



Republic of the Philippines
Supreme Court
 Baguio City

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

ABIGAEL AN ESPINA-DAN,
Petitioner,

G.R. No. 209031

Present:

- versus -

SERENO,**C.J., Chairperson,*
 LEONARDO-DE CASTRO,**
 BERSAMIN,**
 DEL CASTILLO, and
 TIJAM,*JJ.*

MARCO DAN,
Respondent.

Promulgated:

APR 16 2018

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DECISION

DEL CASTILLO, J.:

This Petition for Review on *Certiorari*¹ seeks to set aside the December 14, 2012 Decision² and August 29, 2013 Resolution³ of the Court of Appeals (CA) denying the Petition in CA-G.R. CV No. 95112 and herein petitioner's Motion for Reconsideration,⁴ respectively, thus affirming the January 4, 2010 Decision⁵ of the Regional Trial Court (RTC) of Las Piñas City, Branch 254, in Civil Case No. LP-07-0155.

* On leave.

** Designated as Acting Chairperson per Special Order No. 2540 dated February 28, 2018.

*** Designated as additional member per October 24, 2017 raffle vice J. Jardeleza who recused due to prior action as Solicitor General.

¹ *Rollo*, pp. 9-26.

² Id. at 61-81; penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Isaias P. Dicedican and Michael P. Elbinias.

³ Id. at 94-95.

⁴ Id. at 82-92.

⁵ Id. at 36-42; penned by Presiding Judge Gloria ButayAglugub.

Factual Antecedents

Petitioner Abigael An Espina-Dan and respondent Marco Dan - an Italian national - met "in a chatroom [o]n the internet"⁶ sometime in May, 2005. They soon became "chatmates" and "began exchanging letters which further drew them emotionally closer to each other"⁷ even though petitioner was in the Philippines while respondent lived in Italy.

In November, 2005, respondent proposed marriage. The following year, he flew in from Italy and tied the knot with petitioner on January 23, 2006.

Soon after the wedding, respondent returned to Italy. Petitioner followed thereafter, or on February 23, 2006. The couple lived together in Italy.

On April 18, 2007, petitioner left respondent and flew back into the country.

Ruling of the Regional Trial Court

On September 14, 2007, petitioner filed a Petition⁸ for declaration of nullity of her marriage, docketed as Civil Case No. LP-07-0155 with the RTC of Las Piñas City, Branch 254. The Office of the Solicitor General representing the Republic of the Philippines opposed the petition.

On January 4, 2010, the RTC issued its Decision dismissing the petition on the ground that petitioner's evidence failed to adequately prove respondent's alleged psychological incapacity. It held, thus:

Testifying thru her *Judicial Affidavit* x x x petitioner stated that sometime in May 2005, she chanced upon the respondent, an Italian, in the internet x x x and they became regular chatmates. x x x In their exchanges of chat messages and letters, she found respondent to be sweet, kind and jolly. He made her feel that he really cared for her. He was romantic. x x x [A]lthough at times, respondent was impatient and easily got irritated, x x x.

x x x x



⁶ Id. at 28.

⁷ Id.

⁸ Id. at 28-34.

On 9 January 2006, respondent flew in to the Philippines and x x x they got married on 23 January 2006 x x x. During their honeymoon, petitioner noticed that the respondent was not circumcised, x x x [R]espondent [also] asked her where to find marijuana since he had to sniff some. This made petitioner angry and she quarrelled with him. Respondent apologized later.

On 29 January 2006, x x x respondent flew back to Italy and on 26 February 2006, x x x petitioner left to join respondent in Italy. x x x After a few days, respondent started displaying traits, character and attitude different from that of Marco whom she had known thru the internet. He was immature, childish, irresponsible and dependent. He depended on his mother to do or to decide things for him. It was even his mother who decided where they lived and how the house should be arranged. When they transferred to a separate house, it was respondent's mother who managed the household.

Respondent was also addicted to video games. During work days, playing video games was always the first thing he does when he wakes up and the last thing he does before retiring. During rest days, he would play video games the whole day. There was never a quality time he spent with her, the kind of time that a responsible husband would spend with his wife.

