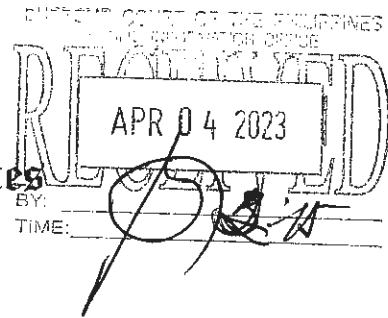




Republic of the Philippines
Supreme Court
Manila



EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **DECEMBER 6, 2022**, which reads as follows:

“**G.R. No. 209180 (Republic of the Philippines v. Reghis M. Romero II and Olivia Lagman Romero)** and **G.R. No. 209253 (Olivia Lagman Romero v. Reghis M. Romero II)** – In its September 11, 2019 Resolution¹ (September 2019 Resolution), the Court, through the Special First Division, remanded these two petitions for review on *certiorari* (consolidated petitions) to the Court of Appeals (CA) for reception of evidence, as follows:

x x x [P]ursuant to Rules 32 and 46, and consistent with the Court’s ruling in [*Manotok IV v. Heirs of Homer L. Barque*²], this case is remanded to the CA in order to: (i) allow [Reghis M. Romero II] to present a duly authenticated copy of the Canonical Judgment of the Metropolitan Tribunal [of the Archdiocese of Manila] dated October 14, 2016; and (ii) allow the [Office of the Solicitor General] and [Olivia Lagman Romero] to present controverting evidence, if any. Thereafter, the CA is called upon to submit its corresponding resolution and forward the case to this Court for appropriate action.

WHEREFORE, the case is **REMANDED** to the [CA] for further proceedings in accordance with this Resolution. Thereafter, the [CA] is **DIRECTED** to submit to the Court its resolution on the authenticity of the Canonical Judgment with proper dispatch.

x x x x

SO ORDERED.³

Pending the CA’s resolution on the authenticity of the Canonical Judgment⁴ dated October 14, 2016 (Canonical Judgment) of the Metropolitan Tribunal of the Archdiocese of Manila (Metropolitan

¹ *Rollo* (G.R. No. 209180), Vol. II, pp. 1080-1091; *rollo* (G.R. No. 209253), Vol. II, pp. 1020-1031.

² 595 Phil. 87 (2008).

³ *Rollo* (G.R. No. 209180), Vol. II, 1090-1091; *rollo* (G.R. No. 209253), Vol. II, pp. 1030-1031.

⁴ *Rollo* (G.R. No. 209253), Vol. II, pp. 584-596.

Salvo

Tribunal), the Court deferred action on the following submissions filed by Reghis M. Romero II (Reghis):

- (i) Manifestation⁵ filed on December 28, 2017;
- (ii) Motion for Leave to Admit Second Motion for Reconsideration⁶ dated December 27, 2017;
- (iii) Second Motion for Reconsideration⁷ dated December 27, 2017 (Second MR);
- (iv) Manifestation with Alternative Motion to Refer the Second Motion for Reconsideration to the Court *En Banc*⁸ dated January 17, 2018;
- (v) Urgent Omnibus Motion to Recall Entry of Judgment and for Early Resolution⁹ filed on February 26, 2018;
- (vi) Manifestation¹⁰ filed on October 8, 2018 (October 2018 Manifestation); and
- (vii) Urgent Manifestation¹¹ dated June 17, 2019.

On remand, the CA Special Ninth Division conducted hearings and received evidence in accordance with the Court's September 2019 Resolution.

On September 29, 2020, the CA issued a Resolution¹² (September 2020 CA Resolution) the dispositive portion of which reads:

WHEREFORE, [the CA] finds that **the authenticity of the Conclusion of the Canonical Judgment x x x and the corresponding Decree of Finality dated 17 December 2016 issued by the Metropolitan Tribunal of the Archdiocese of Manila in Romero – Lagman Protocol No. 27/2015 has been duly established in this proceeding.**

Let the Supreme Court be furnished a copy of this Resolution and of the corresponding record of the Court proceedings held in faithful compliance with the Supreme Court directive in [its] Resolution dated 11 September 2019 in [the consolidated petitions].

SO ORDERED.¹³ (Emphasis supplied)

⁵ *Rollo* (G.R. No. 209180), Vol. I, pp. 252-256; *rollo* (G.R. No. 209253), Vol. I, pp. 291-295.

⁶ *Id.* at 257-268; *id.* at 296-307.

⁷ *Id.* at 269-301; *id.* at 308-340.

⁸ *Rollo* (G.R. No. 209180), Vol. II, pp. 872-890; *rollo* (G.R. No. 209253), Vol. II, pp. 819-837.

⁹ *Rollo* (G.R. No. 209180), Vol. I, pp. 400-415; *rollo* (G.R. No. 209253), Vol. I, pp. 437-452.

¹⁰ *Rollo* (G.R. No. 209180), Vol. II, pp. 1036-1042; *rollo* (G.R. No. 209253), Vol. II, pp. 983-989.

¹¹ *Id.* at 1044-1051; *id.* at 991-998.

¹² *Rollo* (G.R. No. 209180), Vol. II, pp. 1119-1130; *rollo* (G.R. No. 209253), Vol. II, pp. 1058-1069. Penned by Associate Justice Ricardo R. Rosario (now a Member of the Court), with the concurrence of Associate Justices Maria Filomena D. Singh (now a Member of the Court) and Tita Marilyn B. Payoyo-Villordon.

Following the Court's receipt of the September 2020 CA Resolution, Reghis' pending submissions are now ripe for resolution.

The Court grants Reghis' Second MR in light of the recent ruling in *Tan-Andal v. Andal*¹⁴ (*Tan-Andal*) **and with due consideration of the Conclusion¹⁵ of the Canonical Judgment and the Decree of Finality¹⁶ which have been authenticated before the CA.**

The Court finds that the totality of evidence on record, which now includes said Conclusion and Decree of Finality, shows, by clear and convincing evidence, that Reghis suffers from psychological incapacity contemplated under Article 36 of the Family Code. For this reason, his marriage with Olivia Lagman Romero (Olivia) is hereby declared void *ab initio*.

Antecedents

As a starting point, it is apt to recall the antecedents as summarized in the Court's Decision¹⁷ dated February 24, 2016 (February 2016 Decision):

On June 16, 1998, Reghis filed a petition for declaration of nullity of marriage before the RTC of Quezon City, Branch 94, docketed as Civil Case No. Q-98-34627, citing his psychological incapacity to comply with his essential marital obligations. In support of his petition, Reghis testified that he married Olivia not out of love but out of the desire to please the latter's parents who were kind and accommodating to him. Reghis further maintained that he was not prepared to comply with the essential marital obligations at the time, as his mind was geared towards finishing his studies and finding employment to support his parents and siblings. He also added that Olivia is in a relationship with a certain Eddie Garcia (Mr. Garcia) but he (Reghis) has no ill-feelings towards Mr. Garcia, as he and Olivia have been separated for a long time.

Reghis also presented Dr. Valentina Nicdao-Basilio (Dr. Basilio), a clinical psychologist, who submitted a Psychological Evaluation Report dated April 28, 1998 and testified that Reghis suffered from Obsessive Compulsive Personality Disorder (OCPD). According to Dr. Basilio, Reghis' behavioral disorder gave him a strong obsession for whatever endeavour he chooses, such as his work, to the exclusion of other responsibilities and duties such as those pertaining to his roles as father and husband. Dr. Basilio surmised that Reghis' OCPD was the root of the couple's disagreements and that the same is incurable, explaining too that Reghis was an unwilling groom as marriage was farthest from his mind at the time and, as such, felt cheated into marriage.

¹³ Id. at 1130; id. at 1069.

¹⁴ G.R. No. 196359, May 11, 2021.

¹⁵ *Rollo* (G.R. No. 209253), Vol. II, pp. 584-585.

¹⁶ *Rollo* (G.R. No. 209180), Vol. II, p. 1043.

