

## FIRST DIVISION

[ G. R. NO. 147824, August 02, 2007 ]

**ROSA YAP PARAS, PETITIONER, VS. JUSTO J. PARAS,  
RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

This case presents another occasion to reiterate this Court's ruling that the Guidelines set forth in *Republic v. Court of Appeals and Ronidel Olaviano Molina*<sup>[1]</sup> "do not require that a physician should examine the person to be declared psychologically incapacitated. What is important is the presence of evidence that can adequately establish the party's *psychological* condition."<sup>[2]</sup>

Assailed in this petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the **(a)** Decision<sup>[3]</sup> dated December 8, 2000 and **(b)** Resolution<sup>[4]</sup> dated April 5, 2001 of the Court of Appeals in CA-G.R. CV No. 49915, entitled "*Rosa Yap-Paras, Plaintiff-Appellant vs. Justo J. Paras, Defendant-Appellee.*"

On May 21, 1964, petitioner Rosa Yap married respondent Justo J. Paras in Bindoy, Negros Oriental. They begot four (4) children, namely: Raoul (+), Cindy Rose (+), Dahlia, and Reuel.

Twenty-nine (29) years thereafter, or on May 27, 1993, Rosa filed with the Regional Trial Court (RTC), Branch 31, Dumaguete City, a complaint for annulment of her marriage with Justo, under Article 36 of the Family Code, docketed as Civil Case No. 10613. She alleged that Justo is psychologically incapacitated to exercise the essential obligations of marriage as shown by the following circumstances:

- (a)** he dissipated her business assets and forged her signature in one mortgage transaction;
- (b)** he lived with a concubine and sired a child with her;
- (c)** he did not give financial support to his children; and
- (d)** he has been remiss in his duties both as a husband and as a father.

To substantiate her charges, Rosa offered documentary and testimonial evidence.

This is her story. She met Justo in 1961 in Bindoy. She was then a student of San Carlos University, Cebu City.<sup>[5]</sup> He courted her, frequently spending time at her "Botica."<sup>[6]</sup> Eventually, in 1964, convinced that he loved her, she agreed to marry him. Their wedding was considered one of the "most celebrated" marriages in

Bindoy.<sup>[7]</sup>

After the wedding, she and Justo spent one (1) week in Davao for their honeymoon.<sup>[8]</sup> Upon returning to Bindoy, they resided at her parents' house. It was their residence for three (3) years until they were able to build a house of their own.<sup>[9]</sup> For the first five (5) years of their marriage, Justo did not support her and their children because he shouldered his sister's schooling.<sup>[10]</sup> Consequently, she was the one who spent for all their family needs, using the income from her "Botica" and store.<sup>[11]</sup>

Justo lived the life of a bachelor.<sup>[12]</sup> His usual routine was to spend time with his "*barkadas*" until the wee hours of the morning. Oftentimes, he would scold her when she sent for him during lunchtime.<sup>[13]</sup> He also failed to provide for their children's well-being.<sup>[14]</sup> Sometime in 1975, their daughter Cindy Rose was afflicted with leukemia. It was her family who paid for her medication. Also, in 1984, their son Raoul was electrocuted while Justo was in their rest house with his "*barkadas*." He did not heed her earlier advice to bring Raoul in the rest house as the latter has the habit of climbing the rooftop.<sup>[15]</sup>

To cope with the death of the children, the entire family went to the United States. Her sisters supported them throughout their two-year stay there. However, after three months, Justo abandoned them and left for the Philippines. Upon her return to the Philippines, she was shocked to find her "Botica" and other businesses heavy in debt. She then realized Justo was a profligate. At one time, he disposed without her consent a conjugal piece of land.<sup>[16]</sup> At other times, he permitted the municipal government to take gasoline from their gas station free of charge.

She endured all of Justo's shortcomings, but his act of maintaining a mistress and siring an illegitimate child was the last straw that prompted her to file the present case. She found that after leaving their conjugal house in 1988, Justo lived with Jocelyn Ching. Their cohabitation resulted in the birth of a baby girl, Cyndee Rose, obviously named after her (Rosa) and Justo's deceased daughter Cindy Rose Paras.<sup>[17]</sup>

As expected, Justo has a different version of the story.

