by the plaintiff **Edward Rivo** and defendant **Dolores Sy-Rivo** solemnized on January 19, 1979 in civil rites in the City of Manila and all its effects under the law **NULL AND VOID AB INITIO** conformably with Article 36 of the Family Code as amended;

(2) Dissolving the regime of conjugal partnership of gains between the parties;

(3) Pursuant to the provisions of A.M. No. 02-11-10-SC (Rule on Declaration [of] Absolute Nullity of Marriages and Annulment of Voidable Marriages):

(a) Directing the Branch Clerk of Court to enter this judgment, upon its finality, in the Book of Entry of Judgment and to issue an Entry of Judgment in accordance thereto;

(b) Directing the Civil Registrars of Manila and Las Piñas City to cause the registration of the entry of judgment in their respective book of marriages.

Upon compliance, a Decree of Nullity of Marriage shall be issued.

x x x x

SO ORDERED.¹⁸ (Emphasis in the original)

Not in conformity, respondent appealed to the CA.

Ruling of the Court of Appeals

In its assailed September 9, 2013 Decision, the CA reversed and set aside the RTC's ruling. The appellate court did not find the totality of evidence presented before the trial court sufficient to support a finding that petitioner is psychologically unfit to fulfill his marital obligations. It observed that the primary reason for the grant of the petition was petitioner's infidelity. However,

¹⁷ Id. at 146-161.

¹⁸ Id. at 161-162.

sexual infidelity and abandonment of conjugal dwelling do not necessarily constitute psychological incapacity but are simply grounds for legal separation.

The CA also noted that petitioner became unfaithful because of his dissatisfaction with his marriage rather than a psychological disorder rooted in his personality. In fact, prior to meeting his present partner, petitioner performed his marital obligations and was a responsible parent to their children.

In the same vein, the appellate court found petitioner's allegation of respondent's psychological incapacity unsubstantiated by evidence. While respondent admitted that she spent most of her time tending their grocery store, she still managed to find time for her family. She was also forced to work hard to ensure that they had the means to pay off their financial obligations. The *fallo* of the CA Decision reads:

WHEREFORE, in view of the foregoing considerations, We **GRANT** the appeal. We **SET ASIDE** the Decision dated October 30, 2009 and the Order dated February 5, 2010, both issued by the Las Piñas City Regional Trial Court – Branch 199 in Civil Case No. 05-0086. Consequently, We **DISMISS** plaintiff-appellee Edward N. Rivo's petition for declaration of nullity of his marriage with defendant-appellant Dolores S. Rivo under Article 36 of the Family Code.

SO ORDERED.¹⁹

Petitioner's Motion for Reconsideration²⁰ was denied by the CA in its assailed January 9, 2014 Resolution.²¹

Issue

Did the appellate court commit reversible error when it reversed the trial court's decision granting the petition for declaration of nullity of petitioner's marriage with respondent?

Our Ruling

We answer in the negative.

Preliminarily, the instant petition suffers from a procedural infirmity as it lacks the requisite Verification and Certificate of Non-Forum Shopping. Section 4,²² Rule 45 of the Rules of Court requires that a petition filed under this Rule

¹⁹ Id. at 23.

²⁰ Id. at 45.

²¹ Id. at 115-116.

²² Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the material dates showing when notice of the judgment or final order or resolution subject thereof was received, when a motion for new trial or reconsideration, if any, was filed and when notice of the denial thereof was received; (c) set forth concisely

must be accompanied by a sworn certification against forum shopping. In relation to this, Sec. 5(d),²³ Rule 56 of the Amended Rules of Court gives the Court the liberty to deny outright or deny due course a Rule 45 petition which failed to comply with the documents which should accompany the petition. On this score alone, the petition must be denied due course.

But even if technicality were set aside, just the same the petition fails.

Petitioner anchors his petition mainly on the fact that both expert witnesses, Doctors Dayan and De Guzman, found him psychologically incapacitated to comply with his essential marital obligations to respondent. Petitioner argues that the *Molina* guidelines formulated in the case of *Republic v. Molina*²⁴ have been satisfied in this case since it was established through the testimony of expert witnesses that he is afflicted with a grave, pre-existing, and incurable psychological incapacity.

