



Republic of the Philippines
Supreme Court
Cagayan de Oro City

SECOND DIVISION

AGNES PADRIQUE GEORFO,
Petitioner,

G.R. No. 246933

Present:

-versus-

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

REPUBLIC OF THE
PHILIPPINES AND JOE-AR
JABIAN GEORFO,
Respondents.

Promulgated:
MAR 06 2023

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DECISION

LEONEN, J.:

Psychological incapacity is a legal concept, not an illness which has to be medically or clinically identified.¹ Therefore, psychiatric examination is no longer required in Article 36 petitions.² In cases where a psychiatric report is offered as an expert's opinion, the psychiatric evaluation of the alleged incapacitated spouse is not indispensable. The psychiatric evaluation may be based on collateral information or other sources.³

This Court resolves the Petition for Review on *Certiorari*⁴ assailing the Court of Appeals Decision⁵ and Resolution,⁶ which reversed and set

¹ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*], at 40. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

² *Id.* at 31.

³ *Id.* at 46.

⁴ *Rollo*, pp. 11–33.

⁵ *Id.* at 132–147. The July 16, 2018 Decision in CA-G.R. CV No. 06219 was penned by Associate

aside the Decision⁷ and Order⁸ of the Regional Trial Court declaring the marriage of Agnes Padrique Georfo (Agnes) and Joe-Ar Jabian Georfo (Joe-Ar) void on the ground of psychological incapacity.

In late 2001, Agnes and Joe-Ar met at a restaurant in Bacolod City. A relationship between them immediately developed.⁹ Four months later, Agnes's mother asked her to go to her brother's place in Toboso, Negros Occidental. Joe-Ar accompanied her. Due to the limited space in her brother's house, Agnes and Joe-Ar shared the room.¹⁰ When Agnes's family discovered this, they presumed that they had sex and prodded them to get married.¹¹

On February 23, 2002, Agnes, then 18 years old, and Joe-Ar, then 21 years old, were married at the Latter Day Saints Church in Magsungay, Bacolod City. Soon after, they had a son¹² and lived with Joe-Ar's family despite Agnes's objection due to conflict with her in-laws. Agnes claimed that Joe-Ar's father is stingy when it comes to money and berates them whenever they tried to borrow from him. Joe-Ar and his family had no concern for her. In one instance, Agnes suffered from diarrhea for days but they ignored her pleas to be brought to the hospital.¹³

Their marriage grew loveless, insecure, and marred by conflict and infidelity.¹⁴ According to Agnes, Joe-Ar had a bad temper. Every time they had an argument, Joe-Ar would hit her.¹⁵ Whenever she would come home late from work, Joe-Ar would get angry and punch her on the leg and other parts of her body.¹⁶

When Agnes went to Cebu to escape the abuse and to work, Joe-Ar fooled around.¹⁷ He had relationships with several women and had two children with one of them.¹⁸ Agnes also alleged that Joe-Ar failed to provide

Justice Edgardo L. Delos Santos (retired member of this Court) and concurred in by Associate Justices Edward B. Contreras and Louis P. Acosta of the Special Nineteenth Division, Court of Appeals, Cebu City.

⁶ Id. at 158–159. The March 5, 2019 Resolution in CA-G.R. CV No. 06219 was penned by Associate Justice Edgardo L. Delos Santos (retired member of this Court) and concurred in by Associate Justices Edward B. Contreras and Louis P. Acosta of the Former Special Nineteenth Division, Court of Appeals, Cebu City.

⁷ Id. at 65–71. The March 3, 2016 Decision in Civil Case No. CEB-40548 was penned by Judge Manuel D. Patalinghug of the Regional Trial Court, Branch 22, Cebu City.

⁸ Id. at 88. The June 13, 2016 Order in Civil Case No. CEB-40548 was penned by Presiding Judge Manuel D. Patalinghug of the Regional Trial Court, Branch 22, Cebu City.

⁹ Id. at 15.

¹⁰ Id. at 15 & 94.

¹¹ Id. at 16.

¹² Id. at 13.

¹³ Id. at 16.

¹⁴ Id. at 13.

¹⁵ Id. at 14.

¹⁶ Id. at 67.

¹⁷ Id.

