

SPECIAL SEVENTEENTH DIVISION

[CV No. 90865, April 23, 2010]

ELVIRA BERNAL-LEGASPI, PETITIONER-APPELLANT, VS. MARIO C. LEGASPI, JR., RESPONDENT-APPELLEE.*

DECISION

Court of Appeals

The Case

On appeal by petitioner Elvira-Bernal-Legaspi ("**Elvira**") is the Decision^[1] dated March 13, 2007 of the Regional Trial Court of Pasig City^[2] ("RTC"), in JDRC No. 5450 entitled "*Elvira Bernal-Legaspi, Petitioner versus Mario C. Legaspi, Respondent*", the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the petition for the Declaration of Nullity of Marriage filed by petitioner Elvira-Bernal Legaspi is hereby DENIED for lack of merit.

So ordered."^[3] (emphasis supplied)

The Facts

This case stems from a verified **Petition for Habeas Corpus, Declaration of Nullity of marriage with Application for Support Pendente Lite**^[4] filed by Elvira against her husband, Mario C. Legaspi, Jr. ("**Mario**"). The allegations in the petition, as culled from the assailed Decision, are as follows:

"* * * Elvira alleged that she and the respondent were **married on January 29, 1990 at the Metropolitan Trial Court of Cainta, Rizal before Hon. Dominador T. Domingo**; and out of the said marriage they begot three (3) children namely: Celica, born January 12, 1991; Edward, born on August 4, 1992; and Camille, born on January 10, 199^[3].

Petitioner further averred that she and the respondent met sometime in June 1989 and after a whirlwind relationship, petitioner and respondent decided to get married; that before the agreed date of the wedding, while the petitioner and the respondent were buying their wedding ring, petitioner, for reasons she could not fathom at that time, felt she wanted to back out of the wedding; that however, because all the relatives had already been informed of the wedding, she finally decided to proceed with the scheduled wedding; that soon after the marriage, respondent's psychological incapacity to comply with the essential obligations of marriage began to manifest; that respondent has been **incapable of observing love and respect** to the petitioner as evidenced by his

excessive immaturity, excessive drinking, and violent attitude towards the petitioner; that petitioner[,] fearful for her life[,] was constrained to file a complaint against the respondent for Grave Threats before the Barangay Captain of Barangay Sta. Lucia, Pasig City; that to prevent further physical injuries that may be inflicted on the petitioner by the respondent, petitioner left their dwelling which she inherited from her parents on May 5, 2000 and **lived separately** from the respondent while the latter continued to stay in the said dwelling until he transferred to one of the units in the 4-door conjugal apartment after three (3) months; and that during their marriage, petitioner and respondent acquired a parcel of land located in Sta. Lucia Subdivision Pasig City with an area of One Hundred Eight Square Meters covered by TCT No. PT-87608 and a 4-door apartment constructed therein with an estimated value of P100,000.00 more or less."^[5] (emphasis Ours).

On August 23, 2002, respondent Mario filed his **Answer**,^[6] contending, as summarized by the court below, viz.:

"* * * (R)espondent admitted the personal circumstances of the parties, names and birthdates of the children, and the fact of his marriage with the petitioner. However, respondent specifically **denied** petitioner's allegation **that he is suffering from personal disorder or psychologically incapacitated because he is doing his duties as father and mother to all their children.** By way of special and affirmative defenses, the respondent alleged that: that though petitioner is not working[,] **she is actually collecting the monthly rentals from their apartment units amounting to P30,000;** that the aforesaid rentals are for petitioner's benefits only and that **the one door with monthly rental P3,400 is the only one being collected by respondent;** that he does not own a repair shop but he is merely accommodated by Roger Manalo to use the shop at 77 Baubata Compound, Sta Lucia, Pasig City whenever he has a customer therein; that he sometimes drinks with his friends or on some occasions whenever he attends birthdays or weddings; that respondent has been spending for foods of his children and always buy things for their personal needs and that in July 2002, **for unknown reason petitioner had inflicted injury to their youngest daughter Camille,** which was never done by respondent, hence, the custody of Camille should therefore be given to respondent."^[7] (emphasis Ours)

On April 5, 2001, the Court rendered a **Partial Decision**^[8] based on a Partial Compromise Agreement^[9] between the parties where they agreed on the custody of their three (3) children, as well as the possession of a four-door apartment and the division of the rentals thereof.

On October 25, 2002, petitioner Elvira sought to amend her petition to incorporate therein the clinical findings of clinical psychologist, Nedy Lorenzo Tayag.

Pre-trial was conducted on January 23, 2003 with the lone issue of "**whether the marriage of the parties may be declared null and void** on the ground of **psychological incapacity** of either petitioner or respondent or both."^[10]

Subsequently, trial ensued.

The Ruling of the Court

On March 13, 2007, the RTC rendered its now assailed Decision, viz.:

"Article 36 of the Family Code provides that:

'Art. 36.-A marriage contracted by any party who is **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 manifested only after its solemnization.'

In a landmark case entitled *Leouel Santos vs. Court of Appeals*, the Supreme Court ruled that 'psychological incapacity should refer to no less than a mental (not physical) incapacity, and that there is hardly any doubt that the intendment of the law has been **to confine the meaning of 'psychological incapacity' to the most serious cases of personality disorders clearly demonstrative of utter insensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage was celebrated. The psychological incapacity** must be **characterized** by (a) **gravity**; (b) **juridical antecedence** and (c) **incurability**.'