He met Rosa upon his return to Bindoy after taking the bar examinations in Manila.<sup>[18]</sup> He frequently spent time in her store.<sup>[19]</sup> Believing he loved her, he courted her and later on, they became sweethearts. In 1963, they decided to get married. However, it was postponed because her family demanded a dowry. Their marriage took place in 1964 upon his mother's signing a deed of conveyance involving 28 hectares of coconut land in favor of Rosa.<sup>[20]</sup>

He blamed the subsequent dissipation of their assets from the slump of the price of sugar and not to his alleged profligacy.<sup>[21]</sup> Due to his business ventures, he and Rosa were able to acquire a 10-room family house, expand their store, establish their gasoline station, and purchase several properties. He also denied forging her signature in one mortgage transaction. He maintained that he did not dispose of a conjugal property and that he and Rosa **personally** signed the renewal of a sugar

crop loan **before the bank's authorized employee.**<sup>[22]</sup>

As to their marital relationship, he noticed the change in Rosa's attitude after her return from the United States. She became detached, cold, uncaring, and overly focused on the family's businesses.<sup>[23]</sup> He tried to reach her but Rosa was steadfast in her "new attitudinal outlook." Before other people, he merely pretended that their relationship was blissful.<sup>[24]</sup>

He did not abandon his family in the United States. It happened that they only had tourist visas. When they were there, their children's tourist visas were converted into study visas, permitting them to stay longer. For his part, he was granted only three (3) months leave as municipal mayor of Bindoy, thus, he immediately returned to the Philippines.<sup>[25]</sup>

He spent for his children's education. At first, he resented supporting them because he was just starting his law practice and besides, their conjugal assets were more than enough to provide for their needs. He admitted though that there were times he failed to give them financial support because of his lack of income.<sup>[26]</sup>

What caused the inevitable family break-out was Rosa's act of embarrassing him during his birthday celebration in 1987. She did not prepare food for the guests. When confronted, she retorted that she has nothing to do with his birthday. This convinced him of her lack of concern.<sup>[27]</sup> This was further aggravated when she denied his request for engine oil when his vehicle broke down in a mountainous and NPA-infested area.<sup>[28]</sup>

As to the charge of concubinage, he alleged that Jocelyn Ching is not his mistress, but her secretary in his Law Office. She was impregnated by her boyfriend, a certain Grelle Leccioness. Cyndee Rose Ching Leccioness is not his daughter.

After trial or on February 28, 1995, the RTC rendered a Decision upholding the validity of the marriage. It found that: (a) Justo did not abandon the conjugal home as he was forced to leave after Rosa posted guards at the gates of their house;<sup>[29]</sup> **(b)** the conjugal assets were sufficient to support the family needs, thus, there was no need for Justo to shell out his limited salary;<sup>[30]</sup> and **(c)** the charge of infidelity is unsubstantiated.<sup>[31]</sup> The RTC observed that the relationship between the parties started well, negating the existence of psychological incapacity on either party at the time of the celebration of their marriage.<sup>[32]</sup> And lastly, it ruled that there appeared to be a collusion between them as both sought the declaration of nullity of their marriage.<sup>[33]</sup>

Justo interposed an appeal to the Court of Appeals.

In the interim, Rosa filed with this Court a petition for disbarment against Justo, docketed as A.C. No. 5333, premised on the same charges alleged in her complaint for declaration of nullity of marriage. On October 18, 2000, this Court rendered its Decision finding him guilty of **falsifying Rosa's signature in bank documents, immorality, and abandonment of his family.** He was suspended from the practice of law, thus:

In the light of the foregoing, respondent is hereby **SUSPENDED** from the practice of law for **SIX (6) MONTHS** on the charge of **falsifying his wife's signature** in bank documents and other related loan instruments; and for **ONE (1) YEAR** from the practice of law on the charges of **immorality** and **abandonment** of his own family, the penalties to be served simultaneously. Let notice of this Decision be spread in respondent's record as an attorney, and notice of the same served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all the courts concerned.

