



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

CAROLYN T. MUTYA- G.R. No. 230711
SUMILHIG,

Petitioner, Present:

-versus-

LEONEN, S.A.J., Chairperson,
 LAZARO-JAVIER,
 LOPEZ, M.,
 LOPEZ, J., and
 KHO, JR., JJ.

JOSELITO T. SUMILHIG and
REPUBLIC OF THE
PHILIPPINES,

Respondents.

Promulgated:

AUG 22 2022

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DECISION

LOPEZ, M., J.:

Assailed in the Petition for Review on *Certiorari*¹ before this Court are the Decision² dated November 14, 2016 and the Resolution³ dated March 9, 2017 of the Court of Appeals (CA) in CA-G.R. CV No. 105453, which affirmed the Decision⁴ dated March 17, 2015 and the Resolution⁵ dated May 25, 2015 of the Regional Trial Court of Quezon City, Branch 107 (RTC) denying petitioner Carolyn T. Mutya-Sumilhig's (Carolyn) Petition for Declaration of Nullity of Marriage⁶ under Article 36 of the Family Code.

¹ *Rollo*, pp. 12-27.

² *Id.* at 32-46. Penned by Associate Justice Franchito N. Diamante, with the concurrence of Associate Justices Japar B. Dimaampao (now a member of this Court) and Carmelita Salandanan Manahan.

³ *Id.* at 48-49.

⁴ *Id.* at 233-239. Penned by Presiding Judge Jose L. Bautista, Jr.

⁵ *Id.* at 240.

⁶ *Id.* at 50-53.

Facts of the Case

Carolyn met respondent Joselito T. Sumilhig (Joselito) in February 1984 on her first day of work as a waitress at Daungan Restaurant. Joselito also worked there as an assistant cook. They became good friends and eventually lovers. During their relationship, Carolyn noticed Joselito's gambling and drinking habits. He would pass the time playing *tong-its* and *mahjong* with bystanders while waiting for her. When Carolyn worked at Syvel's Department Store, there were instances when Joselito was already drunk when he would fetch her.⁷

In 1987, Carolyn got pregnant with their first child, Jay Charles M. Sumilhig (Jay). Blinded by his promise to reform, Carolyn married Joselito on October 20, 1987. Carolyn gave birth to Jay on April 6, 1988. Joselito did not visit his wife and baby at the hospital. When Carolyn was discharged from the hospital two days after giving birth, Carolyn saw that Joselito was playing basketball with his friends. Thereafter, Jay had to be hospitalized for two months because he was defacating through the umbilical cord. However, when Jay got sick, Joselito was easily irritated because of the baby's cries and he neither showed love nor bothered to take care of Jay. To make matters worse, Joselito stopped working and busied himself with *mahjong*, drinking, and gambling in the neighborhood.⁸

On May 24, 1989, Carolyn gave birth to their second child, Jennalyn M. Sumilhig (Jennalyn). Jennalyn was born premature because Carolyn was stressed during her pregnancy due to her frequent quarrels with Joselito. Despite his growing family, Joselito did not change his ways and remained jobless. He still drank and his gambling habits became worse. There were times when he would not come home because he was playing *mahjong*. He would also steal Carolyn's savings or borrow money from loan sharks to fund his gambling addiction. Joselito then started physically and verbally abusing Carolyn and their son, Jay. Because of Joselito's behavior, Carolyn developed trauma and would hide in their room whenever Joselito came home drunk.⁹

Sometime in September 1990, Carolyn left their home because she could no longer bear Joselito's vices and beatings. She came back for their children a day after leaving, but Joselito only gave Jay. A month after that, Carolyn visited Jennalyn and found out that Joselito was not taking care of her. Jennalyn was coughing incessantly and had a burn on her thigh because Joselito poured hot coffee on her. This prompted Carolyn to take Jennalyn with her. Since then, she and Joselito have been separated and never

⁷ *Id.* at 15 and 58.

