

THIRD DIVISION

[G.R. No. 166562, March 31, 2009]

**BENJAMIN G. TING, PETITIONER, VS. CARMEN M. VELEZ-TING,
RESPONDENT.**

D E C I S I O N

NACHURA, J.:

Before us is a petition for review on *certiorari* seeking to set aside the November 17, 2003 Amended Decision^[1] of the Court of Appeals (CA), and its December 13, 2004 Resolution^[2] in CA-G.R. CV No. 59903. The appellate court, in its assailed decision and resolution, affirmed the January 9, 1998 Decision^[3] of the Regional Trial Court (RTC), Branch 23, Cebu City, declaring the marriage between petitioner and respondent null and void *ab initio* pursuant to Article 36 of the Family Code.^[4]

The facts follow.

Petitioner Benjamin Ting (Benjamin) and respondent Carmen Velez-Ting (Carmen) first met in 1972 while they were classmates in medical school.^[5] They fell in love, and they were wed on July 26, 1975 in Cebu City when respondent was already pregnant with their first child.

At first, they resided at Benjamin's family home in Maguikay, Mandaue City.^[6] When their second child was born, the couple decided to move to Carmen's family home in Cebu City.^[7] In September 1975, Benjamin passed the medical board examinations^[8] and thereafter proceeded to take a residency program to become a surgeon but shifted to anesthesiology after two years. By 1979, Benjamin completed the preceptorship program for the said field^[9] and, in 1980, he began working for Velez Hospital, owned by Carmen's family, as member of its active staff,^[10] while Carmen worked as the hospital's Treasurer.^[11]

The couple begot six (6) children, namely Dennis, born on December 9, 1975; James Louis, born on August 25, 1977; Agnes Irene, born on April 5, 1981; Charles Laurence, born on July 21, 1986; Myles Vincent, born on July 19, 1988; and Marie Corinne, born on June 16, 1991.^[12]

On October 21, 1993, after being married for more than 18 years to petitioner and while their youngest child was only two years old, Carmen filed a verified petition before the RTC of Cebu City praying for the declaration of nullity of their marriage based on Article 36 of the Family Code. She claimed that Benjamin suffered from psychological incapacity even at the time of the celebration of their marriage, which, however, only became manifest thereafter. ^[13]

In her complaint, Carmen stated that prior to their marriage, she was already aware that Benjamin used to drink and gamble occasionally with his friends.^[14] But after they were married, petitioner continued to drink regularly and would go home at about midnight or sometimes in the wee hours of the morning drunk and violent. He would confront and insult respondent, physically assault her and force her to have sex with him. There were also instances when Benjamin used his gun and shot the gate of their house.^[15] Because of his drinking habit, Benjamin's job as anesthesiologist was affected to the point that he often had to refuse to answer the call of his fellow doctors and to pass the task to other anesthesiologists. Some surgeons even stopped calling him for his services because they perceived petitioner to be unreliable. Respondent tried to talk to her husband about the latter's drinking problem, but Benjamin refused to acknowledge the same.^[16]

Carmen also complained that petitioner deliberately refused to give financial support to their family and would even get angry at her whenever she asked for money for their children. Instead of providing support, Benjamin would spend his money on drinking and gambling and would even buy expensive equipment for his hobby.^[17] He rarely stayed home^[18] and even neglected his obligation to his children.^[19]

Aside from this, Benjamin also engaged in compulsive gambling.^[20] He would gamble two or three times a week and would borrow from his friends, brothers, or from loan sharks whenever he had no money. Sometimes, Benjamin would pawn his wife's own jewelry to finance his gambling.^[21] There was also an instance when the spouses had to sell their family car and even a portion of the lot Benjamin inherited from his father just to be able to pay off his gambling debts.^[22] Benjamin only stopped going to the casinos in 1986 after he was banned therefrom for having caused trouble, an act which he said he purposely committed so that he would be banned from the gambling establishments.^[23]

In sum, Carmen's allegations of Benjamin's psychological incapacity consisted of the following manifestations:

1. Benjamin's alcoholism, which adversely affected his family relationship and his profession;
2. Benjamin's violent nature brought about by his excessive and regular drinking;
3. His compulsive gambling habit, as a result of which Benjamin found it necessary to sell the family car twice and the property he inherited from his father in order to pay off his debts, because he no longer had money to pay the same; and
4. Benjamin's irresponsibility and immaturity as shown by his failure and refusal to give regular financial support to his family.^[24]