¹⁸ Id. at 14 & 67.

financial support for their son.¹⁹

After living separately for eight years, Agnes filed a Petition for Declaration of Nullity of Marriage on the ground of psychological incapacity.²⁰

During trial, Dr. Andres Gerong (Dr. Gerong), a clinical psychologist, was presented as a witness.²¹ Dr. Gerong conducted psychological interviews with Agnes and her sister, Cherry Mae P. Valencia (Cherry Mae).²² He notified Joe-Ar of the psychological evaluation but he did not respond.²³

Dr. Gerong testified that Joe-Ar was “exhibiting trait patterns typical to persons with Narcissistic Personality Disorder.”²⁴ This prevented Joe-Ar from carrying out his duties towards his marriage and family. Dr. Gerong characterized Joe-Ar’s family as collective narcissists.²⁵ Further, Joe-Ar was found to have a dependent personality disorder because of his overdependence on his family and church.²⁶ According to Dr. Gerong, Joe-Ar’s personality disorders were serious and incurable.²⁷

Cherry Mae also testified and corroborated Agnes’ testimony. She narrated that she once stayed with Agnes and Joe-Ar for two months and she witnessed how Joe-Ar and his family mistreated Agnes.²⁸

Joe-Ar did not present his evidence.²⁹

In its March 3, 2016 Decision,³⁰ the Regional Trial Court granted Agnes’s Petition. The dispositive portion of the Decision reads:

WHEREFORE, premised on the foregoing, the Court finds for the petitioner. Accordingly, pursuant to Article 36 of the Family Code of the Philippines, the marriage between AGNES PADRIQUE GEORFO and JOE-AR JABIAN GEORFO, entered on 23 February 2002, in Bacolod City, Negros Occidental, is hereby declared NULL AND VOID ab initio.

Petitioner AGNES PADRIQUE GEORFO is hereby directed to have the entry of judgment registered with the Local Civil Registry of

¹⁹ Id. at 14.
²⁰ Id. at 35–44.
²¹ Id. at 67.
²² Id. at 17.
²³ Id. at 18.
²⁴ Id. at 67–68.
²⁵ Id. at 162.
²⁶ Id. at 163.
²⁷ Id. at 67–68.
²⁸ Id. at 19–20.
²⁹ Id. at 20.
³⁰ Id. at 65–71.

Bacolod City, Negros Occidental where the marriage of the parties was celebrated.

The Decree of Declaration of Absolute Nullity shall be issued upon petitioner's compliance with Sections 22 and 23 of A.M. No. 02-11-10-SC.

This Decision shall become final upon the expiration of fifteen days from notice to the parties, and entry of judgment shall be made if no Motion for Reconsideration or New Trial or Notice of Appeal is filed by any of the parties, the public prosecutor or the Solicitor General.

Furnish the Office of the Solicitor General, the petitioner through her counsel, the respondent and the Local Civil Registrars of Bacolod City, Negros Occidental and Cebu City, each with a copy of this Decision.

SO ORDERED.³¹

The trial court ruled that Joe-Ar's personality disorder, as established by the psychological report, was the cause of his incapacity to comply with essential marital obligations.³²

The Office of the Solicitor General filed a Motion for Reconsideration,³³ questioning the reliance of the trial court on the psychological report.³⁴ It argued that aside from the report, there were no other independent witnesses who had personal knowledge of the spouses' history. Moreover, it claimed that the report was based on the biased secondhand information from Agnes and her sister,³⁵ and at most, it only showed that Joe-Ar is immature and irresponsible by refusing to separately live from his parents, resorting to physical violence, and abandoning his family.³⁶ The Office of the Solicitor General asserted that these do not amount to psychological incapacity contemplated under Article 36 of the Family Code.³⁷

In its June 13, 2016 Order,³⁸ the trial court denied the motion. Thus:

WHEREFORE, the Office of the Solicitor General's motion, is hereby denied.

Furnish copy of this Order to the parties and the Office of the Solicitor General.

SO ORDERED.³⁹

³¹ Id. at 70.
³² Id. at 69-70.
³³ Id. at 72-87.
³⁴ Id. at 78-80.
³⁵ Id. at 78.
³⁶ Id. at 81.
³⁷ Id. at 84.
³⁸ Id. at 88.
³⁹ Id.

