

SEVENTH DIVISION

[CA-G.R. CV No. 101926, February 11, 2015]

**RICARDO D. SARMIENTO, PLAINTIFF-APPELLANT, VS. IMELDA
DEVERA-SARMIENTO, DEFENDANT-APPELLEE,**

REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLEE.

DECISION

LAMPAS PERALTA, J.:

Subject of this appeal^[1] is the Decision dated November 15, 2013^[2] in Civil Case No. RTC 3294-I of Branch 69, Regional Trial Court, Iba, Zambales which dismissed the petition for declaration of nullity of marriage filed by plaintiff-appellant Ricardo D. Sarmiento against defendant-appellee Imelda Devera-Sarmiento for failure of plaintiff-appellant to prove juridical antecedence of defendant-appellee's psychological incapacity.

THE ANTECEDENTS

On April 25, 1998, plaintiff-appellant Ricardo D. Sarmiento and defendant-appellee Imelda Devera-Sarmiento got married at the Iglesia Filipina Independiente, Iba, Zambales. They had six (6) children namely: Abbygale, Babygirl, Christine Joy, Dominic, Eugene and Frenz Kurl. Allegedly, defendant-appellee made decisions on her own as if no marriage ties existed between her and plaintiff-appellant. Also, defendant-appellee went out almost every night, frequenting discos as she could not sever ties with her family and friends. In 2004, plaintiff-appellant worked abroad as a seaman because of his earnest desire to give his family a better life and future. While abroad, plaintiff-appellant learned that while they were apart, defendant-appellee neglected their children and had an illicit relationship with another man. In June 2008, plaintiff-appellant and defendant-appellee lived separately.^[3]

The factual details based on plaintiff-appellant's evidence are synthesized by the trial court in its Decision dated November 15, 2013 as follows:

The foregoing and plaintiff's testimony xxx and judicial affidavit xxx established: that plaintiff and defendant were married on 25 April 1998 in Iba, Zambales xxx; that after their marriage, the parties lived at Purok 3, Amungan Zambales; that they begot six (6) children, namely: Frenz Kurl born on 22 April 2004 xxx, Dominic born on 21 October 2000 xxx, Eugene born on 14 October 2002 xxx, Christine Joy born on 25 December 1998 xxx, Baby Girl born on 20 December 1997 (sic) xxx and Abbygale born on 19 August 1997 (sic) xxx; that in 2008, plaintiff decided to work abroad to give his family a better life and was employed as a seaman; that while plaintiff was abroad, defendant was often out with her friends leaving their children to fend for themselves and this was

relayed to him by the sister of the defendant; that their daughter Abbygale told plaintiff that defendant is already living with another man; that when plaintiff went home in February 2012, he went to the house rented by his wife and her paramour and saw her paramour there; that defendant left their children and their children are now staying in his house in Amungan, Zambales under the care and custody of his parents; that he provides support to his children; that plaintiff and defendant talked before the barangay and DSWD defendant (sic) gave up the custody and care of their children; and, that they had been separated since 2008.^[4]

On March 14, 2012, plaintiff-appellant filed with the trial court a petition for declaration of nullity of marriage on the ground of defendant-appellee's psychological incapacity.^[5]

Defendant-appellee did not file any answer to the petition.^[6]

The Office of the Solicitor General (OSG) entered its appearance as counsel for the State and deputized the Office of the Provincial Prosecutor of Iba, Zambales to appear on its behalf.^[7] Defendant-appellee did not file any responsive pleading.^[8] The Assistant Provincial Prosecutor reported that based on the narration of plaintiff-appellant, he found no collusion between the parties, *"but the conclusion is based solely on the petitioner's version. That the allegations of petitioner in the petition may be appreciated in a full blown trial."*^[9]

During the pre-trial conference, defendant-appellee failed to appear. Counsel for plaintiff-appellant and the provincial prosecutor both adopted the minutes of the preliminary conference held on May 6, 2013 where plaintiff-appellant submitted a list of documentary exhibits and witnesses to be presented.^[10]