Respondent was extremely lazy that he never helped her in doing all the household chores. He also has extremely poor hygiene. He seldom takes a bath and brushes his teeth. For him to be able to take a bath, petitioner would literally push him to the bathroom or hand him his toothbrush with toothpaste to brush his teeth. She had to put deodorant on his underarms for he would not do it himself. He refused circumcision.

Sometime in May 2006, she caught him in their house while using marijuana. When confronted, he got mad and pushed her [hard] and hit her in the arm, [and told] her to go back to the Philippines. x x x

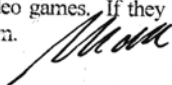
In October 2006, x x x they transferred to another house. Living in a separate house from his mother did not improve their marital relationship. His addiction to video games worsened. They seldom talk to each other as he did not want to be disturbed while playing games. His addiction to drugs likewise worsened. He would often invite his friends to their house for pot sessions, x x x to her extreme fright and discomfort.

x x x x

On 18 April 2007, she flew back to the Philippines. x x x Since then, there was no communication between them. x x x Petitioner took this as lack of interest on his part to save their marriage, reason why she decided to file this petition (TSN, August 11, 2008, pp. 6-10).

x x x x

She further stated that respondent x x x only gave her money for food. He spent most of his income for video games. If they ran out of food, it was her mother-in-law who supported them.



x x x x

Next presented was NEDY TAYAG, a clinical psychologist, who testified x x x in her *direct-examination* that petitioner x x x was subjected to a series of psychological tests, written and oral form. She likewise subjected the mother of the petitioner to clarificatory analysis x x x.

In her evaluation, she found no sign or symptom of major psychological incapacity of the petitioner, while respondent is suffering from a x x x Dependent Personality Disorder with Underlying Anti-Social Trait, by his parasitic attitude, allowing other people to be the handler of his own personal sustenance, even hygienic wise, which somehow distorted the notion on how to handle marital obligations in terms of mutual understanding, communication and emotional intent. She was able to arrive at these findings on respondent although he did not submit himself for the same psychological tests, through the clinical assessments and information supplied by the petitioner, and the description of the petitioner's mother regarding how she perceived the respondent.

On *cross-examination*, x xx [s]he described respondent x x x as "Mama's Boy", which attitude can be narcissistic because of his attachment to the mother. He can do whatever he wants because the mother will always be at his back. She likewise stated that the respondent is an unhygienic person and the reason why he opted to lure herein petitioner to be his wife was because he wanted her to be an extension of his maternal needs to sustain his own desire.

On *clarificatory questions of the Court* x x x Ms. Tayag testified that she was able to describe the respondent x x x because of the description made by the petitioner and her mother. She however, admitted that as disclosed to her by the petitioner, she (petitioner) was not able to have a bonding or to know well the respondent because more often than not the respondent was always in the company of the mother that a pathological symbiotic relationship developed between the mother and son.

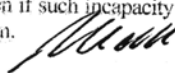
Last witness presented was MS. VIOLETA G. ESPINA, the mother of herein petitioner. Her Judicial Affidavit x x x was adopted as her *direct-testimony*, which was entirely in corroboration of the testimony of petitioner Abigail An Espina-Dan.

On *cross-examination* x x x. She testified that respondent had not assumed his responsibilities as a married man, his dependency on drugs, his dependency on his mother with regard to their finances were just told by her daughter, petitioner herein, during their conversations in the internet and therefore she has no personal knowledge to what happened to her daughter, petitioner herein.

x x x x

Article 36 of the Family Code x x x provides:

A marriage contracted by any party who, at the time of the celebration of marriage, 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.



The Supreme Court in the case of *Santos v. Court of Appeals*, (240 SCRA 20, 24) declared that psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.

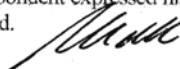
In the instant case, the clinical psychologist found respondent to be suffering from x x x **Dependent Personality Disorder with underlying Anti-social traits**, x x x which x x x is 'grave, severe, long lasting and incurable by any treatment'. x x x

x x x x

The clinical psychologist[']s findings and conclusion were derived from her interviews of petitioner and her mother. However, from petitioner's Judicial Affidavit x x x, it was gathered that respondent's failure to establish a common life with her stems from his refusal, not incapacity to do so. It is downright incapacity, not refusal or neglect or difficulty, much less ill will, which renders a marriage void on the ground of psychological incapacity. How she arrived at the conclusion that respondent was totally dependent [on] his mother, his propensity [with] illegal substance, his instability to maintain even his personal hygiene, and his neglect to assume his responsibilities as a husband, Nedy Tayag failed to explain. It bears recalling that petitioner and respondent were chatmates in 2005 and contracted marriage in 2006 when respondent was already 35 years old, far removed from adolescent years.

Noteworthy is petitioner's admission that she and respondent met in a chat room in the internet. Respondent was very sweet, kind and jolly. He was romantic. He made her feel that he cared even if they were apart. He remembered important occasions and he would always send her sweet messages and funny jokes x x x which revealed the harmonious relationship of the couple before their marriage. From this, it can be inferred how responsible respondent was to faithfully comply with his obligations as a boyfriend. During marriage, respondent was working and giving her money though not enough as she said (TSN, August 11, 2008, p. 15). With this premise, it is therefore safe to conclude that no matter how hard respondent would try to show his best, to show his capability as husband to petitioner, she would always find reason to say otherwise.

As to her allegation that respondent was unhygienic; x x x it was admitted by no less than the psychologist, Nedy Tayag that in a country like Italy wherein the weather is different from the Philippines, the people there do not bathe regularly x x x. With respect to circumcision, we all know that circumcision is not common in European countries. You cannot compel respondent to undergo circumcision since it is against their culture. However, respondent expressed his willingness to be circumcised, but later on, changed his mind.



As to her allegation that respondent was a drug dependent, petitioner never showed that she exerted effort to seek medical help for her husband. Undeniably, drug addiction is curable and therefore it can hardly be considered as a manifestation of the kind of psychological incapacity contemplated under Article 36 of the Family Code.

With regard to the dependency of respondent to his mother, it was not well established by the petitioner. x x x What is clear was that respondent's mother was all out in helping them since the salary of the respondent was not sufficient to sustain their needs.

All told, the Court cannot see how the personality disorder of respondent would render him unaware of the basic marital covenants that concomitantly must be assumed and discharged by him. At the most, the psychological evaluation of the parties proved only incompatibility and irreconcilable differences, considering also their culture differences, which cannot be equated with psychological incapacity. Along this line, the aforesaid psychological evaluation made by Ms. Tayag is unfortunately one sided [and] based only on the narrations made by petitioner who had known respondent only for a short period of time and too general to notice these specific facts thereby failing to serve its purpose in aiding the Court in arriving at a just resolution of this case.

In sum, inasmuch as the evidence adduced by petitioner in support of her petition is miserably wanting in force to convince this Court that her marriage with respondent comes and qualifies under the provision of Article 36 of the Family Code and hence unable to discharge completely her burden of overcoming the legal presumption of validity and the continuance of her marriage with respondent, declaration of nullity of same marriage is not in order.

WHEREFORE, premises considered, the petition for declaration of nullity of marriage is hereby DENIED, for lack of merit and accordingly, the same petition is hereby DISMISSED.

Furnish the Office of the Solicitor General and the Office of the City Prosecutor, Las Piñas City, for their information and guidance.⁹

Petitioner moved to reconsider,¹⁰ but in an April 28, 2010 Order,¹¹ the RTC held its ground.

Ruling of the Court of Appeals

Petitioner filed an appeal before the CA, docketed as CA-G.R. CV No. 95112. In its assailed December 14, 2012 Decision, however, the CA denied the appeal and affirmed the RTC Decision, declaring thus:



⁹ Id. at 37-42.

¹⁰ Id. at 43-56.

¹¹ Id. at 57.

x x x There is no ground to declare the marriage x x x null and void on the ground of psychological incapacity under Article 36 of the Family Code. Thus, the court *a quo* correctly denied the petition for annulment of marriage x x x.

x x x x


In *Toring v. Toring*, the Supreme Court held that psychological incapacity under Article 36 of the Family Code must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability, to be sufficient basis to annul a marriage. The 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 concomitantly must be assumed and discharged by the parties to the marriage.