The Office of the Solicitor General filed an Appeal,⁴⁰ contending that the Decision and Order of the trial court lacked factual and legal bases.⁴¹ It asserted that the totality of evidence presented by Agnes did not warrant the dissolution of their marriage, reiterating that the testimonies of Agnes and her sister were self-serving⁴² and the psychological report had no probative value because Dr. Gerong did not personally interview and assess Joe-Ar. Moreover, it claimed that Dr. Gerong's report was overly generic, and that he used an obsolete version of the Diagnostic and Statistical Manual of Mental Disorders.⁴³

Agnes, however, maintained that the basis of the trial court's Decision was clearly articulated and the evidence she presented sufficiently established Joe-Ar's psychological incapacity. Moreover, Joe-Ar's failure to refute the evidence against him showed his indifference towards their marriage.⁴⁴

In its July 16, 2018 Decision,⁴⁵ the Court of Appeals granted the Appeal. Thus:

WHEREFORE, the appeal is GRANTED. The Decision dated 3 March 2016 of the Regional Trial Court, Branch 22, Cebu City, in Civil Case No. CEB-40548 is SET ASIDE, and the Petition for Declaration of Nullity is DISMISSED.

SO ORDERED.⁴⁶

Using the guidelines in *Republic v. Court of Appeals and Molina*,⁴⁷ the Court of Appeals ruled that Agnes failed to establish Joe-Ar's psychological incapacity under Article 36 of the Family Code.⁴⁸ Foremost, the testimony of Dr. Gerong cannot be given credence because he did not personally examine Joe-Ar and his report is solely based on interviews with Agnes and her sister.⁴⁹

Moreover, the Court of Appeals found that Dr. Gerong's observations were inadequate for failing to identify the root cause of Joe-Ar's personality disorder and its existence prior to or at the time of the celebration of the marriage.⁵⁰ Dr. Gerong did not explain that Joe-Ar's disorder was clinically

⁴⁰ Id. at 89–107.

⁴¹ Id. at 95–98.

⁴² Id. at 102.

⁴³ Id. at 103–104.

⁴⁴ Id. at 127.

⁴⁵ Id. at 132–147.

⁴⁶ Id. at 146.

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

⁴⁸ *Rollo*, p. 140.

⁴⁹ Id. at 142.

⁵⁰ Id. at 142–143.

permanent or incurable and that he cannot fulfill his marital duties due to psychological incapacity, based on established jurisprudence.⁵¹

Agnes moved for reconsideration, but this was denied by the Court of Appeals in its March 5, 2019 Resolution.⁵²

On May 24, 2019, Agnes filed a Petition for Review⁵³ before this Court.

Petitioner mainly argues that the Court of Appeals erred in ruling that the totality of evidence is insufficient to declare her marriage void on the ground of psychological incapacity.⁵⁴ She points out that the trial court's Decision is supported by the findings of Dr. Gerong, who identified that private respondent has narcissistic and dependent personality disorders. Both disorders are characterized as grave, serious, and incurable. Moreover, these personality disorders are deeply rooted in private respondent's family, who were described by Dr. Gerong as collective narcissists.⁵⁵

Petitioner asserts that the non-examination of private respondent does not invalidate the findings of the psychiatrist,⁵⁶ citing *Camacho-Reyes v. Reyes-Reyes*.⁵⁷ She further stresses that private respondent was indifferent towards the entire proceedings as he refused to be examined by Dr. Gerong, and did not even participate in the trial.⁵⁸

In any case, petitioner states that the psychologically incapacitated spouse is not required to be personally examined by a physician if the totality of the evidence is enough to support the finding,⁵⁹ as ruled in *Marcos v. Marcos*.⁶⁰ Moreover, petitioner maintains that the *Molina* guidelines should not be applied stringently when it will result to the perversion of marriages and families.⁶¹

Petitioner reiterates that private respondent's infidelity, abuse, and disregard of his marital and familial responsibilities demonstrate his lack of understanding of marriage.⁶²

⁵¹ Id. at 144.

⁵² Id. at 158–159.

⁵³ Id. at 11–33.

⁵⁴ Id. at 23.

⁵⁵ Id. at 26.

⁵⁶ Id. at 27.

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

⁵⁸ *Rollo*, p. 27

⁵⁹ Id. at 28.

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

⁶¹ *Rollo*, p. 28.

⁶² Id.