Plaintiff-appellant,^[11] psychologist Noel N. Ison^[12] and Noel Sarmiento^[13] (plaintiff-appellant's brother) were presented as witnesses. Plaintiff-appellant also presented documentary evidence consisting of, among others, the marriage contract of plaintiff-appellant and defendant-appellee, birth certificates of their 6 children, judicial affidavit of plaintiff-appellant, judicial affidavit of psychologist Noel N. Ison, Psychological Evaluation Report of psychologist Noel N. Ison and judicial affidavit of Noel Sarmiento.^[14]

Defendant-appellee did not present evidence.^[15]

In a Decision dated November 15, 2013, the trial court dismissed plaintiff-appellant's petition for declaration of nullity of marriage for failure of plaintiff-appellant to present evidence proving juridical antecedence of defendant-appellee's psychological incapacity.^[16] Thus:

IN VIEW THEREOF, judgment is rendered DISMISSING this case for insufficiency of evidence.

Let copies of this Decision be furnished the Civil Registrar General (National Statistics Office), Quezon City, Office of the Solicitor General,

Makati City, Office of the Provincial Prosecutor, Iba, Zambales, the Local Civil Registrar of Iba, Zambales, plaintiff Ricardo D. Sarmiento, Purok 3, Amungan, Iba, Zambales, defendant Imelda Devera Sarmiento, Mambog, Botolan, Zambales and Atty. Victor R. De Guzman, 8963 Aranga Street, San Antonio Village, Makati City.^[17]

Plaintiff-appellant filed a motion for reconsideration,^[18] but the trial court denied the same in an Order dated December 13, 2013.^[19]

Hence, plaintiff-appellant filed the present appeal which is premised on these assignments of error:

"THE TRIAL COURT (RTC) ERRED IN FINDING THAT PLAINTIFF-APPELLANT FAILED TO PRESENT EVIDENCE PROVING JURIDICAL ANTECEDENCE OF DEFENDANT-APPELLEE'S PSYCHOLOGICAL INCAPACITY.

THE TRIAL COURT (RTC) ERRED AMOUNTING TO GRAVE ABUSE OF DISCRETION IN DISMISSING PLAINTIFF-APPELLANT COMPLAINT/PETITION FOR INSUFFICIENCY OF EVIDENCE"^[20]

Plaintiff-appellant filed appellant's brief. Defendant-appellee did not file any brief.

Oppositor-appellee Republic of the Philippines, through the Office of the Solicitor General (OSG), filed appellee's brief contending that *"the totality of appellant's evidence failed to establish defendant-appellee's psychological incapacity to perform the essential obligations of marriage."*^[21]

THE ISSUE

Whether the trial court erred in dismissing the petition for declaration of nullity of marriage for failure of plaintiff-appellant to prove juridical antecedence of defendant-appellee's psychological incapacity.

THE COURT'S RULING

In dismissing the petition for declaration of nullity of marriage, the trial court ratiocinated that plaintiff-appellant failed to present evidence proving juridical antecedence of defendant-appellee's psychological incapacity. Said the trial court:

While the Court defers to the expert's findings that defendant is indeed suffering from psychological incapacity, plaintiff failed to present evidence proving juridical antecedence of such incapacity, hence, one of the requirements for the grant of the relief is lacking.^[22]

Plaintiff-appellant faults the trial court in so ruling. Allegedly, the trial court erred in not appreciating the evidence presented by plaintiff-appellant proving defendant-appellee's psychological disorder which was grave, incurable, permanent and with juridical precedence that deterred her from performing her marital obligations and could be traced to her history before and existing at the time of the celebration of marriage. Plaintiff-appellant points out that based on the psychological and evaluation report of psychologist Noel N. Ison, defendant-appellee was found to be suffering from Histrionic Personality Disorder, lacking in mature disposition and

totally unaware of the essential requisites in order to fulfill her obligations as a married woman. Plaintiff-appellant stresses that psychologist Noel N. Ison's evaluation that defendant-appellee's psychological incapacity existed even prior to her marriage to plaintiff-appellant should have been accorded great weight and evidentiary value.^[23]