It further expounded on Article 36 x x x in *Republic v. Court of Appeals and Molina* and laid down definitive guidelines in the interpretation and application of this article. These guidelines incorporate the basic requirements of gravity, juridical antecedence and incurability established in the *Santos* case, as follows:

x x x x

Subsequent jurisprudence on psychological incapacity applied these basic guidelines to varying factual situations, thus confirming the continuing doctrinal validity of *Santos*. [Insofar] as the present factual situation is concerned, what should not be lost in reading and applying our established rulings is the intent of the law to confine the application of Article 36 of the Family Code to the most serious cases of personality disorders; these are the disorders that result in the utter insensitivity or inability of the afflicted party to give meaning and significance to the marriage he or she contracted. Furthermore, the psychological illness and its root cause must have been there from the inception of the marriage. From these requirements arise the concept that Article 36 x x x does not really dissolve a marriage; it simply recognizes that there never was any marriage in the first place because the affliction - already then existing - was so grave and permanent as to deprive the afflicted party of awareness of the duties and responsibilities of the matrimonial bond he or she was to assume or had assumed.

In the present case, We find the totality of the petitioner-appellant's evidence insufficient to prove respondent-appellee was psychologically incapacitated to perform his marital obligations. Petitioner-appellant's depiction of respondent-appellee as irresponsible, childish, overly dependent on his mother, addicted to video games, addicted to drugs, lazy, had poor hygiene, and his refusal or unwillingness to assume the essential obligations of marriage, are not enough. These traits do not equate to an inability to perform marital obligations due to a psychological illness present at the time the marriage was solemnized. Psychological incapacity must be more than just a "difficulty," "refusal," or "neglect" in the performance of some marital obligations. It is not enough the respondent-appellee, alleged to be psychologically incapacitated, had difficulty in complying with his marital obligations, or was unwilling to perform these obligations. Proof of a natal or supervening disabling factor - an adverse integral element in the respondent's personality structure that effectively incapacitated him from complying with his essential marital obligations - must be shown.



Mere difficulty, refusal, or neglect in the performance of marital obligations, or ill will on the part of the spouse, is different from incapacity rooted in some debilitating psychological condition or illness; irreconcilable differences, sexual infidelity or perversion, emotional immaturity and irresponsibility and the like, do not by themselves warrant a finding of psychological incapacity x x x, as the same may only be due to a person's refusal or unwillingness to assume the essential obligations of marriage. It is essential that the spouse must be shown to be incapable of performing marital obligations, due to some psychological illness existing at the time of the celebration of the marriage. Respondent-appellee's condition or personality disorder has not been shown to be a malady rooted on some incapacitating psychological condition.

It will be noted [that] Ms. Tayag did not administer psychological tests on respondent-appellee. The conclusion in the psychological report of Ms. Tayag that respondent-appellee was suffering from Dependent Personality Disorder, with underlying Anti-Social traits, was based merely on information supplied by petitioner-appellant and Violeta (mother of the petitioner-appellant).

Generally, expert opinions are regarded, not as conclusive, but as purely advisory in character. The court must evaluate the evidentiary worth of the opinion with due care and with the application of the more rigid and stringent set of standards outlined above, *i.e.*, that there must be a thorough and in-depth assessment of the parties by the psychologist or expert, for a conclusive diagnosis of a psychological incapacity that is grave, severe, and incurable. Thus, We cannot credit Ms. Tayag's findings as conclusive, as she did not conduct an actual psychological examination on respondent-appellee. The information relied upon by Ms. Tayag could not have secured a complete personality profile and could not have conclusively formed an objective opinion or diagnosis of respondent-appellee's psychological condition. The methodology employed (*i.e.*, gathering information regarding respondent-appellee from petitioner-appellant and Violeta, without interviewing respondent-appellee himself), simply cannot satisfy the required depth and comprehensiveness of examination required to evaluate a party alleged to be suffering from a psychological disorder.

Plaintiff-appellant failed to prove the root cause of the alleged psychological incapacity, and to establish the requirements of gravity, juridical antecedence, and incurability. The psychological report, was based entirely on petitioner-appellant's assumed knowledge of respondent-appellee's family background and upbringing. Ms. Tayag was not able to establish with certainty that respondent-appellee's alleged psychological incapacity was grave enough to bring about the inability of the respondent-appellee to assume the essential obligations of marriage, so that the same was medically permanent or incurable. Also, it did not fully explain the details of respondent-appellee's alleged disorder and its root cause; how Ms. Tayag came to the conclusion that respondent-appellee's condition was incurable; and how it related to the essential marital obligations that respondent-appellee failed to assume.

In this case, the only proof which bears on the claim that respondent-appellee is psychologically incapacitated, is his allegedly being irresponsible, childish, overly dependent on his mother, addicted to video games, addicted to drugs, lazy, had poor hygiene, and his refusal or unwillingness to assume the essential obligations of marriage. It is worthy to emphasize that Article 36 x x x contemplates downright incapacity or inability to take cognizance of and to



assume the basic marital obligations; not a mere refusal, neglect or difficulty, much less, ill will, on the part of the errant spouse.

This Court finds the totality of evidence presented by petitioner-appellant failed to establish the alleged psychological incapacity of her husband x x x. Therefore, there is no basis to declare their marriage null and void x x x.

The Constitution sets out a policy of protecting and strengthening the family as the basic social institution and marriage as the foundation of the family. Marriage, as an inviolable institution protected by the State, cannot be dissolved at the whim of the parties. In petitions for the declaration of nullity of marriage, the burden of proof to show the nullity of marriage lies on the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity.

WHEREFORE, the appeal is DISMISSED. The Decision of the Regional Trial Court, Branch 254, Las Piñas City dated 4 January 2010, in Civil Case No. LP-07-0155, is AFFIRMED.

SO ORDERED.¹² (Citations omitted)

Petitioner moved for reconsideration, but in its assailed August 29, 2013 Resolution, the CA stood its ground. Hence, the instant Petition.

Issue

Petitioner mainly contends that –

THE TOTALITY OF PETITIONER'S EVIDENCE ESTABLISHED THE PSYCHOLOGICAL INCAPACITY OF RESPONDENT AND SATISFIED THE STANDARDS OF *REPUBLIC VS. COURT OF APPEALS AND MOLINA* AND OTHER PREVAILING JURISPRUDENCE IN POINT.¹³

Petitioner's Arguments

Petitioner argues that the root cause of respondent's psychological incapacity was clinically identified, sufficiently alleged in the petition, and proved by adequate evidence; that respondent's psychological incapacity was shown to be existing at the time of the celebration of the marriage, and that the same is medically permanent, incurable, and grave enough as to bring about the inability of respondent to assume his obligations in marriage; and that as a consequence, respondent is incapable of fulfilling his duties as a husband under the obligation to live together, observe mutual love, respect and fidelity, and render mutual help and

¹² Id. at 69-80.

¹³ Id. at 16.



support to her.

Petitioner adds that her allegations in the petition for declaration of nullity are specifically linked to medical and clinical causes as diagnosed by Dr. Tayag, which diagnosis is contained in the latter's report which forms part of the evidence in the case; that such diagnosis is backed by scientific tests and expert determination, which sufficiently prove respondent's psychological incapacity; that Dr. Tayag has adequately determined that respondent's condition is grave, incurable, and existed prior to and at the time of his marriage to petitioner; that respondent has been suffering from Dependent Personality Disorder with Underlying Anti-Social Trait which deterred him from appropriately discharging his duties and responsibilities as a married man; that despite considerable efforts exerted by petitioner, respondent remained true to his propensities and even defiant, to the point of exhibiting violence; that no amount of therapy - no matter how intensive - can possibly change respondent, but rather he would always be in denial of his own condition and resist any form of treatment; and that respondent's condition is deep-rooted and stems from his formative years - a product of faulty child-rearing practices and unhealthy familial constellation that altered his emotional and moral development.

Finally, petitioner argues that it is not necessary that personal examination of respondent be conducted in order that he may be diagnosed or declared as psychologically incapacitated. She cites the cases of *Marcos v. Marcos*¹⁴ and *Antonio v. Reyes*,¹⁵ as well as the case of *Suazo v. Suazo*,¹⁶ in which latter case it was held that a personal examination of the party alleged to be psychologically incapacitated is not necessarily mandatory, but merely desirable, as it may not be practical in all instances given the oftentimes estranged relations between the parties. She suggests instead that pursuant to the ruling in *Ngo Te v. Gutierrez Yu-Te*,¹⁷ "each case must be judged, not on the basis of *a priori* presumptions, predilections or generalizations, but according to its own facts"¹⁸ and that courts "should interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines x x x."¹⁹

The State's Arguments

In its Comment²⁰ praying for denial, the State calls for affirmance of the CA dispositions, arguing that no new issues that merit reversal have been raised in

¹⁴ 397 Phil. 840 (2000).

¹⁵ 519 Phil. 337 (2006).

¹⁶ 629 Phil. 157 (2010).

¹⁷ 598 Phil. 666 (2009).

¹⁸ Id. at 699.

¹⁹ Id.

²⁰ *Rollo*, pp. 135-155.



the Petition. It contends that petitioner failed to prove the elements of gravity, juridical antecedence, and incurability; that quite the contrary, petitioner even admitted that incipiently, respondent was romantic, funny, responsible, working, and giving money to her; that petitioner's allegations of video game and drug addiction are uncorroborated, and her failure to seek medical treatment therefor in behalf of her husband must be considered against her; that such addictions are curable and could not be the basis for a declaration of psychological incapacity; that respondent's irresponsibility, immaturity, and over-dependence on his mother do not automatically justify a conclusion of psychological incapacity under Article 36 of the Family Code; that the intent of the law is to confine the meaning of psychological incapacity to the most serious cases of personality disorders – existing at the time of the marriage – clearly demonstrating an utter insensitivity or inability to give meaning and significance to the marriage, and depriving the spouse of awareness of the duties and responsibilities of the marital bond one is about to assume; that the psychological evaluation of respondent was based on one-sided information supplied by petitioner and her mother – which renders the same of doubtful credibility; and that while personal examination of respondent is indeed not mandatory, there are instances where it is required - such as in this case, where the information supplied to the psychologist unilaterally comes from the side of the petitioner, which renders such information biased and partial as would materially affect the psychologist's assessment.

Our Ruling

The Court denies the Petition.

Both the trial and appellate courts dismissed the petition in Civil Case No. LP-07-0155 on the ground that petitioner's evidence failed to sufficiently prove that respondent was psychologically incapacitated to enter marriage at the time. They held that while petitioner alleged such condition, she was unable to establish its existence, gravity, juridical antecedence, and incurability based solely on her testimony, which is insufficient, self-serving, unreliable, and uncorroborated, as she did not know respondent very well enough - having been with him only for a short period of time; Dr. Tayag's psychological report - which is practically one-sided for the latter's failure to include respondent in the study; and the account of petitioner's mother, which is deemed biased and thus of doubtful credibility.

The Court agrees.

Petitioner's evidence consists mainly of her judicial affidavit and testimony; the judicial affidavits and testimonies of her mother and Dr. Tayag; and Dr. Tayag's psychological evaluation report on the psychological condition of both petitioner and respondent. The determination of respondent's alleged



psychological incapacity was based solely on petitioner's account and that of her mother, since respondent was presumably in Italy and did not participate in the proceedings.

This is insufficient.

At some point in her accounts, petitioner admitted that before and during their marriage, respondent was working and giving money to her; that respondent was romantic, sweet, thoughtful, responsible, and caring; and that she and respondent enjoyed a harmonious relationship. This belies her claim that petitioner was psychologically unfit for marriage. As correctly observed by the trial and appellate courts, the couple simply drifted apart as a result of irreconcilable differences and basic incompatibility owing to differences in culture and upbringing, and the very short period that they spent together prior to their tying the knot. As for respondent's claimed addiction to video games and cannabis, the trial and appellate courts are correct in their ruling that these are not an incurable condition, and petitioner has not shown that she helped her husband overcome them - as part of her marital obligation to render support and aid to respondent.

"What is important is the presence of evidence that can adequately establish the party's psychological condition."²¹ "[T]he complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage"²² such that "[i]f the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned need not be resorted to."²³

'Psychological incapacity,' as a ground to nullify a marriage under Article 36 of the Family Code, should refer to no less than a mental - not merely physical - incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed in Article 68 of the Family Code, among others, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. There is hardly any doubt that the intentment 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.²⁴

With the declared insufficiency of the testimonies of petitioner and her witness, the weight of proving psychological incapacity shifts to Dr. Tayag's

²¹ *Marcos v. Marcos*, supra note 14 at 850.

²² *Republic v. Galang*, 565 Phil. 658, 672 (2011).

²³ *Zamora v. Court of Appeals*, 543 Phil. 701, 708 (2007).