With the decision in the case of *Republic of the Philippines vs. Court of Appeals, Rodivel Olaviano Molina*[,] the doctrine of psychological incapacity (Art. 36, Family Code) was further clarified and elucidated. Therein, the Court through Justice Panganiban observed that 'the evidence (to establish psychological incapacity) must convince the court that the parties or one of them, was mentally or psychically ill to such extent that the person could not have known the obligations he was assuming of knowing them, could not have given valid assumption thereto.' Jurisprudence since then had recognized that **psychological incapacity 'is a malady so grave and permanent as to deprive one of awareness of the duties and responsibilities of the matrimonial bond one is about to assume.'**

In the much recent case entitled *Leonilo Antonio versus Marie Ivonne F. Reyes*, the Supreme Court held that 'It has been consistently recognized by this Court that the **intent of the Family Code Committee was to design the law** as to allow some resiliency in its application, **by avoiding specific examples** that would limit the applicability of the provision under the principle of *ejusdem generis*. Rather, the preference of the revision committee was **for 'the judge to interpret the provision on a case to case basis**, guided by the experience, in the findings of experts and researchers in psychologic disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.'

This Court is now guided by these principles in resolving this petition.

The Court is mindful of the policy of the 1987 Constitution to protect and strengthen the family as the basic autonomous social institution and marriage as the foundation of the family.

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 regards to parents and their children. Such non-complied marital obligations must also be stated in the petition, proven by evidence and included in the text of [the] decision.

The petitioner, through counsel, tried to persuade this Court by presenting Ms. Nedy L. Tayag, Clinical Psychologist, as an expert witness to prove that respondent is suffering from **Narcissistic Personality Disorder with underlying Anti-Social Personal Disorder** which is grave, incurable and characterized by judicial antecedence, hence, psychologically incapacitated to comply with the essential marital obligations. Despite however the presentation of an expert witness, as careful scrutiny of the records reveals that the testimony in open court of petitioner Elvira is insufficient to prove her allegation of respondent's psychological incapacity.

A perusal of the cross-examination on petitioner Elvira conducted by Atty. Chuchi Tan, counsel for the respondent, reveals that **respondent provides their children their basic needs such as food, shelter, clothes and other personal necessities**. Likewise, the petitioner was not able to convince this Court that the lot and apartment units were acquired through her own efforts. She failed to provide documentary evidence to support her claim and contrary to her testimony, her petition particularly no. 24 thereof alleged that during their marriage, petitioner and respondent acquired a parcel of land located in Sta. Lucia Subdivision, Pasig City and 4 door apartment units constructed thereon. Further, petitioner Elvira admitted that **although she is not gainfully employed, she collects rental income of all the apartment units in the amount of P30,000.00**.

Likewise, her petition further alleged that even prior to their marriage, for reasons she could not fathom at that time, **she felt that she wanted to back out from their wedding** which she confirmed when asked during her cross-examination.

It was even proven during the trial of this case that **petitioner had inflicted physical injury to their youngest child Camille** which prompted respondent Mario to take Camille into his custody.

While it is true that respondent had inflicted physical injury on the petitioner, the same could not be said to have been caused by a psychological disorder. The refusal of the petitioner to have sexual intercourse with the respondent had angered him. This Court does not condones (sic) the physical abuses inflicted on the petitioner but merely reiterates the jurisprudences laid down by the Supreme Court that **violent attitudes of respondent towards the petitioner is not a**

sufficient ground to constitute psychological incapacity.

A *fortiori* [sic], the **Court finds that the totality of evidence** presented **fell short of proving that** respondent, **Mario** Legaspi, was psychologically incapacitated to assume his marital obligation. The grounds relied upon by the petitioner such as immaturity, violent attitude towards the petitioner[,], excessive drinking and failure to provide with material support were not properly established to support a finding of psychological incapacity of the respondent."" (emphasis Ours; citations omitted)

Aggrieved, petitioner Elvira filed on March 18, 2007 her Motion for Reconsideration^[12] which however was denied by the RTC in an Order^[13] dated October 2, 2007.

On October 30, 2007, petitioner Elvira filed her Notice of Appeal.^[14]

Issues

In her Brief,^[15] petitioner-appellant Elvira pointed out that:

i.

THE COURT A QUO GRAVELY ERRED IN DENYING APPELLANT'S PETITION FOR DECLARATION OF NULLITY OF MARRIAGE.

ii.

THE DECISION RENDERED WAS BASED ON MISAPPRECIATION OF FACTS."^[16]

At the core, therefore, of this appeal is the question of:

WHETHER OR NOT THE TRIAL COURT ERRED IN DENYING THE PRESENT PETITION FOR DECLARATION OF NULLITY OF MARRIAGE.

OUR RULING

Relying principally on the psychological report presented in evidence by Dr. Nedy Lorenzo Tayag, petitioner-appellant Elvira avers that she was able to establish the psychological incapacity of her husband, respondent-appellee Mario, with preponderant evidence.^[17] She contends that the totality of evidence she presented - which was not controverted by respondent-appellee - should have been accepted as the true facts of the case.^[18] She thus submits that the RTC should have declared their marriage null and void from the beginning.

We are not persuaded.

Article 36 of the Family Code of the Philippines provides: