

SPECIAL ELEVENTH DIVISION

[CA-G.R. CV NO. 102122, November 28, 2014]

**MILAGROS T. ONO, PETITIONER-APPELLEE, VS. SABURO ONO,
RESPONDENT,**

REPUBLIC OF THE PHILIPPINES, OPPOSITOR-APPELLANT.

D E C I S I O N

DICDICAN, J.:

Before us is an appeal from the September 10, 2013 Decision^[1] of the Regional Trial Court, Branch 19, of the First Judicial Region in Bangui, Ilocos Norte in Civil Case No. 1674-19 granting the petition of the petitioner-appellee Milagros T. Ono for declaration of absolute nullity of her marriage to the respondent Saburo Ono.

The material and relevant facts of the case, as culled from the record, are as follows:

The petitioner-appellee met the respondent at the residence of her former employer in Quezon City sometime in 1988. After around one week of courtship, the petitioner-appellee and respondent became sweethearts and then eventually got married. On March 30, 1998, they got married in Caloocan City before Reverend Remigio G. Cabading.

After the marriage, the petitioner-appellee and respondent went to Japan where they lived with the latter's family. Their married life was, however, not a blissful one because the respondent allegedly failed to perform his essential marital obligations. Petitioner-appellee lamented that, upon arrival in Japan, respondent treated her indifferently and became a controlling husband. The respondent had allegedly required the petitioner-appellee to work in the former's construction business, where the latter would be required to lift heavy things and climb the roof. Petitioner-appellee also stated that the respondent would beat her every time she would fail to complete her task at the construction site and if the latter was in a bad mood.

The petitioner-appellee tried to endure her situation for a period of two years until sometime in 1990. The petitioner-appellee came back to the Philippines through the help of a fellow Filipino in Japan. Petitioner-appellee lost communication with the respondent ever since.

On December 6, 2012, the petitioner-appellee then filed with the court *a quo* a Petition^[2] for the nullification of her marriage to the respondent citing, as a ground thereof, their psychological incapacity to perform their essential marital obligations. In her petition, she averred as follows:

"xxx

"4. Petitioner and respondent are presently separated and have been so since the year 1990. The reason for their separation was the breakdown of their marriage due to psychological incapacity to fulfill and discharge of their respective marital obligations to each other, which psychological incapacity existed

prior to their marriage and manifested itself well during the marriage.

"5. That petitioner and respondent psychological incapacity appears to be incurable. Before the filing of this petition, there was a period of harmonious relationship in their marriage.

"6. That petitioner submitted herself to a psychological and clinical assessment by a trained professional, clinical psychologist Ms. Gemma Marie Alhama.

"7. That respondent's psychological incapacity was explained in details in the Psychological Evaluation Report hereto attached, marked as annex "B" and made an integral part of this petition."

Thereupon, the court *a quo* ordered summons to be published in a newspaper of general circulation, considering that the respondent is a resident of Iwata, Japan. The respondent, however, did not file an answer to the petition.

On January 25, 2013, the Office of the Solicitor General entered its appearance as counsel for the Republic of the Philippines and deputized the Provincial Prosecutor of Bangui, Ilocos Norte to attend and/or appear in the proceedings of the case.

Thereafter, the court *a quo* ordered the Provincial Prosecutor assigned to the case to investigate whether there was collusion between the parties. On July 22, 2013, the Assistant Provincial Prosecutor submitted a Manifestation^[3] stating therein that, after careful investigation conducted, he honestly believed that no collusion exists between the parties in the case.

Meanwhile, the petitioner filed a Motion for Advance Testimony^[4] which the court *a quo* granted on July 4, 2013. On the same day, the petitioner was presented to the witness stand for direct examination. The testimony of the petitioner was likewise completed and terminated on the same day.

To support her claim that the respondent is psychologically incapacitated to perform his essential marital obligations, the petitioner-appellee adduced in evidence the Psychological Evaluation Report^[5] as well as the testimony of Gemma Marie Alhama (Alhama), the psychologist who conducted the test.

Alhama executed a Judicial Affidavit^[6] wherein she stated that the petitioner-appellee is not suffering from any personality dysfunction based on the clinical in-depth interview and battery of psychological tests that she conducted on the petitioner-appellee^[7].

On the other hand, Alhama considered the respondent to be psychologically incapacitated to fulfill his marital obligations based on the data that she gathered from the petitioner-appellee and collateral informants. Alhama stated that the respondent appeared to be suffering from psychological conditions known as Antisocial Personality Traits and Narcissistic Personality Disorder.

Alhama explained in her judicial affidavit that the Antisocial Personality Trait is a specific kind of personality disorder that is characterized by a pervasive pattern of violating others and breaking social norms and regulations. This particular disorder was shown by the respondent's arrogance, lack of empathy and by being righteous. Allegedly, respondent's failure to create a safe and sound environment for his wife (petitioner-appellee) showed this particular disorder. Respondent also failed to make amends for his shortcomings and remained to be evasive, as if everything he did was right. The narcissistic personality of the respondent was shown by the respondent's lack of interest in fulfilling his duties as a married man. Respondent was also insensitive to the needs of other people, especially of the petitioner-appellee. Respondent deprived the petitioner not only of economic freedom but of her freedom to express herself^[8].

