

FIRST DIVISION

[G.R. No. 137590, March 26, 2001]

**FLORENCE MALCAMPO-SIN, PETITIONER, VS. PHILIPP T. SIN,
RESPONDENT.**

D E C I S I O N

PARDO, J.:

The Family Code emphasizes the permanent nature of marriage, hailing it as the foundation of the family.^[1] It is this inviolability which is central to our traditional and religious concepts of morality and provides the very bedrock on which our society finds stability.^[2] Marriage is immutable and when both spouses give their consent to enter it, their consent becomes irrevocable, unchanged even by their independent wills.

However, this inviolability depends on whether the marriage exists and is valid. If it is void *ab initio*, the "permanence" of the union becomes irrelevant, and the Court can step in to declare it so. Article 36 of the Family Code is the justification.^[3] Where it applies and is duly proven, a judicial declaration can free the parties from the rights, obligations, burdens and consequences stemming from their marriage.

A declaration of nullity of marriage under Article 36 of the Family Code requires the application of procedural and substantive guidelines. While compliance with these requirements mostly devolves upon petitioner, the State is likewise mandated to actively intervene in the procedure. Should there be non-compliance by the State with its statutory duty, there is a need to remand the case to the lower court for proper trial.

The Case

What is before the Court^[4] is an appeal from a decision of the Court of Appeals^[5] which affirmed the decision of the Regional Trial Court, Branch 158, Pasig City^[6] dismissing petitioner Florence Malcampo-Sin's (hereafter "Florence") petition for declaration of nullity of marriage due to psychological incapacity for insufficiency of evidence.

The Facts

On January 4, 1987, after a two-year courtship and engagement, Florence and respondent Philipp T. Sin (hereafter "Philipp"), a Portuguese citizen, were married at St. Jude Catholic Parish in San Miguel, Manila.^[7]

On September 20, 1994, Florence filed with the Regional Trial Court, Branch 158, Pasig City, a complaint for "declaration of nullity of marriage" against Philipp.^[8] Trial

ensued and the parties presented their respective documentary and testimonial evidence.

On June 16, 1995, the trial court dismissed Florence's petition.^[9]

On December 19, 1995, Florence filed with the trial court a notice of appeal to the Court of Appeals.^[10]

After due proceedings, on April 30, 1998, the Court of Appeals promulgated its decision, the dispositive portion of which reads:

"IN THE LIGHT OF ALL THE FOREGOING, the Appeal is DISMISSED. The Decision appealed from is AFFIRMED. Cost against the Appellant."^[11]

On June 23, 1998, petitioner filed with the Court of Appeals a motion for reconsideration of the aforequoted decision.^[12]

On January 19, 1999, the Court of Appeals denied petitioner's motion for reconsideration.^[13]

Hence, this appeal.^[14]

The Court's Ruling

We note that throughout the trial in the lower court, the State did not participate in the proceedings. While Fiscal Jose Danilo C. Jabson^[15] filed with the trial court a manifestation dated November 16, 1994, stating that he found no collusion between the parties,^[16] he did not actively participate therein. Other than entering his appearance at certain hearings of the case, nothing more was heard from him. Neither did the presiding Judge take any step to encourage the fiscal to contribute to the proceedings.

The Family Code mandates:

"Article 48. In all cases of annulment or declaration of absolute nullity of marriage, the Court shall order the prosecuting attorney or fiscal assigned to it to appear on behalf of the State to take steps to prevent collusion between the parties and to take care that evidence is not fabricated or suppressed (underscoring ours).

"In the cases referred to in the preceeding paragraph, no judgment shall be based upon a stipulation of facts or confession of judgment."

It can be argued that since the lower court dismissed the petition, the evil sought to be prevented (i.e., dissolution of the marriage) did not come about, hence, the lack of participation of the State was cured. Not so. The task of protecting marriage as an inviolable social institution requires vigilant and zealous participation and not mere *pro-forma* compliance. The protection of marriage as a sacred institution requires not just the defense of a true and genuine union but the exposure of an invalid one as well. This is made clear by the following pronouncement:

"(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,^[17] briefly stating therein his reasons for his agreement or opposition as the case may be, to the petition. The Solicitor-General shall discharge the equivalent function of the defensor vinculi contemplated under Canon 1095 (underscoring ours)."^[18]

The records are bereft of any evidence that the State participated in the prosecution of the case not just at the trial level but on appeal with the Court of Appeals as well. Other than the "manifestation" filed with the trial court on November 16, 1994, the State did not file any pleading, motion or position paper, at any stage of the proceedings.

In *Republic of the Philippines v. Erlinda Matias Dagdag*,^[19] while we upheld the validity of the marriage, we nevertheless characterized the decision of the trial court as "prematurely rendered" since the investigating prosecutor was not given an opportunity to present controverting evidence before the judgment was rendered. This stresses the importance of the participation of the State.

Having so ruled, we decline to rule on the factual disputes of the case, this being within the province of the trial court upon proper re-trial.

Obiter Dictum

For purposes of re-trial, we guide the parties thus: In *Republic vs. Court of Appeals*,^[20] the guidelines in the interpretation and application of Article 36 of the Family Code are as follows (omitting guideline (8) in the enumeration as it was already earlier quoted):

"(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 (sic) 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