⁸ *Id.* at 15.

⁹ *Id.* at 16-17 and 60-62.



reconciled. Eventually, Joselito lived with another woman, Daisy Menor, and has three children with her.¹⁰

On October 18, 2010, Carolyn filed a Petition for Declaration of Nullity of Marriage¹¹ based on psychological incapacity. To support her allegations, Carolyn submitted her Judicial Affidavit¹² and the Judicial Affidavits of Joselito's father, Mamerto M. Sumilhig¹³ (Mamerto), Dr. Felicitas I. Arriaga-Soriano¹⁴ (Dr. Soriano), and Dr. Ma. Brenda Grace Gabiazon-Benitez¹⁵ (Dr. Benitez). She also presented Dr. Soriano's Psychiatric Evaluation Report¹⁶ and Dr. Benitez's Psychological Test Results and Evaluation.¹⁷

Joselito did not file his Answer.¹⁸

At the trial, Dr. Soriano testified that Joselito had poor upbringing and was spoiled by his grandparents when he was growing up. According to her, Joselito lacks the proper life skills which makes him overly dependent on others. He is also immature and could not comply with his obligations and responsibilities as a husband and a father. Joselito has a *defective superego*, thus, he sees other people as objects over which to exert control and he feels the need to see Carolyn powerless. Joselito exhibited gross disregard for his wife's feelings and persistent attitude of irresponsibility in marital life.¹⁹ Based on Carolyn's and Mamerto's narration, Dr. Soriano concluded that Joselito suffers from *Antisocial-Dependent Personality Disorder*, comorbid with alcohol dependence and pathological gambling. Such disorder is not curable because it is developmental in origin. Treatment is only palliative.²⁰ In addition, Dr. Benitez found Joselito to be a chronic alcohol drinker and gambler. Further, she observed that there is no possibility of reconciliation because of Joselito's psychic condition and since Carolyn is firm in filing the Petition in court.²¹

Mamerto corroborated Carolyn's testimony regarding Joselito's drinking and gambling vices that caused their frequent fights. He mentioned that there were times when Joselito would physically hurt Carolyn. He also confirmed that Joselito lived with another woman when the couple separated and exhibited the same attitude towards his second family. Although Joselito earns income now as a tricycle driver, he is still irresponsible and has a severe drinking problem.²²

¹⁰ *Id.* at 17 and 62–63.

¹¹ *Id.* at 50–53.

¹² *Id.* at 57–64.

¹³ *Id.* at 73–78.

¹⁴ *Id.* at 80–89.

¹⁵ *Id.* at 92–98.

¹⁶ *Id.* at 119–142.

¹⁷ *Id.* at 90–91.

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 22–23.

²⁰ *Id.* at 86–87 and 139–141.

²¹ *Id.* at 94–95.

²² *Id.* at 76–77.

After trial, the RTC rendered a Decision²³ dated March 17, 2015 denying the Petition. The RTC found insufficient evidence to prove the gravity, incurability, and juridical antecedence of Joselito's alleged psychological incapacity. It ruled that Joselito's drinking and gambling habits, physical abuse, failure to contribute to household expenses, and failure to take care of their children are insufficient proofs of a psychological disorder. Other than Dr. Soriano's findings, there was no other evidence that Joselito was unaware of his basic marital obligations at the time of the celebration of the marriage. Joselito's behavior only shows his outright refusal, difficulty, or neglect in the performance of his marital obligations, which are not badges of psychological incapacity. In any case, the psychiatric evaluation has little or no probative value since the information on which it was based was derived solely from Carolyn.²⁴

Carolyn moved for reconsideration,²⁵ but was denied by the RTC in a Resolution²⁶ dated May 25, 2015.