In its Comment,⁶³ public respondent argues that the findings of Dr. Gerong are insufficient to establish private respondent's psychological incapacity.⁶⁴ It asserts that petitioner's assertion is qualified by *Toring v. Toring*,⁶⁵ which requires sources other than the respondent's spouse. It points out that the findings based on petitioner and her sister are unreliable and unfair.⁶⁶ It claims that the testimonies refer to incidents which transpired after the celebration of the marriage. Moreover, they do not have personal knowledge to establish private respondent's private and family history. Thus, public respondent argues that Dr. Gerong can neither conclude that private respondent's condition existed prior to the marriage, nor trace the incapacity's root cause.⁶⁷

Public respondent further stresses that the totality of evidence is insufficient to establish private respondent's psychological incapacity.⁶⁸ Citing the ruling of the Court of Appeals, it submits that, at most, private respondent was "an imperfect husband in an imperfect marriage,"⁶⁹ which does not necessarily render the marriage void.⁷⁰

In lieu of a reply, petitioner filed a Manifestation,⁷¹ stating that there are no new issues raised in the Comment that she must respond to.⁷²

The issue for this Court's resolution is whether the marriage between petitioner Agnes Padrique Georfo and private respondent Joe-Ar Jabian Georfo is void on the ground of psychological incapacity. Subsumed under this issue is whether the totality of evidence presented by petitioner is sufficient to prove that private respondent is psychologically incapacitated to comply with his marital obligations.

We grant the Petition.

Article 36 of the Family Code recognizes a void marriage on the ground of psychological incapacity:

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.

⁶³ Id. at 201–212.

⁶⁴ Id. at 205–206.

⁶⁵ 640 Phil. 434 (2010) [Per J. Brion, Third Division].

⁶⁶ *Rollo*, p.205.

⁶⁷ Id. at 206.

⁶⁸ Id. at 207.

⁶⁹ Id.

⁷⁰ Id.

⁷¹ Id. at 219–222.

⁷² Id. at 219.

The import of Article 36 was first examined in the 1995 case of *Santos v. Court of Appeals*.⁷³

In *Santos*, Leouel Santos (Leouel) invoked Article 36 of the Family Code to void his marriage with Julia Bedia-Santos (Julia). Leouel alleged that Julia's failure to return home or communicate with him for more than five years signify her psychological incapacity to fulfill her marital obligations.⁷⁴ The lower courts denied the petition, which was affirmed by this Court.⁷⁵

Santos discussed that the Family Code Commissioners refused to define psychological incapacity and to provide examples of what it constitutes. This is to "allow some resiliency," giving the provision room to accommodate varying circumstances.⁷⁶ The discussions of the Family Code Commissioners highlight that "psychological incapacity does not refer to mental faculties and has nothing to do with consent; it refers to obligations attendant to marriage."⁷⁷ Thus, they declined to invite a psychiatrist during the deliberations.⁷⁸

This notwithstanding, *Santos* determined that psychological incapacity refers to "no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage[.]"⁷⁹ It is reserved for "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage."⁸⁰

Santos further resolved that psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability.⁸¹ It explained:

The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.⁸²

The subsequent case of *Molina* laid down specific guidelines in

⁷³ 310 Phil. 21 (1995) [Per J. Vitug, *En Banc*].

⁷⁴ *Id.* at 29.

⁷⁵ *Id.* at 29 & 42.

⁷⁶ *Id.* at 36. *See also Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*].

⁷⁷ *Id.* at 32.

⁷⁸ *Id.* at 33.

⁷⁹ *Id.* at 40.

⁸⁰ *Id.*

⁸¹ *Id.* at 39.

⁸² *Id.*

interpreting and applying Article 36.⁸³ Thus:

(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

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

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 1095.⁸⁴ (Citations omitted)

As observed by this Court, *Molina* created an overly restrictive standard in establishing psychological incapacity which resulted in the dismissal of most psychological incapacity cases.⁸⁵ In *Ngo Te v. Yu-Te*:⁸⁶

⁸⁴ Id. at 676–680.

⁸⁵ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*], at 24. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁸⁶ 598 Phil. 666 (2009) [Per J. Nachura, Third Division].

In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in *Molina*, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the "most liberal divorce procedure in the world." The unintended consequences of *Molina*, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. 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.⁸⁷ (Citations omitted)

In the recent case of *Tan-Andal v. Andal*,⁸⁸ we reviewed jurisprudence and found the inclination to dismiss psychological incapacity cases due to the strict interpretation in *Molina*. We observed:

[T]he tendency to rigidly apply the Molina guidelines continued. Apart from *Chi Ming Tsoi v. Court of Appeals*, *Antonio v. Reyes*, *Ngo Te v. Yu-Te*, and *Kalaw v. Fernandez*, only the parties in *Azcueta v. Republic*, *Halili v. Santos-Halili*, *Camacho-Reyes v. Reyes*, *Aurelio v. Aurelio*, *Tani-De La Fuente v. De La Fuente*, *Republic v. Javier*, and *Republic v. Mola Cruz* were granted a decree of nullity by this Court via a signed decision or resolution since the Family Code was signed into law. That only a few cases were found to have satisfied the Molina guidelines is, supposedly, in accordance with the Constitution on the inviolability of marriage, to the extent that this Court often reversed the factual findings of psychological incapacity by both the trial court and the Court of Appeals.⁸⁹ (Citations omitted)

Tan-Andal examined the actual intent and import of Article 36 and reassessed the interpretation developed in *Molina*. It modified and refined the guidelines so that it truly reflects the meaning of psychological incapacity.

First, *Tan-Andal* established that the quantum of proof required in nullity cases is clear and convincing evidence based on the presumption of validity of marriage. It requires more than preponderant evidence but less than proof beyond reasonable doubt.⁹⁰

⁸⁷ Id. at 695–696.

⁸⁸ G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*].

⁸⁹ Id. at 25–26. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁹⁰ Id. at 27.

Second, *Tan-Andal* abandoned the guideline in *Molina* requiring the root cause of the psychological incapacity to be medically or clinically identified.⁹¹

Tan-Andal delved into the history and intent behind Article 36 and found that psychological incapacity is not tantamount to mental incapacity.⁹² Rejecting the proposal to include the term “mentally incapacitated,” the Family Code Commissioners agreed that psychological incapacity is not a mere vice of consent. Neither is psychological incapacity a personality disorder.⁹³ It is not a mental disorder identified in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition.⁹⁴ Still, psychologists and psychiatrists are compelled “to assign a personality disorder and pathologize the supposedly psychologically incapacitated spouse”⁹⁵ to comply with the second *Molina* guideline.

This Court now requires a proof of a person’s “personality structure” which makes it impossible for them to understand and comply with their marital obligations.⁹⁶

There must be proof, however, of the durable or enduring aspects of a person’s personality, called “personality structure,” which manifests itself through clear acts of dysfunctionality that undermines the family. The spouse’s personality structure must make it impossible for him or her to understand and, more important, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the latter contracted marriage may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse. From there, the judge will decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.⁹⁷

This approach is consistent with the Family Code Commissioners’ intent to limit psychological incapacity to “psychic causes.”⁹⁸ Moreover, it does away with the cruel and dehumanizing exercise of labelling a person as having a mental disorder in order to nullify a marriage.⁹⁹

Third, in light of the shift in viewing psychological incapacity as a legal concept, the three characteristics of psychological incapacity are restated.

⁹¹ Id. at 30–31.

⁹² Id. at 30.

⁹³ Id.

⁹⁴ Id. at 30–31.

⁹⁵ Id. at 31.

⁹⁶ Id.

⁹⁷ Id. at 31–32.

⁹⁸ Id. at 32.

⁹⁹ Id.

Juridical antecedence is established by showing that the psychological incapacity exists at the time of the celebration, even if it only manifests during the marriage. It may be proven by “testimonies describing the environment where the supposedly incapacitated spouse lived that may have led to a particular behavior.”¹⁰⁰

While it is difficult to pinpoint when the psychological incapacity existed, it is enough that the petitioner show that the incapacity, “in all reasonable likelihood,”¹⁰¹ already exists at the time the marriage was celebrated. Since the spouses will only assume marital obligations after the marriage, their psychological capacity to fulfill those obligations will only manifest after the celebration of the marriage.¹⁰²

Incurability must be viewed in the legal, not medical, sense. Veering away from the medical orientation, the third *Molina* guideline was amended. Psychological incapacity is not a medical illness which can be cured: it must be “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.”¹⁰³

To satisfy the requirement of incurability, there must be a showing of an “undeniable pattern of such persisting failure to be a present, loving, faithful, respectful, and supportive spouse [that] must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other.”¹⁰⁴

The requirement on the gravity of the psychological incapacity was retained, which must be “caused by a genuinely psychic cause.”¹⁰⁵ It must not be mere “mild characterological peculiarities, mood changes, occasional emotional outbursts,” nor “mere refusal, neglect[,] difficulty, much less ill will.”¹⁰⁶

In ruling that the marriage is void, this Court in *Tan-Andal* found that Mario Andal (Mario) was psychologically incapacitated to enter the marriage after his spouse, Rosanna Tan-Andal (Rosanna), sufficiently

¹⁰⁰ Id.

¹⁰¹ *Cayabyab-Navarro v. Navarro*, G.R. No. 216655, April 20, 2022 [Per J. Perlas-Bernabe, Second Division], at 7. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

¹⁰² Id. at 6–7.

¹⁰³ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*], at 33. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

¹⁰⁴ Id. (Citation omitted)

¹⁰⁵ Id. at 34.

¹⁰⁶ Id. at 33–34.

discharged the required burden of proof.¹⁰⁷ Based on the testimony of the physician-psychiatrist Dr. Valentina Del Fonso Garcia (Dr. Garcia), Mario has a narcissistic-antisocial personality disorder.¹⁰⁸ He possessed “traits exhibiting chronic irresponsibility, impulsivity and lack of genuine remorse, lack of empathy, and sense of entitlement[,]”¹⁰⁹ which prevented him from fulfilling his marital obligations. Moreover, he has “substance abuse disorder with psychotic features (paranoid delusions and bizarre behavior) and aggression against people in his environment.”¹¹⁰

Dr. Garcia’s testimony was based on the evaluation of Rosanna, Rosanna’s sister, and daughter.¹¹¹ While Dr. Garcia was not able to examine Mario, we ruled that the psychiatric evaluation sufficiently established Mario’s psychological incapacity. We reiterated that the personal examination of the psychologically incapacitated spouse is not indispensable in these establishing Article 36 cases. It is enough that the totality of evidence establishes the psychological incapacity of one or both spouses.¹¹²

While the testimony of a psychologist or psychiatrist is no longer required in psychological incapacity cases, Dr. Garcia was presented as an expert in psychiatry.¹¹³ In coming up with the interpretation, she conducted a psychiatric clinical interview and mental status examination, which are established principal techniques in psychiatric disorder diagnosis.¹¹⁴ It would have been ideal to have Mario undergo a psychological evaluation, but in cases where the person is not available, incapable, or refuses to be examined, “it is an accepted practice in psychiatry to base a person’s psychiatric history on collateral information, or information from sources aside from the person evaluated.”¹¹⁵

This case concerns similar circumstances. Here, the totality of evidence established private respondent’s psychological incapacity to comply with his marital obligations.

First, petitioner has discharged the burden of proof to establish private respondent’s psychological incapacity which consisted of his personality structure and how this personality is rooted from his childhood and manifested during his marriage.

According to Dr. Gerong’s report, private respondent’s behavior is

¹⁰⁷ Id. at 40.

¹⁰⁸ Id. at 41.

¹⁰⁹ Id. at 40.

¹¹⁰ Id. at 41–42.

¹¹¹ Id. at 10.

¹¹² Id. at 46.

¹¹³ Id. at 45–46.

¹¹⁴ Id. at 46.

¹¹⁵ Id.

“characterized by extreme selfishness and ego-centeredness,”¹¹⁶ and lack of sensitivity and concern for others:

[R]espondent is exhibiting trait patterns typical to persons with Narcissistic Personality Disorder. This type of personality disorder is characterized by extreme selfishness and ego-centeredness. DSM-IV specifically describes the disorder as follows: lack of empathy-unable to feel for the other person, lack of sensitivity except for self-appointed needs, lack of concern for others, underdeveloped superego but overdeveloped in mental structures, erroneous or erratic in decision-making against the backdrop of social norms where the person belongs, interpersonally exploitative (takes advantage of an opportunity, like money or convenience, etc.), usually arrogant, pretentious and usually unsatisfied with almost anything.

The respondent's condition is serious. This is because the respondent is unable to carry out the most ordinary duties in marriage and family as prescribed by law and his culture. It is the extreme in the continuum of personality disorder, characterized by impairment of his functions as husband and father. The respondent's personality is incurable. Incurability means an enduring pattern, pervasive across time and place and enduring. It is incurable, because the disease model is not seen here. The respondent does not think of himself as having a disease called personality disorder. It is not a disease but may be called a psychological malady which is difficult to deal with. There is no medication for personality disorder. A person with a personality disorder may express that he is anxious and tense, then we can prescribe medication for anxiety and stress, but not for personality disorder.