**SO ORDERED.**

On December 8, 2000 or nearly two months after this Court promulgated the Decision in A.C. No. 5333, the Court of Appeals affirmed the RTC Decision in the present case, holding that "the evidence of the plaintiff (Rosa) falls short of the standards required by law to decree a nullity of marriage." It ruled that Justo's alleged defects or idiosyncracies "were sufficiently explained by the evidence," thus:

Certainly, we cannot ignore what is extant on the record - *first*, the income which supported their children came from the earnings of their conjugal properties and not singularly from Rosa's industry; *second*, Justo gave his share of the support to his children in the form of allowances, albeit smaller than that derived from the conjugal property; *third*, he was booted out from their conjugal dwelling after he lost his bid for re-election and as such did not voluntarily abandon his home; and *fourth*, although unjustifiable in the eyes of the law and morality, Justo's alleged infidelity came after he was driven out of his house by Rosa. x x x.

The Court of Appeals likewise held that Rosa's inability to offer the testimony of a psychologist is fatal to her case, being in violation of the tenets laid down by this Court in *Molina*.<sup>[34]</sup> Thus, she failed to substantiate her allegation that Justo is psychologically incapacitated from complying with the essential obligations of marriage.<sup>[35]</sup>

Rosa filed a motion for reconsideration but it was denied. Hence, the instant petition for review on *certiorari*.

Rosa contends that this Court's factual findings in A.C. No. 5333 for disbarment are **conclusive** on the present case. Consequently, the Court of Appeals erred in rendering contrary factual findings. Also, she argues that she filed the instant complaint sometime in May, 1993, well before this Court's pronouncement in *Molina* relied upon by the Court of Appeals. She states that she could have presented an expert to prove the root cause of Justo's psychological incapacity had she been required to do so. For relief, she prays that her marriage with Justo be annulled on the bases of the Court's **conclusive** factual findings in A.C. No. 5333; or in the alternative, remand this case to the court *a quo* for reception of expert testimony in the interest of due process.

In his comment on the petition, Justo asserts that the present case is a "**new matter completely foreign and removed**" from A.C. No. 5333; hence, the factual findings of this Court therein are not conclusive on this case. Besides, no

hearing was conducted in A.C. No. 5333 as it was decided merely on the bases of pleadings and documents.

The parties' opposing contentions lead us to the following three (3) vital issues:

*first*, whether the factual findings of this Court in A.C. No. 5333 are conclusive on the present case;

*second*, whether a remand of this case to the RTC for reception of expert testimony on the root cause of Justo's alleged psychological incapacity is necessary; and

*third*, whether the totality of evidence in the case shows psychological incapacity on the part of Justo.

The petition is bereft of merit.

## ***I***

### ***Whether the factual findings of this Court in A.C. No. 5333 are conclusive on the present case.***

Rosa, sad to say, had made much ado about nothing. A reading of the Court of Appeals' Decision shows that she has no reason to feel aggrieved. In fact, the appellate court even assumed that her charges "**are true**," but concluded that they are insufficient to declare the marriage void on the ground of psychological incapacity. The pertinent portion of the Decision reads:

**Applying these parameters to the sifted evidence, we find that even if we assume Justo's alleged infidelity, failure to support his family and alleged abandonment of their family home are true, such traits are at best indicators that he is unfit to become an ideal husband and father.** However, by themselves, these grounds are insufficient to declare the marriage void due to an incurable psychological incapacity. These grounds, we must emphasize, do not manifest that he was truly incognitive of the basic marital covenants that he must assume and discharge as a married person. While they may manifest the "gravity" of his alleged psychological incapacity, they do not necessarily show "incurability", such that while his acts violated the covenants of marriage, they do not necessarily show that such acts show an irreparably hopeless state of psychological incapacity which prevents him from undertaking the basic obligations of marriage in the future.<sup>[36]</sup>

The Court of Appeals pointed this out in its Resolution denying Rosa's motion for reconsideration, thus:

Even as we are fully cognizant of the findings of the Supreme Court in the disbarment case appellant filed against her husband, namely, appellee's falsification of documents to obtain loans and his infidelity, these facts, by themselves, do not conclusively establish appellee's psychological incapacity as contemplated under Article 36 of the Family Code. **In fact, we already went as far as to presume the existence of such seeming depravities in appellee's character in our earlier**