Aggrieved, Carolyn elevated the case to the the CA. In its assailed Decision²⁷ dated November 14, 2016, the CA affirmed the RTC's ruling that the totality of the evidence presented is insufficient to prove Joselito's psychological incapacity. The CA noted that the expert finding of psychological incapacity was based only on the facts supplied by Carolyn and Mamerto. Further, Dr. Soriano's conclusion that Joselito's disorder was formed because of his poor upbringing is inadequate to conclude that he is psychologically incapacitated. The CA added that Joselito's refusal to work could be attributed to laziness which is not a manifestation of psychological incapacity.²⁸ The dispositive portion of the CA's Decision reads:

WHEREFORE, in the light of the foregoing, the instant appeal is **DENIED**. The assailed Decision dated March 17, 2015 and the Resolution dated May 25, 2015 by the Quezon City RTC, Branch 107 in Civil Case No. Q-10-68145, are hereby **AFFIRMED**.

SO ORDERED.²⁹ (Emphasis in the original)

Carolyn filed a Motion for Reconsideration³⁰ which was denied by the CA in a Resolution³¹ dated March 9, 2017.

²³ *Id.* at 233–239.

²⁴ *Id.* at 236–237.

²⁵ See Motion for Reconsideration dated April 17, 2015; *id.* at 145–150.

²⁶ *Id.* at 240.

²⁷ *Id.* at 32–46.

²⁸ *Id.* at 36–45.

²⁹ *Id.* at 45.

³⁰ Dated December 7, 2016. *Id.* at 241–249.

³¹ *Id.* at 48–49.

Hence, this Petition raising the sole issue of whether the CA gravely erred in ruling that the totality of evidence does not support Joselito's psychological incapacity to fulfill his essential marital obligations.³²

In its Comment,³³ the Office of the Solicitor General (OSG) contends that the evidence failed to satisfy the jurisprudential requisites of gravity, incurability, and juridical antecedence of Joselito's alleged psychological incapacity.³⁴ The OSG argues that Joselito's negative traits are not serious. It added that the trial court correctly ruled that Joselito's shortcomings were not rooted in some psychological illness existing at the inception of the marriage. Irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility, alcoholism, and the like do not by themselves warrant a finding of psychological incapacity but may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage.³⁵

The Court's Ruling

Carolyn asks this Court to declare her marriage void *ab initio* due to Joselito's psychological incapacity grounded upon Article 36 of the Family Code, which states:

Article 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

The differing guidelines in determining the existence of psychological incapacity were settled by the Court in the recent case of *Tan-Andal v. Andal* (*Tan-Andal*).³⁶ First, a party's psychological incapacity must have **juridical antecedence** as required in *Republic v. CA*.³⁷ Article 36 explicitly requires the psychological incapacity to be existing at the time of the celebration of the marriage, even if such incapacity becomes manifest only after its solemnization. As contemplated under the law, psychological incapacity depicts an enduring aspect of a spouse's personality structure, existing at the time of the celebration of marriage, that renders them incapable of understanding and complying with their essential marital obligations, manifested through clear acts of dysfunctionality that undermines the family.³⁸ Proof of this aspect of personality may be given by ordinary witnesses who have been present in the life of the supposed incapacitated spouse before the

³² *Id.* at 20.

³³ *Id.* at 276–291.

³⁴ *Id.* at 286.

³⁵ *Id.* at 288–289.

³⁶ G.R. No. 196359, May 11, 2021, <<https://sc.judiciary.gov.ph/20821/>> [Per J. Leonen, *En Banc*].

³⁷ 335 Phil. 664 (1997) [Per J. Panganiban, *En Banc*].

³⁸ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021, <<https://sc.judiciary.gov.ph/20821/>> [Per J. Leonen, *En Banc*].

latter contracted marriage. These witnesses may testify on behaviors that they have consistently observed. The judge will then decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.³⁹ Thus:

Difficult to prove as it may be, a party to a nullity case is still required to prove juridical antecedence because it is an explicit requirement of the law. Article 36 is clear that the psychological incapacity must be “existing at the time of the celebration” of the marriage, “even if such incapacity becomes manifest only after its solemnization.” This distinguishes psychological incapacity from divorce. Divorce severs a marital tie even for causes, psychological or otherwise, that may have developed after the marriage celebration.