Petitioner's argument is untenable.

In the recent case of *Tan-Andal v. Andal (Tan-Andal)*,²⁵ the Court *en banc* introduced a nuanced interpretation of what constitutes psychological incapacity in order to address the rigid application of the *Molina* guidelines. The Court came up with a new set of parameters, which either retained, abandoned, or amended for the purpose the *Molina* guidelines, that will aid in the interpretation and application of Art. 36 of the Family Code, to wit:

- (1) The psychological incapacity must be shown to have been existing at the time of the celebration of marriage;
- (2) Caused by a durable aspect of one's personality structure, one that was formed prior to their marriage;
- (3) Caused by a genuinely serious psychic cause; and
- (4) Proven by clear and convincing evidence.²⁶

In addition, the Court has categorically abandoned the second *Molina* guideline and held that psychological incapacity is not a medical illness that has

a statement of the matters involved, and the reasons or arguments relied on for the allowance of the petition; (d) be accompanied by a clearly legible duplicate original, or a certified true copy of the judgment or final order or resolution certified by the clerk of court of the court a quo and the requisite number of plain copies thereof, and such material portions of the record as would support the petition; and (e) **contain a sworn certification against forum shopping as provided in the last paragraph of section 2, Rule 42.** (Emphasis supplied)

²³ Section 5. *Grounds for dismissal of appeal.* — The appeal may be dismissed motu proprio or on motion of the respondent on the following grounds:

x x x x

(d) Failure to comply with the requirements regarding proof of service and contents of and the documents which should accompany the petition;

²⁴ 335 Phil. 664, 677-680 (1997).

²⁵ G.R. No. 196359, May 11, 2021.

²⁶ *Id.*

to be medically or clinically identified; hence, expert opinion is not required. In lieu thereof, *Tan-Andal* required proof 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 such that the spouse's personality structure must make it impossible for him or her to understand and to comply with his or her essential marital obligations. This may be proven by testimonies of ordinary witnesses, who have been present in the life of the spouses before they contracted marriage, on behaviors that they have consistently observed from the supposedly incapacitated spouse.

In light of the Court's definitive declaration that psychological incapacity need not be proven by expert opinion, We cannot sustain petitioner's excessive reliance on the expert opinions of Doctors Dayan and De Guzman, as conclusive proof that he is truly incognitive of the essential covenants of marriage, in the absence of clear and convincing evidence of its existence.

Moreover, while petitioner offered the testimony of his sister, Marlene Rivo (Marlene), We find Marlene's testimony to be inadequate to prove the existence of petitioner's psychological incapacity.

Tan-Andal emphasized that the psychological incapacity must be shown to have been existing at the time of the celebration of the marriage, and is caused by a durable aspect of one's personality structure, one that was formed before the parties married.²⁷

Here, based on the narrative of events offered by respondent and Marlene, it is undeniable that petitioner was a faithful and loving husband to respondent and a responsible parent to his children before he met his present partner, Perla. Their marriage was blissful, and their family life was peaceful and harmonious until petitioner started philandering. However, it is noteworthy that after petitioner's first extra-marital affair, he exerted efforts to reconcile with respondent and reunite with his family. It was only in the second instance of infidelity where petitioner got too involved with Perla that eventually led him to abandon their conjugal dwelling.

Thus, by petitioner's own statements and admissions in his petition and in his testimony in court, he has displayed full knowledge and understanding of his obligations and has, in fact, committed positive acts towards building and sustaining a family. This exhibits his genuine awareness of his marital obligations, which clearly negated his claim of juridically antecedent psychological incapacity.

Moreover, apart from the claim of Marlene that their father has a history of extra-marital affairs to make it appear that petitioner's psychological capacity is deeply rooted in his childhood, no other convincing evidence was adduced to

²⁷ Id.

demonstrate how and to what extent their father's philandering ways correlate to petitioner's alleged disorder, and how it incapacitated him to understand and comply with his marital obligations. All that Marlene claimed was that petitioner was a silent type during his childhood days. Neither was there proof of petitioner's behavior or habits during his adolescent years that could explain his behavior during the marriage.

On the contrary, it was indubitably established that at the inception of their marriage, petitioner was faithful and caring to respondent. Petitioner's sister herself testified that petitioner's union with respondent was smooth sailing and that it began to crumble only after they had kids, that is after 12 years of being together.²⁸ Thus, there was no showing that petitioner's defects were already present at the time of celebration of their marriage.

Similarly, it was not clearly shown that petitioner's alleged disorder developed due to his father being overly-strict and strong-willed. Notwithstanding Marlene's claim that they grew up in a military-like setting, it appears that this circumstance did not affect their other siblings' marriage to their respective spouses. According to Marlene, all of her siblings, except for petitioner, are happily married.²⁹

In a further attempt to establish juridical antecedence, counsel for petitioner attributed Marlene's failure to marry to her father's militaristic approach in disciplining them. In contrast, however, Marlene categorically testified that the reason why she remains single is simply because she abhors men and that she does not want to be around them.³⁰

Given the foregoing, We find no concrete evidence to support a finding that petitioner's alleged disorder is rooted in his history antedating the marriage.

In the same vein, We are not convinced that petitioner's alleged incapacity is caused by a genuinely serious psychic cause.

An examination of petitioner's testimony reveals that he has fallen out of love of respondent due to his dissatisfaction towards her rather than a psychological disorder rooted in his personality. He cited reasons such as, respondent's lack of time and attention to him and the children on account of the business and respondent's neglect of her personal hygiene.

In fact, petitioner admitted that the marriage collapsed due to their irreconcilable differences which became more complicated when he had an affair with another woman.³¹ This clearly suggests that petitioner's failure to continue his common life with respondent stems from his refusal, not downright

²⁸ TSN, February 13, 2008, pp. 15-16.

²⁹ Id. at 11 and 25-27.

³⁰ Id. at 13-14.

³¹ TSN, December 6, 2006, pp. 25-26.

incapacity to do so.

Tan-Andal stressed that the psychological incapacity cannot be mere “refusal, neglect, or difficulty, much less ill will.”³² Also, it has always been held that mere irreconcilable differences and conflicting personalities in no wise constitute psychological incapacity.³³ Verily, an unsatisfactory marriage is not a null and void marriage.³⁴

We likewise agree with the CA that petitioner failed to establish respondent’s alleged psychological illness and its incapacitating nature.

Records show that respondent refuted petitioner’s accusation that she was a neglectful wife to him. While it may be true that respondent spent most of her time tending the grocery store, the appellate court found that respondent still managed to spend quality time with petitioner and their children.³⁵

Respondent likewise clarified that the grocery store actually belongs to respondent and petitioner, thus, it is not unlikely that respondent would be devoted to it as it is one of their means of livelihood. In fact, respondent took over the business from her family upon the prodding of petitioner in order to attain financial stability. Thus, petitioner cannot now lay the blame on respondent for giving so much time and attention to their business for after all, they all benefited from its operation, especially petitioner who was able to purchase a brand new car out of the proceeds from the grocery store.³⁶

In sum, respondent had shown that she is capable of fulfilling her marital obligations and that she valued her marriage as she even opposed the petition for its annulment, actively participated in the trial of the case, until its appeal to this Court.

In *Tan-Andal*, the Court has clarified that the quantum of proof required in nullity cases is clear and convincing evidence which requires more than preponderant evidence but less than proof beyond reasonable doubt. Using the same as yardstick, We find that the totality of evidence presented by petitioner fell short of the quantum of evidence required to sustain a conclusion that both petitioner and respondent are psychologically incapacitated to assume the essential obligations of marriage.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The September 9, 2013 Decision and the January 9, 2014 Resolution of the Court of Appeals in CA-G.R. CV No. 94751 are **AFFIRMED**.

³² *Tan-Andal v. Andal*, supra note 25.

³³ *Go-Yu v. Yu*, G.R. No. 230443, April 3, 2019.


³⁴ *Id.*

³⁵ *Rollo*, p. 22.


³⁶ *Id.* at 21-22.


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SO ORDERED.


RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson


RODIL V. ZALAMEDA
Associate Justice


On official leave.
RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice



CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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