²⁴ *Republic v. De Gracia*, 726 Phil. 502, 509 (2014).



expert findings. However, her determinations were not based on actual tests or interviews conducted on respondent himself - but on personal accounts of petitioner alone. This will not do as well.

x x x *Rumbaua* provides some guidelines on how the courts should evaluate the testimonies of psychologists or psychiatrists in petitions for the declaration of nullity of marriage, viz.:

We cannot help but note that Dr. Tayag's conclusions about the respondent's psychological incapacity were based on the information fed to her by only one side — the petitioner — whose bias in favor of her cause cannot be doubted. While this circumstance alone does not disqualify the psychologist for reasons of bias, her report, testimony and conclusions deserve the application of a more rigid and stringent set of standards in the manner we discussed above. For, effectively, Dr. Tayag only diagnosed the respondent from the prism of a third party account; she did not actually hear, see and evaluate the respondent and how he would have reacted and responded to the doctor's probes.

Dr. Tayag, in her report, merely summarized the petitioner's narrations, and on this basis characterized the respondent to be a self-centered, egocentric, and unremorseful person who 'believes that the world revolves around him'; and who 'used love as a . . . deceptive tactic for exploiting the confidence [petitioner] extended towards him.' . . .

We find these observations and conclusions insufficiently in-depth and comprehensive to warrant the conclusion that a psychological incapacity existed that prevented the respondent from complying with the essential obligations of marriage. It failed to identify the root cause of the respondent's narcissistic personality disorder and to prove that it existed at the inception of the marriage. Neither did it explain the incapacitating nature of the alleged disorder, nor show that the respondent was really incapable of fulfilling his duties due to some incapacity of a psychological, not physical, nature. Thus, we cannot avoid but conclude that Dr. Tayag's conclusion in her Report — *i.e.*, that the respondent suffered "Narcissistic Personality Disorder with traces of Antisocial Personality Disorder declared to be grave and incurable". — is an unfounded statement, not a necessary inference from her previous characterization and portrayal of the respondent. While the various tests administered on the petitioner could have been used as a fair gauge to assess her own psychological condition, this same statement cannot be made with respect to the respondent's condition. To make conclusions and generalizations on the respondent's psychological condition based on the information fed by only one side is, to our mind, not different from admitting



hearsay evidence as proof of the truthfulness of the content of such evidence.²⁵

Concomitantly, the rulings of the trial and appellate courts - identical in most respects - are entitled to respect and finality. The same being correct, this Court finds no need to disturb them.

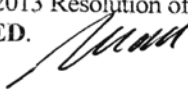
The issue of whether or not psychological incapacity exists in a given case calling for annulment of marriage depends crucially, more than in any field of the law, on the facts of the case. Such factual issue, however, is beyond the province of this Court to review. It is not the function of the Court to analyze or weigh all over again the evidence or premises supportive of such factual determination. It is a well-established principle that factual findings of the trial court, when affirmed by the Court of Appeals, are binding on this Court, save for the most compelling and cogent reasons x x x.²⁶

To reiterate, psychological incapacity under Article 36 of the Family Code must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. "The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved."²⁷ Finally, the burden of proving psychological incapacity is on the petitioner.

x x x Indeed, the incapacity should be established by the totality of evidence presented during trial, making it incumbent upon the petitioner to sufficiently prove the existence of the psychological incapacity.²⁸

With petitioner's failure to prove her case, her petition for declaration of nullity of her marriage was correctly dismissed by the courts below.

WHEREFORE, the Petition is **DENIED**. The December 14, 2012 Decision and August 29, 2013 Resolution of the Court of Appeals in CA-G.R. CV No. 95112 are **AFFIRMED**.



²⁵ *Viñas v. Parel-Viñas*, 751 Phil. 762, 775-775 (2015), citing *Rumbaua v. Rumbaua*, 612 Phil. 1061 (2009).

²⁶ *Perez-Ferraris v. Ferraris*, 527 Phil. 722, 727 (2006).

²⁷ *Santos v. Court of Appeals*, 310 Phil. 21, 39 (1995).

²⁸ *Republic v. Court of Appeals*, 698 Phil. 257, 267 (2012).

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

(On leave)
MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
*Acting Chief Justice**



* Per Special Order No. 2539 dated February 28, 2018.