On the other hand, the OSG submits that the totality of plaintiff-appellant's evidence was insufficient to prove that defendant-appellee was psychologically unfit to discharge the essential marital obligations expected of her as a wife. The psychologist's report contained conclusions which were mere generalities and failed to provide actual circumstances to show the gravity or severity of defendant-appellee's alleged condition, specifically, why and to what extent the disorder was serious, and how it incapacitated defendant-appellee to comply with her marital duties. Moreover, there was no evidence presented showing that the actuations of defendant-appellee were manifestations of a psychological illness that was severe and incurable, with the root cause existing before the marriage.^[24]

The appeal is unfounded.

Article 36 of the Family Code, as amended, provides:

Art. 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.

Jurisprudence teaches that psychological incapacity should refer to no less than a mental, not physical, incapacity that causes a party to be truly incognitive of the basic marital covenants that must concomitantly be assumed and discharged by the parties to the marriage. 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 an utter insensitivity or inability to give meaning and significance to the marriage. To qualify as psychological incapacity as a ground for nullification of marriage, a person's psychological affliction must be grave and serious as to indicate an utter incapacity to comprehend and comply with the essential objects of marriage, including the rights and obligations between husband and wife. The affliction must be shown to exist at the time of marriage, and must be incurable.^[25] As enunciated:

We have time and again held that psychological incapacity should refer to no less than a mental, not physical, incapacity that causes a party to be truly incognitive of the basic marital covenants that must concomitantly be assumed and discharged by the parties to the marriage that, as so expressed by Article 68 of the Family Code, include their mutual obligations to live together, to observe love, respect and fidelity, and to render help and support. We have also held 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 an utter insensitivity or inability to give meaning and significance to the marriage. To qualify as psychological incapacity as a ground for nullification of marriage, a person's psychological affliction must be grave and serious as to indicate an utter incapacity to comprehend and comply

with the essential objects of marriage, including the rights and obligations between husband and wife. The affliction must be shown to exist at the time of marriage, and must be incurable.

The following testimony of plaintiff-appellant fails to show the presence of all essential characteristics of gravity, juridical antecedence and incurability of the alleged psychological incapacity of defendant-appellee. Plaintiff-appellant merely testified that defendant-appellee neglected their 6 children and had extra marital affair with another man, and these do not suffice to show downright incapacity of defendant-appellee to perform her marital obligations. Thus:

Plaintiff-appellant on cross-examination:

Q Mr. Witness, you alleged in your judicial affidavit that sometime in 2007 you were working abroad and you learned that you wife (sic) was living with another man, is that right?

A Yes, sir.

Q So, it is clear to us that you just learned the information from another person?

A Yes, sir.

xxx xxx xxx

Q You also said that your wife was often out of your conjugal dwelling, you also learned that information from another person because you were then working abroad, right?

A It was the sister who told me about her extra marital affair, sir.

xxx xxx xxx

Q You also alleged that you have six (6) children with your wife and I heard earlier from your counsel (sic) that all of your children are minors?

A Yes, sir.

xxx xxx xxx

Q And who is supporting them?

A I, sir.

Q How about your wife?

A She left them like a cat and we are not living with each other, sir.

Q When was that that you agreed with your wife she has no more obligations to your children?

A We had a talk (sic) to the barangay and to the Department of Social Welfare and Development, sir.^[26]

Also, the testimony of psychologist Noel N. Ison contained in his judicial affidavit^[27] can hardly be considered as conclusive diagnosis and an in-depth assessment of the gravity, severity and incurability of defendant-appellee's psychological incapacity, because he failed to specifically discuss in detail the connection between defendant-appellee's alleged personality disorder and her psychological incapacity to perform her marital obligations. Also, the juridical antecedence of defendant-appellee's psychological incapacity was not sufficiently established. Psychologist Noel N. Ison's judicial affidavit reads:

Q21: What did you find out from your interviews from the other informants?

A21: They confirmed the allegations of the petitioner that Respondent is self-centered and egoistic.