Narcissistic Personality Disorder is coded as Axis II in DSM-IV and categorized as Cluster B Disorder, characterized as erratic, eccentric and emotional. It has its antecedent beginning in childhood and adolescence and carried over into the adult life and characterizes that adult age. Indeed, this personality disorder when possessed by one, the partner will have difficulty relating or will have difficulty sustaining the relationship.¹¹⁷

Based on Dr. Gerong's report, private respondent's personality structure is consistent with narcissistic personality disorder, rooted in his childhood and carried over into this adulthood and married life. His psychological report establishes the gravity, incurability, and juridical antecedence of his personality structure. As Dr. Gerong noted, private respondent's personality makes it difficult for him to relate or sustain a relationship with another person. Moreover, this personality structure is serious and incurable as it manifests an enduring pattern. Lastly, the psychological report observed that private respondent's family background and environment nurtured and led to this type of personality.¹¹⁸

Second, while a psychiatric examination is no longer required in

¹¹⁶ *Rollo*, p. 68.

¹¹⁷ *Id.* at 67-68.

¹¹⁸ *Id.*

Article 36 petitions, Dr. Gerong's testimony is offered as an expert's opinion. Dr. Gerong is qualified to provide a psychological evaluation of private respondent. He is a Doctor of Philosophy in Clinical Psychology, a registered Counseling Specialist and Certified Psychology Specialist. He teaches psychology and guidance counseling and has served as an expert witness in several psychological incapacity cases.¹¹⁹ Thus, his assessment of private respondent may be given probative value.

The Court of Appeals rejected Dr. Gerong's report and ruled that it fell short of establishing private respondent's psychological incapacity because it was not based on his personal examination. It concluded that the report is biased because it was based on the interview of petitioner and her sister.¹²⁰ Moreover, the Court of Appeals held that Dr. Gerong failed to identify the root cause of private respondent's psychological incapacity and he used an old version of the Diagnostic and Statistical Manual of Mental Disorders.¹²¹

This line of reasoning has been dismissed in *Tan-Andal*. To reiterate, the psychiatric evaluation of the alleged incapacitated spouse is no longer required in psychological incapacity cases. The psychiatric evaluation may be based on collateral information or other sources.¹²²

In *Camacho-Reyes*, this Court noted that it is only reasonable that a psychological report is based on the testimony of the petitioning spouse since they are the one who had closely observed and interacted with their partner.¹²³

The lack of personal examination and interview of the respondent, or any other person diagnosed with personality disorder, does not *per se* invalidate the testimonies of the doctors. Neither do their findings automatically constitute hearsay that would result in their exclusion as evidence.

For one, marriage, by its very definition, necessarily involves only two persons. The totality of the behavior of one spouse during the cohabitation and marriage is generally and genuinely witnessed mainly by the other. In this case, the experts testified on their individual assessment of the present state of the parties' marriage from the perception of one of the parties, herein petitioner. Certainly, petitioner, during their marriage, had occasion to interact with, and experience, respondent's pattern of behavior which she could then validly relay to the clinical psychologists and the psychiatrist.¹²⁴ (Citation omitted)

¹¹⁹ Id. at 67.

¹²⁰ Id. at 142.

¹²¹ Id. at 142–144.

¹²² *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*], at 46. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹²³ *Camacho-Reyes v. Reyes-Reyes*, 642 Phil. 602, 627 (2010) [Per J. Nachura, Second Division].

¹²⁴ Id. at 627.

However, this Court clarified that evidence should not only come from the petitioning spouse but also from other sources.¹²⁵

Our recognition simply means that the requirements for nullity outlined in *Santos* and *Molina* need not necessarily come from the allegedly incapacitated spouse. In other words, it is still essential — although from sources other than the respondent spouse — to show his or her personality profile, or its approximation, at the time of marriage; the root cause of the inability to appreciate the essential obligations of marriage; and the gravity, permanence and incurability of the condition.

Other than from the spouses, such evidence can come from persons intimately related to them, such as relatives, close friends or even family doctors or lawyers who could testify on the allegedly incapacitated spouse's condition at or about the time of marriage, or to subsequent occurring events that trace their roots to the incapacity already present at the time of marriage.¹²⁶

Public respondent cites *Toring* in questioning the validity of Dr. Gerong's assessment. It points out that the assessment is biased and unfair because it is based on petitioner and her sister's testimonies.¹²⁷

Toring does not squarely apply here. In *Toring*, this Court found the psychological assessment wanting because it is only culled from interviews of the petitioning spouse and one of the spouses' son. This Court explained that there should be sources other than the spouse. The son cannot give a reliable testimony on his mother's psychological incapacity as he could not have been there when his parents were married. Moreover, he could not have known what transpired between his parents until long after his birth.¹²⁸

Here, Dr. Gerong's psychological assessment is not only based on petitioner, but also on another source: petitioner's sister.¹²⁹ This circumstance is more akin with *Tan-Andal*, where this Court gave credence to the psychological assessment based on the interview of the petitioning spouse, her sister, and daughter.

It is essential to have the psychological assessment derived from sources other than the petitioning spouse because of the obvious bias in favor of the petitioner's cause.¹³⁰ This dilemma is avoided when another person supports the petitioner's testimony, even if the supporting testimony comes from the petitioning spouse's friend or relative.¹³¹ This is a realistic reception of psychological assessments considering that the friends or

¹²⁵ *Toring v. Toring*, 640 Phil. 434, 451 (2010) [Per J. Brion, Third Division].

¹²⁶ *Id.* at 451.

¹²⁷ *Rollo*, pp. 205–206.

¹²⁸ *Toring v. Toring*, 640 Phil. 434, 451–452 (2010) [Per J. Brion, Third Division].

¹²⁹ *Rollo*, p.17.

¹³⁰ *So v. Valera*, 606 Phil. 309, 327 (2009) [Per J. Brion, Second Division].

¹³¹ *Toring v. Toring*, 640 Phil. 434, 451 (2010) [Per J. Brion, Third Division].

relatives of the alleged psychologically incapacitated spouse will not be inclined to give hostile testimonies against the latter.

Thus, psychological assessments based on testimonies of petitioner and her sister may be given credence, unless there are reasons to believe that the testimonies are fabricated to favor the petitioner. As long as the totality of the evidence establishes the private respondent's psychological incapacity, the dissolution of the marriage is warranted.

Further, psychological incapacity is a legal concept, not an illness which has to be medically or clinically identified. Thus, the form of psychological incapacity does not have to be culled from the Diagnostic and Statistical Manual of Mental Disorders, whether an outdated or recent version. Consequently, the psychological assessment of Dr. Gerong does not lose credibility if it is based on an older version of the Diagnostic and Statistical Manual of Mental Disorders. Therefore, the Court of Appeals erred in disregarding Dr. Gerong's psychological report.

All told, given the totality of evidence, we find that petitioner established with clear and convincing evidence that private respondent was psychologically incapacitated to fulfill his essential marital obligations. Thus, their marriage is void under Article 36 of the Family Code.

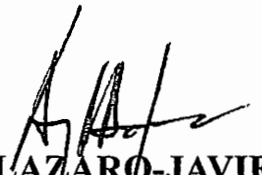
ACCORDINGLY, the Petition is **GRANTED**. The July 16, 2018 Decision and March 5, 2019 Resolution of the Court of Appeals in CA-G.R. CV No. 06219 are **REVERSED** and **SET ASIDE**. The marriage of petitioner Agnes Padrique Georfo and private respondent Joe-Ar Jabian Georfo is **VOID** on the ground of psychological incapacity.

SO ORDERED.

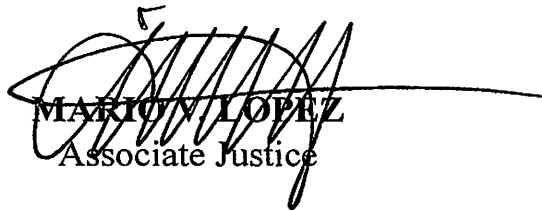


MARVIC M.V.F. LEONEN
Senior Associate Justice

WE CONCUR:



AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

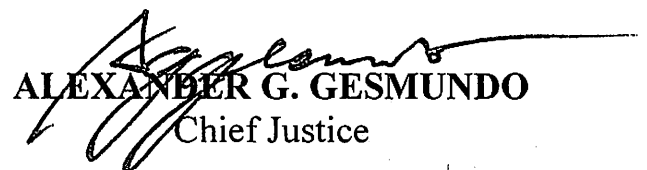
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M. V. LEONEN
Senior Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 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