In his answer, Benjamin denied being psychologically incapacitated. He maintained that he is a respectable person, as his peers would confirm. He said that he is an active member of social and athletic clubs and would drink and gamble only for social reasons and for leisure. He also denied being a violent person, except when provoked by circumstances.^[25] As for his alleged failure to support his family

financially, Benjamin claimed that it was Carmen herself who would collect his professional fees from Velez Hospital when he was still serving there as practicing anesthesiologist.^[26] In his testimony, Benjamin also insisted that he gave his family financial support within his means whenever he could and would only get angry at respondent for lavishly spending his hard-earned money on unnecessary things.^[27] He also pointed out that it was he who often comforted and took care of their children, while Carmen played *mahjong* with her friends twice a week.^[28]

During the trial, Carmen's testimony regarding Benjamin's drinking and gambling habits and violent behavior was corroborated by Susana Wasawas, who served as nanny to the spouses' children from 1987 to 1992.^[29] Wasawas stated that she personally witnessed instances when Benjamin maltreated Carmen even in front of their children.^[30]

Carmen also presented as witness Dr. Pureza Trinidad-Oñate, a psychiatrist.^[31] Instead of the usual personal interview, however, Dr. Oñate's evaluation of Benjamin was limited to the transcript of stenographic notes taken during Benjamin's deposition because the latter had already gone to work as an anesthesiologist in a hospital in South Africa. After reading the transcript of stenographic notes, Dr. Oñate concluded that Benjamin's compulsive drinking, compulsive gambling and physical abuse of respondent are clear indications that petitioner suffers from a personality disorder.^[32]

To refute Dr. Oñate's opinion, petitioner presented Dr. Renato D. Obra, a psychiatrist and a consultant at the Department of Psychiatry in Don Vicente Sotto Memorial Medical Center, as his expert witness.^[33] Dr. Obra evaluated Benjamin's psychological behavior based on the transcript of stenographic notes, as well as the psychiatric evaluation report prepared by Dr. A.J.L. Pentz, a psychiatrist from the University of Pretoria in South Africa, and his (Dr. Obra's) interview with Benjamin's brothers.^[34] Contrary to Dr. Oñate's findings, Dr. Obra observed that there is nothing wrong with petitioner's personality, considering the latter's good relationship with his fellow doctors and his good track record as anesthesiologist.^[35]

On January 9, 1998, the lower court rendered its Decision^[36] declaring the marriage between petitioner and respondent null and void. The RTC gave credence to Dr. Oñate's findings and the admissions made by Benjamin in the course of his deposition, and found him to be psychologically incapacitated to comply with the essential obligations of marriage. Specifically, the trial court found Benjamin an excessive drinker, a compulsive gambler, someone who prefers his extra-curricular activities to his family, and a person with violent tendencies, which character traits find root in a personality defect existing even before his marriage to Carmen. The decretal portion of the decision reads:

WHEREFORE, all the foregoing considered, judgment is hereby rendered declaring the marriage between plaintiff and defendant null and void *ab initio* pursuant to Art. 36 of the Family Code. x x x

x x x x

SO ORDERED.^[37]

Aggrieved, petitioner appealed to the CA. On October 19, 2000, the CA rendered a Decision^[38] reversing the trial court's ruling. It faulted the trial court's finding, stating that no proof was adduced to support the conclusion that Benjamin was psychologically incapacitated at the time he married Carmen since Dr. Oñate's conclusion was based only on theories and not on established fact,^[39] contrary to the guidelines set forth in *Santos v. Court of Appeals*^[40] and in *Rep. of the Phils. v. Court of Appeals and Molina*.^[41]