According to Dean Estrada-Claudio, “it is an accepted principle of all major and recognized theoretical schools within psychology that a person’s behavior is determined by the interaction of certain genetic predispositions and by his or her environment, working in iterative loops of influence.” From this, **proof of juridically antecedent psychological incapacity may consist of testimonies describing the environment where the supposedly incapacitated spouse lived that may have led to a particular behavior.** For instance, violence against one’s spouse and children is a manifestation of juridically antecedent psychological incapacity when it is shown that the violent spouse grew up with domestic violence or had a history of abusive romantic relationships before the marriage.⁴⁰ (Emphasis supplied)

Here, Carolyn testified on how Joselito failed to observe mutual love, respect, and fidelity, and refused to render mutual help and support to her. She averred that Joselito physically abused her and their children, and he spent time gambling and drinking instead of providing for the needs of the family. Mamerto corroborated Carolyn’s statements and offered an explanation on why his son has such “negative behavior.” Mamerto stated that when Joselito was 7 years old, he left the latter in the custody of his wife’s parents because of financial hardship. Joselito stayed with his grandparents until he was 14 years old. After he graduated in elementary at 14 years of age, Joselito was brought to Mamerto’s house in Manila because his grandparents could not discipline him and he became a “headache” for them. Mamerto enrolled his son in high school and the school would always call his attention because Joselito was frequently absent. Joselito stopped schooling when he reached fourth year high school without informing his parents. According to Mamerto, Joselito did not care about the feelings of other people and did not respect him and his wife. There were also times when he would hurt his siblings because for Joselito, “[s]iyang masunod.”⁴¹ The CA dismissed these circumstances as emotional immaturity, irresponsibility, and laziness which can be considered as disorder but not manifestations of psychological incapacity. Significantly, the appellate court concluded that what transpired between Carolyn and Joselito are mere irreconcilable differences and conflicting personalities.⁴²

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Rollo*, pp. 74–75.

⁴² *Id.* at 43.

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Contrary to the CA's ruling, Dr. Soriano concluded that Joselito's gross neglect of his responsibilities, immaturity, disregard of his partner's needs and feelings, and abusive behavior are symptoms of a disorder called *Antisocial-Dependent Personality Disorder* which existed prior to his marriage with Carolyn. Those with this disorder have "many areas of disordered life functioning."⁴³ They do not tell the truth and cannot be trusted to carry out any task or adhere to any conventional standard of morality. Dr. Soriano also elucidated that Joselito has a *defective superego* so he had to denigrate and abuse Carolyn to raise his self-esteem.⁴⁴ He even showed that "he's capable of rage, when his ego was put to test, putting his wife and children in danger – by physically and emotionally abusing them."⁴⁵ Dr. Benitez, a clinical psychologist, also stated that Joselito exhibited remarkable irresponsibility and inflicted emotional and physical pain upon Carolyn.⁴⁶

Joselito's *defective superego* and *Antisocial-Dependent Personality Disorder*, which existed prior to his marriage, are parts of his personality structure manifesting through clear acts of dysfunctionality. Joselito was also found to have alcohol dependence and pathological gambling. These factors make it impossible for him to understand and comply with his essential marital obligations. The clear and understandable causation between Joselito's condition pre-existing before his marriage and its incapacitating nature regarding the performance of the essential marital covenants clearly proved the juridical antecedence requirement.