On September 10, 2013, the court *a quo* rendered the appealed decision granting petitioner-appellee's petition, as follows:

"xxx

"In this case, the Court is convinced, that the facts alleged in the complaint and the evidence and witnesses presented considered in their entirety, sufficiently established that the defendant's acts amount to enumerate (sic) and reckon a severe psychological incapacity which debilitate him to perform his essential marital obligations to his wife.

"Evidently, defendant performs an unimaginable act as a husband when he finally unclothed or bared his true identity of being self-centered, insensitive and neglectful in fulfilling the demands of his marriage or marital obligations which he unequivocally show or demonstrate to his wife by performing an act which is unbearable to the plaintiff especially that she dreamed, wants or desired to have a happy family life. Her desire to raise an ecstatic family indeed disappeared like a smoke in the air because of the incongruous and excruciating deed and character of herein defendant. Defendant's unmindful, heedless and selfish characteristics robbed her of her essence of becoming a wife by making or considering her as his hostage and slave wherein he could do whatever he wants without her permission or against her will. All expectations and reveries vanished because of a psychotic husband.

" x x x

"Applying the case of Azcueta vs. Republic of the Philippines and Court of Appeals, in the instant case, the Court is inclined to grant the petition It is wisely stated therein, to wit:

'In dissolving bonds on account of either party's psychological incapacity, the Court is not demolishing the foundation of families but it is actually protecting the sanctity of marriage, because it refuses to allow a person afflicted with psychological disorder, who cannot comply with or assume the essential marital obligations, from remaining in that sacred bond. It may be stressed that the infliction of physical violence, constitutional indolence or laziness, drug dependence or addiction, and psychosexual anomaly are manifestations of a sociopathic personality anomaly. Let it be noted that in Article 36, there is no marriage to speak of in the first place, as the same is void from the very beginning. To indulge in imagery, the declaration of nullity under Article 36 will simply provide a decent burial to a stillborn marriage.'

"Thus, the Court finds the complaint to be impressed with merit. The defendant failed in his personal obligations to the petitioner to whom he owes love respect, and fidelity. The plaintiff should not be bound to continue a marriage that has not worked and will not work because of the psychological incapacity of her husband brought by his wicked orientation, his lack of manhood by enslaving his wife for unreasonable basis or explanation and his being.

"IN VIEW OF THE FOREGOING, the complaint is hereby GRANTED as judgment is hereby rendered declaring the marriage contracted by plaintiff MILAGROS T. ONO to defendant SABURO ONO solemnized on March 30, 1988 in Caloocan City, Manila, Philippines NULL and VOID pursuant to Article 36 of the Family Code.

" x x x

"SO ORDERED."

On October 8, 2013, the Republic of the Philippines, through the Office of the Solicitor General, filed a Motion for Reconsideration^[9] of the foregoing decision. The said motion was, however, denied by the court *a quo* in its November 26, 2013 Order^[10].

Hence, on January 2, 2014, the Office of the Solicitor General filed a Notice of Appeal^[11] which was given due course by the court *a quo* on January 20, 2014.

In its Brief for Oppositor-Appellant^[12], the Office of the Solicitor General raised these errors purportedly committed by the court *a quo*:

I.

VENUE WAS IMPROPERLY LAID.

II.

THERE WAS NO COMPLIANCE WITH ARTICLE 48 OF THE FAMILY CODE ON THE ZEALOUS AND ACTIVE PARTICIPATION OF THE STATE THROUGH THE OSG.

III.

PETITIONER FAILED TO ESTABLISH EXISTENCE OF PSYCHOLOGICAL INCAPACITY.

Apparently, the core issue to be resolved by us in this appealed case is whether the petitioner-appellee was able to prove by sufficient evidence that the respondent is psychologically incapacitated to perform his essential marital obligations.

The appeal is meritorious.

Article 36 of the Family Code of the Philippines provides that a marriage contracted by any party who, at the time of the celebration thereof, was psychologically incapacitated to comply with the essential marital obligations of marriage shall be void even if such incapacity becomes manifest only after its solemnization.

Psychological incapacity under Article 36 of the Family Code contemplates an incapacity or inability to take cognizance of and to assume basic marital obligations, and is not merely the difficulty, refusal, or neglect in the performance of marital obligations or ill will^[13]. This incapacity consists of the following: (a) a true inability to commit oneself to the essentials of marriage; (b) the inability must refer to the essential obligations of marriage, that is, the conjugal act, the community of life and love, the rendering of mutual help, and the procreation and education of offspring; and (c) the inability must be tantamount to a psychological abnormality. Proving that a spouse failed to meet his or her responsibility and duty as a married person is not enough; it is essential that he or she must be shown to be incapable of doing so due to some psychological illness^[14].

A more definitive set of guidelines in the interpretation and application of Article 36 of the Family Code was laid down by the Supreme Court in the case of *Republic v. Court of Appeals*^[15] (the Molina case), as follows:

"(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.