Because of this, Carmen filed a motion for reconsideration, arguing that the *Molina* guidelines should not be applied to this case since the *Molina* decision was promulgated only on February 13, 1997, or more than five years after she had filed her petition with the RTC.^[42] She claimed that the *Molina* ruling could not be made to apply retroactively, as it would run counter to the principle of *stare decisis*. Initially, the CA denied the motion for reconsideration for having been filed beyond the prescribed period. Respondent thereafter filed a manifestation explaining compliance with the prescriptive period but the same was likewise denied for lack of merit. Undaunted, respondent filed a petition for *certiorari*^[43] with this Court. In a Resolution^[44] dated March 5, 2003, this Court granted the petition and directed the CA to resolve Carmen's motion for reconsideration.^[45] On review, the CA decided to reconsider its previous ruling. Thus, on November 17, 2003, it issued an Amended Decision^[46] reversing its first ruling and sustaining the trial court's decision.^[47]

A motion for reconsideration was filed, this time by Benjamin, but the same was denied by the CA in its December 13, 2004 Resolution.^[48]

Hence, this petition.

For our resolution are the following issues:

- I. Whether the CA violated the rule on *stare decisis* when it refused to follow the guidelines set forth under the *Santos* and *Molina* cases;
- II. Whether the CA correctly ruled that the requirement of proof of psychological incapacity for the declaration of absolute nullity of marriage based on Article 36 of the Family Code has been liberalized; and
- III. Whether the CA's decision declaring the marriage between petitioner and respondent null and void [is] in accordance with law and jurisprudence.

We find merit in the petition.

I. On the issue of stare decisis.

The principle of *stare decisis* enjoins adherence by lower courts to doctrinal rules established by this Court in its final decisions. It is based on the principle that once a question of law has been examined and decided, it should be deemed settled and closed to further argument.^[49] Basically, it is a bar to any attempt to relitigate the same issues,^[50] necessary for two simple reasons: economy and stability. In our

jurisdiction, the principle is entrenched in Article 8 of the Civil Code.^[51]

This doctrine of adherence to precedents or *stare decisis* was applied by the English courts and was later adopted by the United States. Associate Justice (now Chief Justice) Reynato S. Puno's discussion on the historical development of this legal principle in his dissenting opinion in *Lambino v. Commission on Elections*^[52] is enlightening:

The latin phrase *stare decisis et non quieta movere* means "stand by the thing and do not disturb the calm." The doctrine started with the English Courts. Blackstone observed that at the beginning of the 18th century, "it is an established rule to abide by former precedents where the same points come again in litigation." As the rule evolved, early limits to its application were recognized: (1) it would not be followed if it were "plainly unreasonable"; (2) where courts of equal authority developed conflicting decisions; and, (3) the binding force of the decision was the "actual principle or principles necessary for the decision; not the words or reasoning used to reach the decision."

The doctrine migrated to the United States. It was recognized by the framers of the U.S. Constitution. According to Hamilton, "strict rules and precedents" are necessary to prevent "arbitrary discretion in the courts." Madison agreed but stressed that "x x x once the precedent ventures into the realm of altering or repealing the law, it should be rejected." Prof. Consovoy well noted that Hamilton and Madison "disagree about the countervailing policy considerations that would allow a judge to abandon a precedent." He added that their ideas "reveal a deep internal conflict between the concreteness required by the rule of law and the flexibility demanded in error correction. It is this internal conflict that the Supreme Court has attempted to deal with for over two centuries."

Indeed, two centuries of American case law will confirm Prof. Consovoy's observation although *stare decisis* developed its own life in the United States. Two strains of *stare decisis* have been isolated by legal scholars. The first, known as **vertical stare decisis** deals with the duty of lower courts to apply the decisions of the higher courts to cases involving the same facts. The second, known as **horizontal stare decisis** requires that high courts must follow its own precedents. Prof. Consovoy correctly observes that vertical *stare decisis* has been viewed as an obligation, while horizontal *stare decisis*, has been viewed as a policy, imposing choice but not a command. Indeed, *stare decisis* is not one of the precepts set in stone in our Constitution.

It is also instructive to distinguish the two kinds of horizontal *stare decisis* -- constitutional *stare decisis* and statutory *stare decisis*. **Constitutional stare decisis** involves judicial interpretations of the Constitution while **statutory stare decisis** involves interpretations of statutes. The distinction is important for courts enjoy more flexibility in refusing to apply *stare decisis* in constitutional litigations. Justice Brandeis' view on the binding effect of the doctrine in constitutional litigations still holds sway today. In soothing prose, Brandeis stated: "*Stare decisis* is not . . . a universal and inexorable command. The rule of