Second, the psychological incapacity contemplated in Article 36 of the Family Code is **incurable**, not in the medical, but in the legal sense. This simply means that the incapacity is so enduring and persistent with respect to a specific partner, and contemplates a situation where the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage. There must be an undeniable pattern of such persisting failure to be a present, loving, faithful, respectful, and supportive spouse, and the pattern must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other.⁴⁷

There are no medications that may be taken or intervention that may be done as treatment for Joselito's psychological incapacity to enable him to fulfill his obligations as husband to Carolyn because what is involved here is Joselito's personality structure.⁴⁸ Dr. Soriano's assessment of Joselito's

⁴³ *Id.* at 24.

⁴⁴ *Id.* at 22–24.

⁴⁵ *Id.* at 22.

⁴⁶ *Id.* at 94.

⁴⁷ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021, <<https://sc.judiciary.gov.ph/20821/>> [Per J. Leonen, *En Banc*].

⁴⁸ *Rollo*, pp. 85–87.

condition was based on the information she gathered from Carolyn herself and Joselito's father. Dr. Soriano articulated, *viz.*:

The marital case study indicated that both [Joselito] and [Carolyn], showed impairment in their relationship functioning. [Joselito's] personality pattern strongly suggested that he has an **Antisocial-Dependent Personality Disorder (otherwise known known as Mixed Personality Disorder or Personality Disorder not otherwise specified or Atypical Personality Disorder)**. People with personality disorders commonly experience conflict and instability in many aspects of their lives, and most believe others are responsible for their problems. **The diagnosis is comorbid with Alcohol Dependence and Pathological Gambling.**

The personality disorder speaks of **antecedence** as it has an early onset, *with an enduring pattern and behavior that deviates markedly from the expectations of the individual's culture*. Due to poor parental and family molding (the rejections, the spoling and setting no limitations), [Joselito] did not grow up mature enough to cope with [his] obligations and responsibilities as husband and father.

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It also speaks of **incurability** as people having a personality disorder refuse psychiatric help and *deny their problems as they usually have impaired insight. They would not acknowledge the pain they caused on the people around them*. They are unmotivated to seek treatment and impervious to recovery. There are no medications to be taken as treatment for Personality Disorders. *There is no cure for this disorder being genetic and/or developmental in origin* and treatment is only palliative. There are no pills for personality disorder. The medications given are just to ameliorate the anxieties and violent behavior if present.⁴⁹ (Emphasis and underscoring in the original; italics supplied)

Third, as to **gravity**, psychological incapacity must be caused by a genuinely serious psychic cause and excludes "mild characterological peculiarities, mood changes, occasional emotional outbursts[.]"⁵⁰ The psychological incapacity cannot be a mere "refusal, neglect or difficulty, much less ill will."⁵¹ Joselito's psychological incapacity exemplifies gravity since he was not able to carry out the normal and ordinary duties of marriage performed by any married person under ordinary circumstances. He did not exert any effort at all to keep his marriage and support his family. He did not work, he chose to drink and gamble, and he physically and verbally abused Carolyn.⁵² There was neither understanding nor willingness to perform the obligations of marriage. Surely, these circumstances exhibit more than indolence, peculiarities, difficulty, or ill will.

⁴⁹ *Id.* at 21–23 and 141.

⁵⁰ *Republic v. CA*, 335 Phil. 664, 678 (1997) [Per J. Panganiban, *En Banc*].

⁵¹ *Id.*

⁵² *Rollo*, p. 23.

The question now is whether the totality of evidence presented in this case — the testimonies of Carolyn, Mamerto, Dr. Soriano, and Dr. Benitez — are sufficient to sustain a finding that Joselito is psychologically incapacitated.