¹⁷ *Republic v. Romero*, 781 Phil. 737 (2016). Rendered by the First Division through the *ponencia* of Associate Justice Estela M. Perlas-Bernabe, with the concurrence of then Chief Justice Maria Lourdes P. A. Sereno, and Associate Justices Teresita J. Leonardo-De Castro, Lucas P. Bersamin, and Alfredo Benjamin S. Caguioa.

For her part, Olivia maintained that she and Reghis were capacitated to discharge the essential marital obligations before, at the time, and after the celebration of their marriage. She also averred that the petition is barred by *res judicata* inasmuch as Reghis had previously filed petitions for the declaration of the nullity of their marriage on the ground she is allegedly psychologically incapacitated, but said petitions were dismissed. Olivia, however, was unable to present evidence due to the absence of her counsel which was considered by the RTC as waiver of her right to present evidence.

The Office of the Solicitor General (OSG), representing the Republic of the Philippines (Republic), opposed the petition.

The RTC Ruling

In a Decision dated November 5, 2008, the RTC granted the petition and declared the marriage between Reghis and Olivia null and void *ab initio* on the ground of psychological incapacity. It relied on the findings and testimony of Dr. Basilio, holding that Reghis suffered from a disorder that rendered him unable to perform the obligations of love, respect and fidelity towards Olivia as it gave him a strong obsession to succeed in his career, to the exclusion of his responsibilities as a father and husband. It also concurred with Dr. Basilio's observation that Reghis is still deeply attached to his parents and siblings such that he pursues his business ventures for their benefit. Likewise, it agreed that Reghis' behavioral disorder existed even before his marriage or even his adolescent years and that the same is incurable.


Anent the issue of *res judicata*, the RTC remarked that there is no identity of causes of action between the petitions previously filed, which ascribed psychological incapacity on Olivia's part, and the present case which is brought on the ground of Reghis' own psychological incapacity.

The Republic and Olivia moved for reconsideration, which was, however, denied by the RTC in a Resolution dated July 3, 2009. Undaunted, both appealed to the CA.

The CA Ruling

In a Decision dated March 21, 2013, the CA affirmed the findings of the RTC, holding that the OCPD from which Reghis suffered made him yearn for professional advancement and rendered him obligated to support his parents and siblings, at the expense of his marital and filial duties. It ruled that Reghis' condition amounts to psychological incapacity within the contemplation of Article 36 of the Family Code as it is permanent in nature and incurable. It observed that Reghis' OCPD started early in his psychological development and is now so deeply ingrained in his structure and, thus, incurable because people who suffer from it are of the belief that nothing is wrong with them. It further concluded that Reghis' condition is severe considering that it interrupted and interfered with his normal functioning and rendered him unable to assume the essential marital obligations.

The Republic's and Olivia's respective motions for reconsideration were denied by the CA in a Resolution dated September 12, 2013.



The Proceedings Before the Court

On November 19, 2013, the Republic filed a petition for review on *certiorari* before this Court, docketed as G.R. No. 209180, where it maintained that Reghis has not established that his alleged psychological incapacity is grave, has juridical antecedence, and is incurable. It averred that the psychological report prepared and submitted by Dr. Basilio has no factual basis to support the conclusions found therein as she failed to describe in detail the 'pattern of behavior' showing that Reghis indeed suffered from OCPD. The Republic also claimed that the methodology employed in evaluating Reghis' condition is not comprehensive enough and that based on Reghis' own testimony, he was able to perform his marital obligations as he lived together with Olivia for years and attended to his duties to their children. It pointed out that Reghis' condition was not shown to have existed before their marriage and that the same is incurable.

On November 13, 2013, a separate petition for review on [*certiorari*], docketed as G.R. No. 209253 was filed by Olivia. Like the Republic, she pointed out that Reghis himself admitted knowing his marital obligations as husband to Olivia and father to their children. Olivia added that if Reghis indeed felt that he was being forced into the marriage, he could have simply abandoned her then or refused to take his vows on their wedding day.

In a Resolution dated February 17, 2014, the Court consolidated the present petitions.¹⁸

As it was, the Court granted the consolidated petitions through the February 2016 Decision. Citing *Republic v. CA and Molina*¹⁹ (*Molina*), the Court held that Reghis failed to establish the three essential elements of psychological incapacity namely, gravity, incurability, and juridical antecedence. To quote:

x x x [T]o warrant the declaration of nullity of marriage, the psychological incapacity must: (a) be grave or serious such that the party would be incapable of carrying out the ordinary duties required in a marriage; (b) have juridical antecedence, *i.e.*, it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and (c) be incurable, or even if it were otherwise, the cure would be beyond the means of the party involved.

In [*Molina*], the Court laid down definitive guidelines on the interpretation and application of Article 36 of the Family Code. Among others, it clarified that the illness must be grave enough to bring about the incapacity or inability of the party to assume the essential obligations of marriage such that '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

¹⁸ Id. at 741-745. Citations omitted.

¹⁹ 335 Phil. 664 (1997).

the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

After a thorough review of the records of this case, the Court finds that the foregoing requirements do not concur. As aptly pointed out by the petitioners, Reghis' testimony shows that he was able to comply with his marital obligations which, therefore, negates the existence of a grave and serious psychological incapacity on his part. Reghis admitted that he and Olivia lived together as husband and wife under one roof for fourteen (14) years and both of them contributed in purchasing their own house in Parañaque City. Reghis also fulfilled his duty to support and take care of his family, as he categorically stated that he loves their children and that he was a good provider to them. That he married Olivia not out of love, but out of reverence for the latter's parents, does not mean that Reghis is psychologically incapacitated in the context of Article 36 of the Family Code. x x x

x x x x

Moreover, the OCPD which Reghis allegedly suffered from was not shown to have juridical antecedence. Other than Dr. Basilio's conclusion that Reghis' 'behavioral disorder x x x existed even prior to the marriage or even during his adolescent years,' no specific behavior or habits during his adolescent years were shown which would explain his behavior during his marriage with Olivia. Simply put, Dr. Basilio's medical report did not establish that Reghis' incapacity existed long before he entered into marriage.

In like manner, Dr. Basilio simply concluded that Reghis' disorder is incurable but failed to explain how she came to such conclusion. Based on the appreciation of the RTC, Dr. Basilio did not discuss the concept of OCPD, its classification, cause, symptoms, and cure, and failed to show how and to what extent the respondent exhibited this disorder in order to create a necessary inference that Reghis' condition had no definite treatment or is incurable. To the Court's mind, this is a glaring deficiency that should have prompted the RTC and the CA to be more circumspect and critical in the assessment and appreciation of Dr. Basilio's testimony.

Indeed, the standards used by the Court in assessing the sufficiency of psychological evaluation reports may be deemed very strict, but these are proper, in view of the principle that any doubt should be resolved in favor of the validity of the marriage and the indissolubility of the marital tie. After all, marriage is an inviolable institution protected by the State. Accordingly, it cannot be dissolved at the whim of the parties, especially where the pieces of evidence presented are grossly deficient to show the juridical antecedence, gravity and incurability of the condition of the party alleged to be psychologically incapacitated to assume and perform the essential marital duties.

x x x x

WHEREFORE, the petitions are **GRANTED**. The Decision dated March 21, 2013 and the Resolution dated September 12, 2013 of the Court of Appeals in CA-G.R. CV No. 94337 are hereby **REVERSED** and **SET ASIDE**. Accordingly, the petition for declaration of nullity of

marriage filed under Article 36 of the Family Code of the Philippines, as amended, is **DISMISSED**.

SO ORDERED.²⁰

In his first Motion for Reconsideration²¹ (First MR), Reghis argued that the allegations raised by Olivia and the Office of the Solicitor General (OSG) were contrary to the evidence on record. Thus, he prayed that the February 2016 Decision be vacated and a new one be entered affirming the RTC's Decision *in toto*.²²

Subsequently, Reghis filed a 'Manifestation and Supplement to [the First MR]'²³ dated November 14, 2016 (November 2016 Manifestation). There, Reghis averred that the Metropolitan Tribunal had declared his canonical marriage with Olivia null and void.²⁴ **However, the relevant Canonical Judgment was not annexed to the November 2016 Manifestation due to the alleged disclosure restrictions imposed by the Archdiocese of Manila.**²⁵

The First MR was thus denied *via* the Court's Resolution²⁶ dated September 27, 2017 (September 2017 Resolution). There, the Court held:

x x x Acting on respondent Reghis M. Romero II's motion for reconsideration of the Decision dated February 24, 2016 and manifestation and supplement thereto, praying that his motion for reconsideration and the supplement thereto be granted and a new decision be issued declaring respondent and petitioner Olivia R. Lagman-Romero's marriage null and void *ab initio*, and considering that there is no substantial argument to warrant a modification of this Court's decision, the Court resolves to **DENY** reconsideration with **FINALITY**.²⁷

Later still, Reghis filed his 'Motion for Leave to Admit [Second MR]'²⁸ and the Second MR both dated December 27, 2017. There, Reghis explained that the prohibition imposed by the Archdiocese of Manila which previously prevented him from submitting the Canonical Judgment to the Court had been lifted.²⁹ Reghis thus attached a plain machine copy of the Canonical Judgment³⁰ to the Second MR for the Court's consideration. Said copy included: (i) the body of the Canonical Judgment which sets forth the

²⁰ *Republic v. Romero*, supra note 17, at 746-750. Citations omitted.

²¹ *Rollo* (G.R. No. 209253), Vol. I, pp. 178-195.

²² *Id.* at 194.

²³ *Id.* at 207-235.

²⁴ *Id.* at 229.

²⁵ *Id.* As stated in the November 2016 Manifestation, Reghis could not furnish the Court with a copy of the Canonical Judgment 'considering that [the] Metropolitan Tribunal expressly prohibits the same.'

²⁶ *Id.* at 289-290. Rendered via Minute Resolution of the Special First Division, consisting of Chief Justice Maria Lourdes P. A. Sereno, and Associate Justices Presbitero J. Velasco, Jr., Teresita J. Leonardo-De Castro, Lucas P. Bersamin, and Alfredo Benjamin S. Caguioa.

²⁷ *Id.* at 289.

²⁸ *Rollo* (G.R. No. 209180), Vol. I, pp. 257-268; *rollo* (G.R. No. 209253), Vol. I, pp. 296-307.

²⁹ *Id.* at 293-294; *id.* at 332-333.

³⁰ *Rollo* (G.R. No. 209253), Vol. II, pp. 584-596.

established facts, the evidence presented, and applicable canon law; and (ii) the Conclusion which is akin to the dispositive portion found in judicial decisions.

Reghis later filed the October 2018 Manifestation informing the Court that on December 17, 2016, the Metropolitan Tribunal issued a Decree of Finality confirming that no appeal has been lodged in connection with the Canonical Judgment. As a result, the Canonical Judgment declaring the marriage of Reghis and Olivia void had become final.³¹

As discussed at the outset, the Court remanded the consolidated petitions to the CA for reception of evidence on the authenticity of the Canonical Judgment, and to give the OSG and Olivia the opportunity to present controverting evidence, if any.

Pursuant to this directive, the CA conducted hearings on February 18, 2020 and March 10, 2020, during which Reghis presented the testimony of Ms. Julieta R. Santos (Ms. Santos), an ecclesiastical notary for the Metropolitan Tribunal.³²

Ms. Santos testified that: (i) she has been an ecclesiastical notary for twenty-one (21) years;³³ (ii) she is the legal custodian of the Canonical Judgment declaring the marriage between Reghis and Olivia void, as well as the Decree of Finality corresponding thereto; and (iii) she is the duly authorized representative of Msgr. Geronimo F. Reyes (Msgr. Reyes), Judicial Vicar of the Metropolitan Tribunal and the Presiding Judge assigned to the case of Reghis and Olivia, docketed therein as *Romero – Lagman Protocol No. 27/2015*.³⁴

As well, Ms. Santos brought the originals of the **Conclusion** of the Canonical Judgment (without the body) and the **Decree of Finality** for comparison with the certified true copies appended to her Judicial Affidavit.³⁵ In turn, the OSG admitted the certified true copies as faithful reproductions of the originals.³⁶

After admitting the Formal Offer of Evidence filed by Reghis and the Comment/Opposition filed by the OSG, the CA issued its September 2020 Resolution declaring that the authenticity of the **Conclusion** of the Canonical Judgment and the **Decree of Finality** has been duly established.³⁷

³¹ Id. at 983-984.

³² Id. at 1059-1064.

³³ Id. at 1059.

³⁴ Id. at 1062-1063.

³⁵ Id. at 1060.

³⁶ Id.

³⁷ Id. at 1069.

The Court received notice of the September 2020 CA Resolution on November 26, 2020.³⁸

On September 7, 2022, the Special First Division granted Reghis' Manifestation with Alternative Motion to refer the Second MR to the Court *En Banc* pursuant to Section 3,³⁹ Rule 15 of the Internal Rules of the Supreme Court⁴⁰ (Internal Rules).

Hence, this Resolution.

The Issue

The Court is called upon to determine whether there is sufficient cause to grant Reghis' Second MR and set aside the Court's February 2016 Decision and September 2019 Resolution.

The Court's Ruling

As stated at the outset, the Court reconsiders its February 2016 Decision and September 2019 Resolution in light of the recent ruling in *Tan-Andal* and with due consideration of the **Conclusion** of the Canonical Judgment and the **Decree of Finality** which have been authenticated before the CA.

The Second MR should be given due course.

Generally, second motions for reconsideration before the Court are prohibited. However, this general rule is subject to narrow exceptions anchored on the higher interest of justice. This is clear from Section 3, Rule 15 of the Internal Rules which reads:

SEC. 3. *Second motion for reconsideration.* — The Court shall not entertain a second motion for reconsideration, and any exception to this rule can only be granted in the higher interest of justice by the Court *en banc* upon a vote of at least two-thirds of its actual membership. **There is reconsideration 'in the higher interest of justice' when the assailed decision is not only legally erroneous, but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties.** A second motion for reconsideration can only be entertained before the ruling sought to be reconsidered becomes final by operation of law or by the Court's declaration.

³⁸ Id. at 1057.

³⁹ Section 3, Rule 15 of the Internal Rules states, in part, that '[i]n the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court *en banc*.'

⁴⁰ A.M. No. 10-4-20-SC, May 4, 2010.

Dec

In the Division, a vote of three Members shall be required to elevate a second motion for reconsideration to the Court *en banc*. (Emphasis supplied)

In *McBurnie v. Ganzon*,⁴¹ the Court traced the line of cases wherein the Court entertained and granted second motions for reconsideration in the interest of substantial justice. As well, the Court illustrated the highly exceptional cases where the Court suspended its own rules of procedure and reconsidered decisions that have attained finality, thus:

In a line of cases, the Court has then entertained and granted second motions for reconsideration 'in the higher interest of substantial justice,' as allowed under the Internal Rules when the assailed decision is 'legally erroneous,' 'patently unjust' and 'potentially capable of causing unwarranted and irreparable injury or damage to the parties.' In *Tirazona v. Philippine EDS Techno-Service, Inc. (PET, Inc.)*, we also explained that a second motion for reconsideration may be allowed in instances of 'extraordinarily persuasive reasons and only after an express leave shall have been obtained.' In *Apo Fruits Corporation v. Land Bank of the Philippines*, we allowed a second motion for reconsideration as the issue involved therein was a matter of public interest, as it pertained to the proper application of a basic constitutionally-guaranteed right in the government's implementation of its agrarian reform program. In *San Miguel Corporation v. NLRC*, the Court set aside the decisions of the LA and the NLRC that favored claimants-security guards upon the Court's review of San Miguel Corporation's second motion for reconsideration. In *Vir-Jen Shipping and Marine Services, Inc. v. NLRC, et al.*, the Court *en banc* reversed on a third motion for reconsideration the ruling of the Court's Division on therein private respondents' claim for wages and monetary benefits.

It is also recognized that in some instances, the prudent action towards a just resolution of a case is for the Court to suspend rules of procedure, for 'the power of this Court to suspend its own rules or to except a particular case from its operations whenever the purposes of justice require it, cannot be questioned.' In *De Guzman v. Sandiganbayan*, the Court, thus, explained:

[T]he rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be avoided. Even the Rules of Court envision this liberality. This power to suspend or even disregard the rules can be so pervasive and encompassing so as to alter even that which this Court itself has already declared to be final, as we are now compelled to do in this case. x x x

x x x x

The Rules of Court was conceived and promulgated to set forth guidelines in the dispensation of justice but not to bind and chain the hand that dispenses it, for otherwise,

⁴¹ 719 Phil. 680 (2013).

And

courts will be mere slaves to or robots of technical rules, shorn of judicial discretion. That is precisely why courts in rendering real justice have always been, as they in fact ought to be, conscientiously guided by the norm that when on the balance, technicalities take a backseat against substantive rights, and not the other way around. Truly then, technicalities, in the appropriate language of Justice Makalintal, '*should give way to the realities of the situation.*' x x x

Consistent with the foregoing precepts, the Court has then reconsidered even decisions that have attained finality, finding it more appropriate to lift entries of judgments already made in these cases. In *Navarro v. Executive Secretary*, we reiterated the pronouncement in *De Guzman* that the power to suspend or even disregard rules of procedure can be so pervasive and compelling as to alter even that which this Court itself has already declared final. The Court then recalled in *Navarro* an entry of judgment after it had determined the validity and constitutionality of Republic Act No. 9355, explaining that:

Verily, the Court had, on several occasions, sanctioned the recall of entries of judgment in light of attendant extraordinary circumstances. The power to suspend or even disregard rules of procedure can be so pervasive and compelling as to alter even that which this Court itself had already declared final. In this case, the compelling concern is not only to afford the movants-intervenors the right to be heard since they would be adversely affected by the judgment in this case despite not being original parties thereto, but also to arrive at the correct interpretation of the provisions of the [Local Government Code (LGC)] with respect to the creation of local government units. x x x

In *Muñoz v. CA*, the Court resolved to recall an entry of judgment to prevent a miscarriage of justice. This justification was likewise applied in *Tan Tiac Chiong v. Hon. Cosico*, wherein the Court held that:

The recall of entries of judgments, albeit rare, is not a novelty. In *Muñoz v. CA*, where the case was elevated to this Court and a first and *second* motion for reconsideration had been denied with *finality*, the Court, in the interest of substantial justice, recalled the Entry of Judgment as well as the letter of transmittal of the records to the Court of Appeals. x x x

In *Barnes v. Judge Padilla*, we ruled:

[A] final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.

However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) **the existence of special or compelling circumstances**, (c) **the merits of the case**, (d) **a cause not entirely attributable to the fault or**

negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby. x x x⁴² (Emphasis supplied)

In essence, the Court may **entertain** second motions for reconsideration when the assailed decision is 'not only legally erroneous but is likewise patently unjust and potentially capable of causing unwarranted and irremediable injury or damage to the parties.'⁴³ In turn, the **grant** of a second motion for reconsideration may justify the reversal of a final and executory judgment in highly exceptional cases to serve the higher interest of substantial justice.⁴⁴

Here, the reconsideration of the February 2016 Decision and September 2017 Resolution is necessary to prevent the continued misapplication of the *Molina* guidelines which, as stated, have been carefully clarified and recalibrated by the Court *en banc* in the supervening case of *Tan-Andal*. This is an extraordinary and compelling circumstance which justifies the admission and consideration of the Second MR in order to avert a legally erroneous and patently unjust outcome, as the clarified guidelines set forth in *Tan-Andal* significantly impact the manner through which Reghis may establish his alleged psychological incapacity.

Moreover, as will be discussed in detail below, the totality of evidence, **which now includes the Conclusion of the Canonical Judgment and the Decree of Finality**, shows that Reghis' cause of action stands on meritorious grounds. In this connection, the Court also finds no showing that Reghis' Motion to Admit Second MR and Second MR were filed merely for dilatory purposes.

In all, these grounds move the Court to give due course to the Second MR in the interest of substantial justice.

Having settled the foregoing preliminary matters, the Court now proceeds to discuss the substantive issues.

The recalibrated guidelines for the application of Article 36

The resolution of the consolidated petitions hinges on the proper application of Article 36 of the Family Code. The provision states:

ART. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the

⁴² Id. at 701-704. Citations omitted.

⁴³ INTERNAL RULES OF THE SUPREME COURT, Rule 15, Sec. 3.

⁴⁴ See *Laya, Jr. v. Philippine Veterans Bank*, 823 Phil. 302 (2018).

essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

At the time when the Family Code came into effect, trial courts experienced difficulty in applying what was then the novel concept of psychological incapacity contemplated under Article 36. Recognizing this, the Court laid down guidelines in the interpretation of the provision in the oft-cited case of *Molina*, hence:

x x x [T]he following guidelines in the interpretation and application of Art. 36 of the Family Code are hereby handed down for the guidance of the bench and the bar:

(1) The 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. Thus, our Constitution devotes an entire Article on the Family, recognizing it 'as the foundation of the nation.' It decrees marriage as legally 'inviolable,' thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be 'protected' by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their *permanence, inviolability* and *solidarity*.

(2) 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. Article 36 of the Family Code requires that the incapacity must be psychological — not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

(3) The incapacity must be proven to be existing at 'the time of the celebration' of the marriage. The evidence must show that the illness was existing when the parties exchanged their 'I do's.' The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.

(4) Such incapacity must also be shown to be medically or clinically permanent or *incurable*. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be

psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(5) Such illness must be *grave* enough to bring about the disability of the party to assume the essential obligations of marriage. 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.

(6) The essential marital obligations must be those 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.

(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:

'The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature.'

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally — subject to our law on evidence — what is decreed as canonically invalid should also be decreed civilly void.

This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church — while remaining independent, separate and apart from each other — shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.

(8) The 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, 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 1095.⁴⁵

The *Molina* guidelines were intended only as an evidentiary guidepost to aid in the interpretation of the resilient concept of psychological incapacity under Article 36. However, contrary to this intent, the *Molina* guidelines have instead been applied as a rigid checklist, perhaps owing to the directory language in which these guidelines are couched. As aptly observed by the Court in *Ngo Te v. Yu-Te*.⁴⁶

The resiliency with which the concept should be applied and the case-to-case basis by which the provision should be interpreted, as so intended by its framers, had, somehow, been rendered ineffectual by the imposition of a set of strict standards in *Molina* x x x[.]

x x x x

Noteworthy is that in *Molina*, while the majority of the Court's membership concurred in the *ponencia* of then Associate Justice (later Chief Justice) Artemio V. Panganiban, three justices concurred 'in the result' and another three—including, as aforesaid, Justice Romero—took pains to compose their individual separate opinions. **Then Justice Teodoro R. Padilla even emphasized that 'each case must be judged, not on the basis of *a priori* assumptions, [predilections] or generalizations, but according to its own facts.** In the field of psychological incapacity as a ground for annulment of marriage, it is trite to say that no case is on 'all fours' with another case. The 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.'

Predictably, however, in resolving subsequent cases, the Court has applied the aforesaid standards, without too much regard for the law's clear intention that each case is to be treated differently, as 'courts should interpret the provision on a case-to-case basis; guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals.'

x x x Far from what was intended by the Court, *Molina* has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying *Molina*, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals.⁴⁷ (Emphasis supplied; original emphasis omitted)

In the recent case of *Tan-Andal*, the Court once again recognized the unintended straitjacket effect that had resulted from the misapplication of the *Molina* guidelines. There, the Court took the opportunity to clarify these

⁴⁵ *Republic v. CA and Molina*, supra note 19, at 676-680. Citations omitted.

⁴⁶ 598 Phil. 666 (2009).

⁴⁷ *Id.* at 692-696. Citations omitted.

guidelines and realign them with the spirit and intent of Article 36. Thus, in *Tan-Andal*, the Court clarified the following points:

- (1) The quantum of proof required in Article 36 cases is clear and convincing evidence which is more than preponderant evidence, but less than proof beyond reasonable doubt. This is because of the presumption of validity accorded to marriages.⁴⁸
- (2) Psychological incapacity need not necessarily be proven through expert opinion as it is neither a mental incapacity nor a personality disorder. Rather, it is a legal state established through proof of the enduring aspects of one's 'personality structure' which manifests itself through clear acts of dysfunctionality that undermines the family.
- (3) Proof of juridical antecedence of psychological incapacity may consist of testimonies describing the environment where the incapacitated spouse lived which may have led to a particular behavior.
- (4) The element of incurability must be understood in the legal and not medical sense. It must be taken to contemplate situations where the incapacity is so enduring and persistent with respect to a particular partner and gives rise to a situation where the parties' personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage.
- (5) The element of gravity means that the incapacity must be rooted from a genuinely serious psychic cause. While it does not require the existence of a serious or dangerous illness, it should be understood to exclude 'mild character[i]ological peculiarities, mood changes, occasional emotional outbursts'.
- (6) The essential marital obligations that the incapacitated spouse is unable to perform are those 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 statute which contemplate the obligations of the parents to their children. However, not all kinds of failure to meet their obligations to their children will

⁴⁸ The Decision in *Tan-Andal* was subject to a *Separate Opinion* submitting that the standard of clear and convincing evidence in cases involving the nullity of marriage is grounded on the characterization of marriage as a 'special contract of permanent union' under the Family Code, and as an 'inviolable social institution' under the 1987 Constitution. Hence, '[t]o warrant the severance of what the Constitution characterizes as an inviolable social institution, mere preponderance of evidence, which is the standard of evidence required to nullify ordinary civil contracts, will not suffice. A higher standard must be required in recognition of the status of marriage as a special contract of permanent union that is protected by the Constitution. To afford the institution of marriage the necessary protection against arbitrary dissolution, clear and convincing evidence must therefore be required.' (*J. Caguioa, Separate Opinion in Tan-Andal v. Andal*, supra note 14, pp. 2-3.)

justify a declaration of absolute nullity. It must be clearly shown that the alleged failure is of such grievous nature that it reflects on the capacity of one of the spouses for marriage.

- (7) The decisions of the National Appellate Matrimonial Tribunal of the Catholic Church shall continue to have persuasive effect, particularly in cases where the Catholic Church had already declared the canonical marriage void. This is because the Family Law and Civil Law Revision Committee (Code Committee) explicitly intended Article 36 as a mechanism to solve the gap resulting from marriages already annulled by the Catholic Church but still existent under civil law. Nevertheless, canonical decisions, being persuasive in nature, only serve as evidence of the nullity of the secular marriage. Ultimately, courts must still make its own assessment of the totality of evidence on record and, on such basis, determine the concurrence of the elements of nullity under Article 36.⁴⁹

The Court resolves the consolidated petitions bearing these clarifications in mind.

The totality of evidence shows that Reghis' incapacity is grave, incurable, and has juridical antecedence.

In its February 2016 Decision, the Court held that Reghis failed to prove that his alleged psychological incapacity is grave, incurable, and has juridical antecedence.

Applying the new *Tan-Andal* guidelines, the Court reconsiders.

A. The Conclusion of the Canonical Judgment and Decree of Finality must be considered in the resolution of the consolidated petitions.

Notably, the only pieces of evidence presented by Reghis before the RTC were his testimony and that of Dr. Valentina Nicdao-Basilio (Dr. Basilio), the clinical psychologist who prepared the Psychological Evaluation Report and diagnosed Reghis to be suffering from OCPD.

In turn, the February 2016 Decision was based on two primary findings. *First*, that Reghis' own testimony negates the existence of a grave

⁴⁹ See *Tan-Andal v. Andal*, supra note 14, at 27-40.

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and serious psychological incapacity on his part because he admitted that he and Olivia managed to live and co-exist under one roof for 14 years, thereby showing that he fulfilled his duty to support and take care of his family. *Second*, that the medical report diagnosing Reghis to be suffering from OCPD failed to show that said disorder existed before his marriage with Olivia.⁵⁰

As discussed, however, the Canonical Judgment and the Decree of Finality have since come to fore *after* the promulgation of the February 2016 Decision and the September 2017 Resolution which denied Reghis' First MR. As explained in the September 2019 Resolution:

x x x [T]he Court was first informed of the Canonical Judgment through the November 2016 Manifestation Reghis filed pending resolution of the First MR. In said Manifestation, Reghis, through counsel, informed the Court of the issuance of the Canonical Judgment. However, the Court had not been furnished a copy, 'considering that [the] Metropolitan Tribunal expressly [prohibited] the same.' **Accordingly, the Court was constrained to resolve the First MR based on the evidence then existing on record, without regard to the findings of the Metropolitan Tribunal of which it had no notice.**

It was only upon the filing of [Reghis'] Second MR and the subsequent January 2018 and October 2018 Manifestations that the Court was finally furnished a copy of the Canonical Judgment and the corresponding Decree of Finality, as it was only at such time when the Metropolitan Tribunal's prohibition had [purportedly] been lifted.

Thus, as a matter of fairness and in the interest of speedy disposition of cases, the Court deems it proper to remand the case to the CA for reception of evidence relating to the authenticity of the Canonical Judgment and the Decree of Finality submitted before this Court.⁵¹
(Emphasis supplied)

On remand, Ms. Santos, the ecclesiastical notary for the Metropolitan Tribunal assigned to Reghis and Olivia's case was presented to authenticate the Canonical Judgment and Decree of Finality.

During her examination, she clarified that she had only been authorized to bring the originals of the **Conclusion** portion of the Canonical Judgment and the Decree of Finality, for while the Metropolitan Tribunal had relaxed its policy on the confidentiality of its proceedings, she was only allowed to divulge the Conclusion portion of the Canonical Judgment, but not its body. Thus, the CA limited the scope of its Resolution to cover only the **Conclusion** of the Canonical Judgment, and the corresponding Decree of Finality. It held:

Under Section 20, Rule 132 of the Rules of Court, before a private document is admitted in evidence, it must be authenticated either by

⁵⁰ *Republic v. Romero*, supra note 17, at 747-748.

⁵¹ *Rollo* (G.R. No. 209253), Vol. II, p. 1029.

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testimony of a person who witnessed the execution of the document, or by evidence of the genuineness of the signature or handwriting of the maker of the document. *Cercado-Siga v. Cercado* explains this provision by enumerating the persons who can prove the due execution and authenticity of a private document: (1) the person who executed it, (2) the person before whom its execution was acknowledged, (3) any person who was present and saw it executed, or who after its execution, saw it and recognized the signatures, or (4) the person to whom the parties to the instruments had previously confessed execution thereof.

We find x x x the Conclusion [of the Canonical Judgment] and the Decree of Finality presented by Reghis for submission to the [Court] in G.R. Nos. 209180 and 209253 to be authentic, the due execution and genuineness thereof having been established by Ms. Santos, in her personal capacity as the ecclesiastical notary assigned to the case, and in her capacity as the duly authorized representative of Msgr. Reyes, who signed the Canonical Judgment as the Presiding Judge of the [Metropolitan] Tribunal and also issued the Decree of Finality as the Judicial Vicar. **Not only is Ms. Santos familiar with the signatures of the members of the Tribunal which decided Romero – Lagman Protocol No. 27/2015, x x x she actually saw each member sign the document —**

Q In question number 6, in your answer thereto, you stated that you became very familiar with the signatures of the members of the Metropolitan Tribunal. How do you say that you are very familiar with their signatures?

A I have been working with them for a long time already, Sir.

x x x x

Q In your Exhibit 'A' [(the Conclusion)], specifically, submarkings 'A-1' to 'A-4' appear to be signatures of the members of the [Metropolitan] Tribunal and your signature, do you confirm that?

A Yes, Sir.

Q Did you sign this all at the same time or not?

A Not at the same time.

Q One by one. Who signed first?

A Signed by the Presiding Judge, our Judicial Vicar, then by the Ponens, and then by the Associate Judge, the other Judge.

x x x x

A x x x I saw the Judicial Vicar sign the document, I saw the Ponens sign the document, and then I saw the other Judge sign the document. I made them sign the document.

X X X X

In the course of her examination, Ms. Santos explained that it was only recently that the [Metropolitan] Tribunal had relaxed its policy on the confidentiality of [its] proceedings. Even then, she had been authorized by the [Metropolitan] Tribunal to divulge in court only the Conclusion [of the Canonical Judgment] and the Decree of Finality. She further explained that the [Metropolitan] Tribunal still had no written rules with regard to such waiver of confidentiality[.]

X X X X

[The CA] accord[s] due respect to the confidentiality of the proceedings before the [Metropolitan] Tribunal. Such assurance of confidentiality is necessary for the parties to fully disclose information that would help the [Metropolitan] Tribunal in resolving the cases before them. **In any event, this Court is satisfied that the Conclusion [of the Canonical Judgment] and [the] Decree of Finality that Reghis presented before this Court have been properly authenticated.**⁵² (Emphasis and underscoring supplied; original emphasis omitted)

The Canonical Judgment consists of a private document⁵³ under A.M. No. 19-08-15-SC⁵⁴ (2019 Revised Rules on Evidence) the due execution and authenticity of which may be established not only '[b]y anyone who saw the document executed or written' or '[b]y evidence of the genuineness of the signature or handwriting of the maker', but also, '**[b]y other evidence showing its due execution and authenticity.**'⁵⁵ Thus, Reghis' counsel could have resorted to other means to prove the authenticity of the Canonical Judgment he had appended to his Manifestation. However, perhaps in deference to the confidentiality restrictions of the Metropolitan Tribunal, this course of action was not taken. As a result, despite the fact that the Court had been furnished by Reghis with a photocopy of the entire Canonical Judgment (that is, including the body and the Conclusion), only the Conclusion of the Canonical Judgment and the Decree of Finality were duly authenticated before the CA. Thus, the Court is constrained to consider only the **Conclusion** of the Canonical Judgment and the corresponding **Decree of Finality** in the resolution of the consolidated petitions pursuant to the 2019 Revised Rules on Evidence.

⁵² Id. at 1065-1069.

⁵³ Section 19, Rule 132 of A.M. No. 19-08-15-SC provides:

Sec. 19. *Classes of documents.* – For the purpose of their presentation in evidence, documents are either public or private.

Public documents are:

- (a) The written official acts, or records of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;
- (b) Documents acknowledged before a notary public except last wills and testaments;
- (c) Documents that are considered public documents under treaties and conventions which are in force between the Philippines and the country of source; and
- (d) Public records, kept in the Philippines, of private documents required by law to be entered therein.

All other writings are private. (Emphasis supplied)

⁵⁴ 2019 PROPOSED AMENDMENTS TO THE REVISED RULES ON EVIDENCE, October 8, 2019.

⁵⁵ Id., Rule 132, Sec. 20. Emphasis supplied.

*B. Canon 1095 of the Code of
Canon Law vis-à-vis Article 36
of the Family Code*

The Conclusion of the Canonical Judgment reads:

Wherefore, we, the undersigned judges of the [Metropolitan Tribunal], sitting as a collegiate Court of First Instance, having invoked the Divine Name and having only God before our eyes, so seated in the Hall of the Tribunal, having considered the points of law and the force of facts pertaining to the case, by these presents, define, declare and decree, in answer to the issues proposed for solution: ‘Has the nullity of the marriage been certainly proven?’

IN THE AFFIRMATIVE

on the part of both the Husband-Petitioner and the Wife-Respondent

that is to say, the nullity of the canonical marriage entered into by [Reghis], Petitioner, and [Olivia], Respondent, has been certainly proven on the ground of Grave Lack of Due Discretion of Judgment on the part of both the Husband-Petitioner and the Wife-Respondent.

The legitimacy of the two children born of this union, named MICHAEL and NATHANIEL, surnamed ROMERO Y LAGMAN, is expressly upheld as provided by Canon 1137.

All other issues of purely civil nature are remitted to the competent civil authority pursuant to Canon 1059. Furthermore, no part of the Acts of this case nor of this Sentence shall be made available to any civil court for any purpose whatsoever.

The parties are hereby reminded of the moral obligations by which they may be bound, both towards one another and to the children pursuant to Canon 1689.

It is likewise hereby expressly declared that this Sentence is final and executory, unless there is an appeal from the Respondent in accordance with Canon 1684, §1, as amended by Motu Proprio, Mitis Iudex Iesus, 8 December 2015, Criteria I.⁵⁶ (Emphasis and underscoring supplied)

As stated in the Decree of Finality,⁵⁷ the Canonical Judgment became final on December 17, 2016 in the absence of any appeal.

While the Court is precluded from resorting to the body of the Canonical Judgment which details the proceedings before the Metropolitan Tribunal, the **Conclusion** nevertheless and still sufficiently states that the canonical marriage of Reghis and Olivia was declared null and void on the ground of grave lack of due discretion on judgment.

⁵⁶ *Rollo* (G.R. No. 209253), Vol. II, p. 584; see also *id.* at 1060-1061.

⁵⁷ *Rollo* (G.R. No. 209180), Vol. II, p. 1043.

Grave lack of due discretion on judgment is one of three grounds for declaration of nullity found in Canon 1095 of the New Code of Canon Law, which reads:

Canon 1095 The following are incapable of contracting marriage:

- 1) those who lack the sufficient use of reason;
- 2) those who suffer from a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted;
- 3) those who are not able to assume the essential obligations of marriage for causes of a psychic nature.⁵⁸

In *Tan-Andal*, the Court explained that psychological incapacity under Article 36 of the Family Code contemplates the grounds found in the second and third paragraphs of Canon 1095. Hence, canonical judgments involving the grounds found therein carry persuasive effect in judicial decisions concerning Article 36. As held by the Court:

A review of the deliberations of the Code Committee, however, reveals that lack of due discretion under the second paragraph of Canon 1095 is actually a part of the concept of psychological incapacity as envisioned by the [Code] Committee. This was the subject of the article, *Psychological Incapacity and the Canon Law on Marriage: An Exegesis on the Psychological Element of Matrimonial Consent (Exegesis)*.

A canonical marriage, like a secular marriage, is special, albeit for a different reason. Under the teachings of the Catholic Church, a contract of marriage requires a special kind of consent, called 'matrimonial consent,' to be valid.

x x x x

Matrimonial consent, in turn, consists of three elements: (1) the cognitive element, which corresponds to truth; (2) the volitive element, which corresponds to freedom; and (3) the psychosomatic element, which corresponds to maturity. Canon 1095 refers to the psychosomatic or psychological element of matrimonial consent. The absence of any of these three elements renders a canonical marriage void.

The first paragraph of Canon 1095 refers to those who lack the sufficient use of reason due to a mental illness. **The second paragraph on lack of due discretion refers to 'the lack of capacity to bind oneself to the rights and obligations of marriage.' A person who lacks due discretion [gives] the appearance of enjoying full use of his [or her] faculties, but . . . by reason of some psychic defect he [or she] may not be capable of assuming the obligations of marriage, even if he [or she] may have a notional and conceptual understanding of them.** Lastly, **the third paragraph on lack of due competence contemplates a situation where the person, while having intellect and ordinary**

⁵⁸ See CODE OF CANON LAW, available at <https://www.vatican.va/archive/cod-iuris-canonici/eng/documents/cic_lib4-cann998-1165_en.html#TITLE_VII>

capacity to consent, cannot deliver the object of the marital consent—his or her very person. The incapacity, like in the second paragraph, is due to psychic causes, which is:

... something in the psyche or the psychic constitution of a person which impedes his [or her] capacity to assume three (3) general obligations of marriage: (1) consortium of whole life between a man and a woman; (2) a consortium which is directed towards the good of the spouses; and (3) towards the procreation and upbringing of children.

From this discussion, the concept under the first paragraph of Canon 1095 is explicitly outside the realm of psychological incapacity under Article 36 of the Family Code as envisioned by the Code Committee. To recall, the Code Committee did not view psychological incapacity as a mental disorder.

However, psychological incapacity under Article 36 is actually closer, concept-wise, to lack of due discretion under the second paragraph of Canon 1095, rather than lack of due competence contemplated in the third paragraph. This is strange, because while Article 36 of the Family Code is similarly worded to the third paragraph of Canon 1095, its meaning is similar to that embraced in the second paragraph.

x x x x

Therefore, while Article 36 of the Family Code is similarly worded to the third paragraph of Canon 1095, canonical decisions based on the second paragraph should likewise have a persuasive effect in secular decisions on psychological incapacity, if we are to avoid anomalous situations where canonically void marriages remain valid under civil law.⁵⁹ (Emphasis and underscoring supplied)

The Court's observations in *Tan-Andal* reinforce the intent reflected in the deliberations of the Code Committee — that Article 36 should be understood to contemplate marriages involving parties who fail to appreciate and fulfill the essential obligations of marriage. As reflected in the Code Committee deliberations:

[Justice Eduardo P. Caguioa (Justice Caguioa)] explained that the phrase 'was wanting in sufficient use of reason or judgment to understand the essential nature of marriage' refers to defects in the mental faculties vitiating consent, which is *not* the idea in subparagraph (7), but **lack of appreciation of one's marital obligations.**⁶⁰ (Emphasis supplied)

It is clear, therefore, that the nullity of canonical marriages grounded on grave defect of discretion presupposes an **inability to assume the obligations of marriage**, even if there may be 'a notional conceptual understanding of them.' As one noted Canon Law scholar explains:

⁵⁹ *Tan-Andal v. Andal*, supra note 14, at 38-40. Citations omitted.

⁶⁰ Minutes of the 148th Joint Meeting of the Civil Code and Family Law Committees dated July 26, 1986, p. 8.

Andal

We are dealing with much more than notional knowledge; it is more a question of 'feeling' about what the object of our choice means to us since 'to feel' is the process by which we accept or reject it. In this sense, feeling is a judgment but this judgment differs from an intellectual judgment in the sense that it does not have as its object the establishment of a conceptual relationship; rather, its object is to bring about a subjective act of acceptance or refusal.

When there is an incorrect understanding of the nature of marriage, of its rights and obligations, and when the couple's acceptance of each other is more impulsive than deliberate, there are indications that a critical judgment about marriage is deficient even if a certain degree of notional or intellectual knowledge is present. Even if such judgment is deficient in only one of these essential rights or obligations, the marriage is invalid because such a deficiency would destroy the very nature of marriage. It would do so because all these elements are together constitutive elements of marriage.⁶¹ (Emphasis supplied)

This mirrors the concept of psychological incapacity under Article 36, which, as stated, contemplates the inability, and not mere refusal, to comply with the essential obligations of marriage.

Relatedly, scholarly literature also expounds on the marital obligations which are considered essential under Canon Law:

Canon 1095, [paragraph 2] does not enumerate the essential rights and duties of marriage. The legislator 'left it to canonical doctrine and jurisprudence to progressively declare and explain their content and limits.' In his 1984 allocution to the Rota, Pope John Paul specifically cited the 'essential matrimonial rights and duties' of [C]anon 1095 as a necessary generic formulation awaiting further determination especially from Rotal jurisprudence.' Concerning the enumeration of the essential rights and duties, one Rotal auditor observed that 'it is difficult to simply, clearly, and exhaustively indicate, declare and circumscribe the essential obligations of matrimony.' They certainly include those rights and duties related to the properties of unity and indissolubility. They also include the ends of marriage, i.e., the good of the spouses and the procreation and education of children. They encompass the rights and duties associated with the partnership of the whole of life (*totius vitae consortium*), which is itself a term that has yet to be fully defined with juridical precision. Rotal jurisprudence and commentators vary in the listing and description of the essential rights and duties of marriage. One succinct enumeration of the essential rights and duties of marriage is offered by Viladrich.⁶²

The right/duty to sexual acts, the right/duty to not impede procreation, the right/duty of establishing, preserving, and ordering the intimate conjugal partnership toward its objective ends; the right/duty of

⁶¹ Riga, Peter J. 'The Catholic View of Marriage in the New Code of Canon Law of 1983 and the Nullity of Marriage in Canon 1095.' *Journal of Law and Religion*, vol. 9, no. 2, 1992, pp. 515-544. HeinOnline.

⁶² Reverend Professor Pedro Juan Viladrich, noted Canon Law professor from the University of Navarra, Spain.

fideli ty; the right/duty of mutual help in ordering towards the pursuit of the essential ends of marriage those acts and types of behavior that are apt and needed for that purpose; the right/duty to welcome and care for the common children within the married community; and right/duty of educating the common children.⁶³
(Emphasis supplied)

As well, it bears noting that since Article 36 was lifted by the Code Committee from Canon 1095, the marital rights and obligations under Canon Law mirror the mutual obligations of husband and wife under Articles 68 to 71⁶⁴ of the Family Code, and the obligations of parents to their children under Articles 220, 221, and 225⁶⁵ of the same statute.

⁶³ Reidy, Richard F. 'The Grave Defect of Discretion of Judgment Necessary to Establish the Invalidity of Marriage under Canon 1095.' Jurist (Catholic University of America), vol. 73, no. 2, pp. 339-370. HeinOnline.

⁶⁴ The relevant portions of these provisions read:

ART. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

ART. 69. The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

x x x x

ART. 70. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from their separate properties.

ART. 71. The management of the household shall be the right and the duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70.

⁶⁵ These provisions read:

ART. 220. The parents and those exercising parental authority shall have with respect to their unemancipated children or wards the following rights and duties:

(1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;

(2) To give them love and affection, advice and counsel, companionship and understanding;

(3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;

(4) To enhance, protect, preserve and maintain their physical and mental health at all times;

(5) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;

(6) To represent them in all matters affecting their interests;

(7) To demand from them respect and obedience;

(8) To impose discipline on them as may be required under the circumstances; and

(9) To perform such other duties as are imposed by law upon parents and guardians.

ART. 221. Parents and other persons exercising parental authority shall be civilly liable for the injuries and damages caused by the acts or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law.

x x x x

ART. 225. The father and the mother shall jointly exercise legal guardianship over the property of their unemancipated common child without the necessity of a court appointment. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary.

x x x x

From the foregoing, it is evident that the concept of Article 36 contemplates marriages declared null and void based on the grounds set forth in paragraphs (2) and (3) of Canon 1095 specifically, grave defect of discretion of judgment and lack of ability to assume the essential obligations of marriage for causes of psychic nature. **The former ground finds particular relevance in this case, inasmuch as Reghis and Olivia's canonical marriage had been nullified on the ground of 'grave lack of due discretion of judgment.'** Thus, in assessing the evidentiary weight of the Conclusion of the Canonical Judgment, the Court must bear in mind that the conceptual basis upon which the Metropolitan Tribunal had declared Reghis and Olivia's canonical marriage void also serves as the underlying conceptual basis of Article 36 of the Family Code.

C. The totality of evidence on record establishes Reghis' psychological incapacity by clear and convincing evidence

Proceeding from the foregoing and applying the *Tan-Andal* guidelines, the Court finds that the nullity of Reghis and Olivia's canonical marriage, taken with the totality of evidence on record, establish by clear and convincing evidence, that Reghis suffers from psychological incapacity to comply with his essential marital obligations.

Foremost, the above-quoted Conclusion serves as evidence of juridical antecedence. As discussed in *Tan-Andal*, a declaration of nullity under Canon 1095 is premised on the absence of matrimonial consent, which absence exists at the point where the marriage is contracted. A declaration of nullity under Canon 1095 thus entails that the ground for nullity, which, in this case, is lack of due discretion, existed 'at the moment of marriage which is the moment of consent.'⁶⁶

As well, the Conclusion also serves as evidence that Reghis' psychological incapacity is grave and incurable in the legal sense (that is, persistent and enduring), considering that the nullity of canonical marriage under Canon 1095 is similarly premised on incapacity, and not mere difficulty, to give marital consent and to fulfill one's marital obligations. As explained by John Paul II in his address to the tribunal of the Roman Rota on February 5, 1987:

x x x For the canonist[,] the principle must remain clear that only *incapacity* and not *difficulty* in giving consent and in realizing a true community of life and love invalidates a marriage. Moreover, the breakdown of a marriage union is never in itself proof of such incapacity on the part of the contracting parties. They may have neglected or used badly the means, both natural and supernatural, at their disposal; or they

⁶⁶ Riga, Peter J. 'The Catholic View of Marriage in the New Code of Canon Law of 1983 and the Nullity of Marriage in Canon 1095,' supra note 61.