Guided by the requisites mentioned and after a careful perusal of the records of this case, this Court rules that the totality of the evidence presented has clearly and convincingly established Joselito's psychological incapacity. To be sure, the rule of totality of evidence does not add a new dimension in the analysis of an Article 36 petition. The narratives in an Article 36 petition are often solely those of petitioner and their witnesses, and frequently, all the trial court has by way of respondent's version is the clinical narration of the factual basis of the expert report, which, in turn, typically arises from the examination of petitioner and other resource persons. It is in this context that courts are directed to apply the totality of evidence rule.⁵³

The CA's ruling that the findings of Dr. Soriano and Dr. Benitez are unreliable or have little or no probative value because Joselito was not interviewed is without basis. **There is no legal and jurisprudential requirement that the person to be declared psychologically incapacitated be personally examined by a physician.** Joselito was diagnosed without his personal appearance because he refused to be interviewed. The experts may, however, rely on their methods and procedures. To assess psychological incapacity to perform essential marital obligations, they may focus on the different behaviors manifested by Joselito prior to the marriage and during the marriage. To gather information about these behaviors, the most reliable person to be interviewed is Carolyn because she is the one who experienced the psychologically incapacitating behaviors of Joselito.

In a long line of cases, it has been established that the absence of respondent's personal examination is not fatal. We recall that in *Marcos v. Marcos*,⁵⁴ the Court emphasized that there is no requirement that a person be examined by a physician before they can be declared to be psychologically incapacitated. What matters is that the totality of evidence presented establishes the party's psychological condition.⁵⁵ Likewise, in *Tani-De La Fuente v. De La Fuente*,⁵⁶ the Court ruled that the psychologist's testimony, as corroborated by petitioner, sufficiently proved that respondent suffered from psychological incapacity.⁵⁷ In *Camacho-Reyes v. Reyes-Reyes*,⁵⁸ the Court reiterated that the non-examination of one of the parties will not automatically render as hearsay or invalidate the findings of the examining psychologist since marriage, by its very definition, necessarily involves only two persons. The totality of the behavior of one spouse during the cohabitation

⁵³ *Santos-Gantan v. Gantan*, G.R. No. 225193, October 14, 2020, <<https://sc.judiciary.gov.ph/16726/>> [Per J. Lazaro-Javier, First Division].

⁵⁴ 397 Phil. 840 (2000) [Per J. Panganiban, Third Division].

⁵⁵ *Id.* at 842.

⁵⁶ 807 Phil. 31 (2017) [Per J. Leonen, Second Division].

⁵⁷ *Id.* at 46.

⁵⁸ 642 Phil. 602 (2010) [Per J. Nachura, Second Division].

and marriage is generally and genuinely witnessed mainly by the other.⁵⁹ Too, in *Santos-Gantan v. Gantan*,⁶⁰ the Court clarified that while the clinical psychologist was not able to personally examine respondent, it does not nullify the finding of psychological incapacity, especially when such omission was attributable to respondent's own failure or refusal to appear for interview.⁶¹

In an Opinion⁶² in *Tan-Andal*, we explained:

The spouse of the person alleged to be psychologically incapacitated may be interviewed by the psychologist since he or she is in the best position to describe his or her spouse's inability to comply with marital obligations. The period of marital cohabitation and matters involving the spouses' affective communication with each other, the time they devoted to each other, the spouses' dissatisfaction on matters involving family income and expenses, manner of resolving major concerns, issues and problems in the family, style of rearing their child, interpersonal dealings with each other's family members and other significant events can only be discussed by the spouse. Other indicia of psychological incapacity that can only be witnessed by the spouse include paraphilia, aberrant sexual behavior, sexual promiscuity and inhibitions. Based on the spouse's observations, the psychologist can identify and explain whether the respondent is psychologically incapacitated.

A clinical psychologist, once qualified as an expert witness, interprets the facts of the case and gives his or her opinion, unlike an ordinary witness who is required to have personally seen or heard something. Expert opinion is crucial to enable courts to properly assess the issue and arrive at a judicious determination of each case. As emphasized in *Hernandez v. Court of Appeals* [377 Phil. 919 (1999)], expert testimony is important to establish the precise cause of a party's psychological incapacity.