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may have failed to accept the inevitable limitations and burdens of married life, either because of blocks of an unconscious nature or because of slight pathological disturbances which leave substantially intact human freedom, or finally because of failures of a moral order. The hypothesis of real incapacity is to be considered only when an anomaly of a serious nature is present, which, however it may be defined, must substantially vitiate the capacity of the individual to understand and/or to will.⁶⁷

Considering the nature of incapacity contemplated under Canon 1095, the nullity of the canonical marriage of Reghis and Olivia, as confirmed by the Conclusion of the Canonical Judgment and the Decree of Finality, bolsters the findings of Dr. Basilio. To note, the pertinent portions of the Psychological Evaluation Report⁶⁸ read:

The couple's misunderstandings and quarrels stemmed from [Reghis'] stubborn and persistent obsessive-compulsive behavior which bordered on grave and serious behavioral disorder, causing wide rifts between the couple, and destroying their family relationship completely.

Further psychological tests showed that [Reghis has] a strong obsession for success in whatever endeavor he chooses, to the exclusion of other responsibilities and duties attendant to his role as father and husband to his children and wife. Furthermore, [in spite] of his status and successes in life, [Reghis] has apparently not weaned himself from his parental and sibling ties, making him pursue his business ventures with the end in view of his parents and siblings in mind. [Reghis'] psychological incapacity as husband to x x x Olivia is permanent and incurable.⁶⁹

Dr. Basilio further expounded on these findings in her testimony:

Q x x x [H]ow serious is [Reghis' psychological] incapacity?

A I considered it serious because it was the reason for the break-up of marriage.

Q And during your interview with [Reghis], were you able to determine when this incapacity [started to exist]?

A The behavior of Reghis that caused the break-up of marriage has already existed even prior [to] their marriage or even during their adolescence years.

Q And what is your basis in saying that?

A They were based on the interviews [with] [Reghis].

Q **Do you consider this psychological incapacity of [Reghis] as curable or incurable?**

⁶⁷ Address of John Paul II to the Tribunal of the Roman Rota, February 5, 1987, available at [https://web.archive.org/web/20170621053905/http://fp2.com/us/john-paul-ii/online-library/speeches/6489-address-of-john-paul-ii-to-the-tribunal-of-the-roman-rot-a-february-1987->](https://web.archive.org/web/20170621053905/http://fp2.com/us/john-paul-ii/online-library/speeches/6489-address-of-john-paul-ii-to-the-tribunal-of-the-roman-rot-a-february-1987-).

⁶⁸ *Rollo* (G.R. No. 209253), Vol. I, pp. 67-68.

⁶⁹ *Id.* at 68.

- A **No, those being considered [as a] behavior[al] pattern x x x are not curable because they are imbibe[d] already on his [behavior].**
- Q What is the difference between behavioral problems as against physiological problem[s]?
- A **A behavior is one that has been imbibed in you since your childhood, it's something that you don't just acquire. Physiological problem is one that is caused by physiological deficiencies or disorders that can be cured because these are physiological.** x x x⁷⁰ (Additional emphasis supplied)

Proceeding from the foregoing, the Court finds that the totality of evidence ***now on record*** warrants the grant of Reghis' Petition for Declaration of Nullity of Marriage. The fact of nullity of Reghis and Olivia's canonical marriage on the ground of 'grave lack of due discretion of judgment,' taken with Dr. Basilio's Psychological Evaluation Report and testimony, establish, by clear and convincing evidence, that Reghis suffers from psychological incapacity which precludes him from understanding and fulfilling the essential marital obligations. This psychological incapacity is grave and incurable in the legal sense as it is shown to be enduring and persistent, and has been grounded in Reghis' behavioral pattern since his childhood.

To be sure, canonical decisions on the nullity of marriage have *persuasive* and not conclusive effect before the secular courts. Thus, once admitted in accordance with the Rules on Evidence, canonical decisions must still be appreciated by the courts together with the totality of evidence on record. **It is imperative to stress, however, that these decisions find particular importance and weight in cases where the canonical marriage of the parties involved had already been declared null and void precisely because 'it is the explicit intent of the Code Committee to solve 'the problem of marriages already annulled by the Catholic Church but still existent under civil law.'**⁷¹ Thus, in appreciating canonical decisions in conjunction with the totality of evidence on record, courts must place paramount importance on this legislative intent.

Here, the canonical marriage of Reghis and Olivia was declared null and void after the Court had rendered its February 2016 Decision dismissing the consolidated petitions. In turn, the Court was only furnished with a photocopy of the corresponding Canonical Judgment after it issued its September 2017 Resolution dismissing Reghis' First MR. It thus behooved the Court to remand the consolidated petitions to the CA for due authentication of the corresponding Canonical Judgment. As it was however, only the Conclusion of the Canonical Judgment and the Decree of Finality had been authenticated before the CA.

⁷⁰ As quoted in the Manifestation and Supplement to Motion for Reconsideration dated November 14, 2016, *id.* at 216-217.

⁷¹ *Tan-Andal v. Andal*, *supra* note 14, at 38. Emphasis supplied. Citations omitted.

While the body of the Canonical Judgment had not been authenticated, the Court is not precluded from according persuasive weight on the *fact* of nullity of Reghis and Olivia's canonical marriage based on 'grave lack of due discretion of judgment'. To hold otherwise would be to render Article 36 and the legislative intent underlying it entirely nugatory so long as the confidentiality restrictions of the Metropolitan Tribunal stand. **Verily, this would completely defeat the very purpose of the provision, which, as emphasized in *Tan-Andal*, is to avoid anomalous situations where canonically void marriages remain valid under civil law.**⁷² To reiterate:

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. **Ideally — subject to our law on evidence — what is decreed as canonically invalid should also be decreed civilly void.**

This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church — while remaining independent, separate and apart from each other — shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation. x x x⁷³ (Emphasis supplied)

In all, the Court finds that the Conclusion and the Decree of Finality, taken with the pieces of evidence already presented before the RTC, provide this Court with more than sufficient basis to reconsider its February 2016 Decision and September 2017 Resolution.

WHEREFORE, premises considered, the Court rules as follows:

1. The Manifestations dated December 28, 2017 and October 8, 2018, as well as the subsequent Urgent Manifestation dated June 17, 2019 filed by Reghis M. Romero II are **NOTED**.
2. The Court **GRANTS** the following motions filed by Reghis M. Romero II:
 - a. Motion for Leave to Admit Second Motion for Reconsideration dated December 27, 2017;
 - b. Second Motion for Reconsideration dated December 27, 2017; and

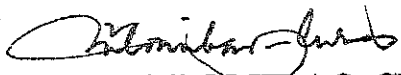
⁷² Id. at 40.

⁷³ Id. at 23. Citations omitted.

- c. Urgent Omnibus Motion to Recall Entry of Judgment and for Early Resolution filed on February 26, 2018.
3. The Entry of Judgment issued in G.R. Nos. 209180 and 209253 is **LIFTED**.
4. The Court's February 24, 2016 Decision and the September 27, 2017 Resolution are **SET ASIDE**.

The Court of Appeals' Decision dated March 21, 2013 and Resolution dated September 12, 2013 granting the Petition for Declaration of Nullity of Marriage docketed as Civil Case No. Q-98-34627 before the Regional Trial Court of Quezon City, Branch 94⁷⁴ are **AFFIRMED**." (70)

By authority of the Court:


MARIFE M. LOMBAO-CUEVAS
Clerk of Court *per se*

(With Concurring Opinion of Senior Associate Justice Marvic M.V.F. Leonen)

⁷⁴ The Petition for Declaration of Nullity of Marriage was re-raffled to Branch 107 of the same RTC upon Motion for Inhibition filed by Olivia, which was granted in a Resolution dated November 22, 2004. However, upon Motion for Inhibition filed by Reghis, which was granted on January 4, 2005, the petition was again re-raffled to RTC Branch 225 on May 30, 2005. [*Rollo* (G.R. No. 209253), Vol. I, p. 76; see also *Republic v. Romero*, *supra* note 17, at 741.]

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