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In other words, **diagnosis by an expert should not be dismissed as "unscientific" just because the expert has not interviewed the person alleged to be psychologically incapacitated. Not even a personal interview of the respondent can elicit accurate information because it is highly doubtful that a respondent would admit that he or she is psychologically incapacitated.** This is a characteristic of one who has a personality disorder; he or she will not admit that something is wrong with him or her. Besides, while examination of the respondent is desirable, it may not be realistic in all cases given the oftentimes estranged relations between the parties. How can a person be examined when he or she persistently refuses to be interviewed? **It would be absurd for the psychologically incapacitated party's refusal or defensiveness to be taken against the petitioner.**⁶³ (Emphasis supplied)

⁵⁹ *Id.* at 627.

⁶⁰ G.R. No. 225193, October 14, 2020, <<https://sc.judiciary.gov.ph/16726/>> [Per J. Lazaro-Javier, First Division].

⁶¹ *Id.*

⁶² J. M. Lopez, Concurring Opinion in *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021, <<https://sc.judiciary.gov.ph/20840/>> [Per J. Leonen, *En Banc*].

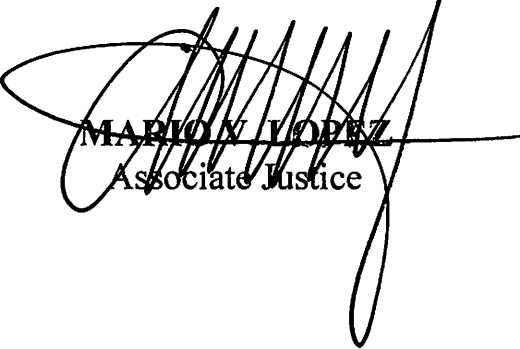
⁶³ *Id.*

The presentation of expert testimony in cases for declaration of nullity of marriage based on psychological incapacity presupposes a thorough and an in-depth assessment of the parties by the psychiatrist, psychologist, or expert for a conclusive identification of a grave and severe presence of psychological incapacity. The probative force of the testimony of an expert lies in the assistance that the expert can render to the courts in showing the facts that serve as basis for the criterion and the reasons upon which the logic his conclusion is founded.⁶⁴ For courts to arrive at a legal conclusion of psychological incapacity, the aggrieved party must prove certain facts. A psychologist or psychiatrist may help prove those facts by assessing and evaluating the psychological condition of the parties. Although expert opinion is not mandatory as ruled in *Tan-Andal*, due regard must be given to expert opinion on the psychological disposition of the respondent when it is presented in Article 36 cases.⁶⁵

Indeed, the totality of evidence has sufficiently established that Joselito is psychologically incapacitated at the time he got married to Carolyn. He is not cognizant of the basic marital covenants which is enough to declare the nullity of his marriage with Carolyn.

ACCORDINGLY, the Petition is **GRANTED**. The Decision dated November 14, 2016 and the Resolution dated March 9, 2017 of the Court of Appeals in CA-G.R. CV No. 105453 are **REVERSED**. The marriage of petitioner Carolyn T. Mutya-Sumilhig and respondent Joselito T. Sumilhig is declared **VOID AB INITIO**.

SO ORDERED.



MARIO N. LOPEZ
Associate Justice


⁶⁴ *Republic v. CA*, 698 Phil. 257, 270 (2012) [Per J. Bersamin, First Division]; citation omitted.

⁶⁵ *Tani-De La Fuente v. De La Fuente*, 807 Phil. 31, 48 (2017) [Per J. Leonen, Second Division].

WE CONCUR:



MARVIC M.V.F. LEONEN
Senior Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice




JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

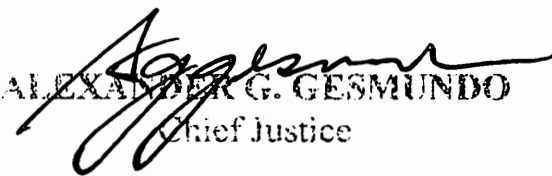
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice