



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Baguio

SECOND DIVISION

**MARIA VICIA CARULLO-
PADUA,**

G.R. No. 208258

Petitioner,

Present:
PERLAS-BERNABE, S.A.J.,*
CAGUIOA,**
HERNANDO,
*Acting Chairperson,****
ROSARIO, and
MARQUEZ, JJ.

- versus -

JOSELITO PADUA,

Promulgated:

Respondent.

APR 27 2022

X ----- X

DECISION

HERNANDO, J.:

This petition for review on *certiorari*¹ seeks to set aside the August 28, 2006 Decision² and the November 14, 2011 Resolution³ of the Court of Appeals (CA) in CA-G.R. CV No. 80952. The assailed Decision affirmed the September 2, 1999 Decision⁴ of the Regional Trial Court (RTC) of Las Piñas City, Branch 253, in Civil Case No. LP-97-0169, which denied the petition⁵ for declaration of nullity of marriage filed by herein petitioner Maria Vicia Carullo-Padua (Maria) against respondent Joselito Padua (Joselito).

* On official leave.

** Designated additional Member vice J. Zalameda who concurred in the assailed CA Decision per Raffle dated April 12, 2022.

*** Per Special Order No. 2887 dated April 8, 2022.

¹ *Rollo*, pp. 25-47.

² Id. at 8-19. Penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Portia Aliño-Hormachuelos and Arcangelita Romilla-Lontok.

³ Id. at 20-21. Penned by Associate Justice Amelita G. Tolentino and concurred in by Associate Justices Normandie B. Pizarro and Rodil V. Zalameda (now a Member of this Court).

⁴ Id. at 103-107. Penned by Presiding Judge Jose F. Caoibes, Jr.

⁵ Id. at 86-94.

Factual Antecedents:

Maria and Joselito were married in a civil ceremony on February 5, 1982 followed by a church wedding on December 18, 1982. The union produced a son born on March 23, 1986.⁶

On July 17, 1997, Maria filed a petition⁷ for declaration of absolute nullity of their marriage with the trial court anchored on Article 36 of the Family Code. Maria alleged that at the time of the celebration of their marriage, Joselito was psychologically incapacitated to perform his marital obligations. During their cohabitation, Joselito exhibited excessive sexual desire and forced her to perform oral and anal sex with him;⁸ that there were occasions when respondent attempted to sexually molest her sister, nieces and their household help who were staying with them; that respondent admitted to said attempts of molestations but begged her to keep said incidents a secret;⁹ that Joselito misrepresented himself as a Roman Catholic when he was actually a born-again christian; that when Maria refused to convert to Joselito's religion, he began insulting her religious beliefs;¹⁰ and that at one point, at the heat of their quarrel, Joselito attempted to kill Maria by threatening to stab her with a letter opener.¹¹

Maria also alleged that Joselito failed to provide financial support for her and their child; that right after they got married, Joselito insisted that they stay in her parents' house so that he can give half of his salary to his own parents; that they were dependent on Maria's parents for support;¹² and that Joselito never bothered to share in the household expenses while they were living at her parents' house. Maria further claimed that when Joselito lost his job in 1985, he remained unemployed for six months because he did not try to find work until she asked him to look for one.¹³

Joselito also failed to provide emotional and psychological support to their child. He preferred staying in their room rather than to spend time with their only son. Occasionally, he would physically harm their child when the latter would attempt to play with him.¹⁴

Maria further averred that in 1990, Joselito left for Italy to work without consulting her. While working abroad, Joselito stopped sending financial support to her and their son after settling the huge debt he incurred here in the Philippines. Consequently, Maria raised and supported their son all by herself.

⁶ *Rollo*, p. 10.

⁷ Records, pp. 1-9.

⁸ *Id.* at 2.

⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.* at 3-4.

¹² *Id.* at 4.

¹³ *Id.*

¹⁴ *Id.* at 5.

Later, in 1992, Joselito sent a letter admitting to his shortcomings on their marital relationship and making known of his decision to sever ties with her and their son. However, when Joselito returned to the Philippines in 1997, he sought custody of their child who was under her care.¹⁵

Upon the foregoing averments, Maria concluded that there is sufficient basis to declare Joselito psychologically incapacitated to comply with his essential marital obligations. Hence, Maria's marriage with Joselito should be declared null and void pursuant to Article 36 of the Family Code.¹⁶

As Joselito did not file an answer, the court *a quo* ordered the public prosecutor to conduct an investigation to ensure that no collusion existed between the parties.¹⁷

After the public prosecutor determined that there was no collusion between the parties, trial proceeded in Joselito's absence.¹⁸ In its comment¹⁹ dated December 3, 1997, the Office of the Solicitor General manifested its opposition to the petition.

During trial, petitioner presented herself and psychiatrist Dr. Cecilia Villegas (Dr. Villegas) as witnesses. Maria testified on the allegations contained in her petition²⁰ while Dr. Villegas testified on the personality evaluation²¹ report she prepared.²²

Dr. Villegas testified that she diagnosed Joselito with a personality disorder of a sexual deviant or perversion based on Maria's narrations. Joselito's preference for anal and oral sex, as well as the molestations he committed against Maria's relatives and housemaid, were manifestations of Joselito's perversion. The root cause of Joselito's personality disorder is traceable to his wretched childhood. Inasmuch as Joselito spent his youth with a cruel father and a very protective mother, the unbalanced relationship between Joselito's parents developed some emotional confusion on him. As a result, Joselito's sexual development did not mature. Dr. Villegas added that the psychological disorder of Joselito is grave, serious and not clinically curable which rendered him psychologically incapacitated to perform his marital obligations.²³

Ruling of the Regional Trial Court:

On September 2, 1999, the trial court denied the petition, *viz.*:

¹⁵ Id. at 4-5.

¹⁶ Id. at 6.

¹⁷ Id. at 26.

¹⁸ Id. at 27.

¹⁹ Id. at 63-66.

²⁰ *Rollo*, pp. 104-105.

²¹ Id. at 82-85.

²² Id. at 105.

²³ Id.

WHEREFORE, premised on the foregoing, the petition for declaration of nullity of marriage filed by Maria Vicia Carullo-Padua is DISMISSED for lack of merit and the marriage contract between said petitioner and Joselito Padua is declared VALID and SUBSISTING.

No costs.

SO ORDERED.²⁴

The trial court held that the evidence adduced by Maria failed to overcome the legal presumption in favor of the validity of her marriage with respondent.²⁵ It ratiocinated that:

x x x [T]he evidence presented by the petitioner only proves infidelity and sexual perversion of the respondent after the marriage and standing as it is, cannot be said to be a permanent sickness and so serious that the same prevented respondent from assuming his marital obligations. As a matter of fact, respondent was aware of and accepted that his infidelity and perversion were all his faults and he even asked forgiveness from petitioner in his letter dated 15 November 1992 (Exh. 'E'). Contrary to the contention of petitioner, respondent tried to be a good provider to his family as shown by the fact, as petitioner admitted herself (TSN, pp. 12-14, 24 September 1998), that respondent had a job although his earnings therefrom were not enough because he had to give one-half of his salary to his own parents for one reason or another. Nevertheless, petitioner and respondent, during their marriage, were still able to purchase a parcel of residential land of their own at T.S. Cruz Subdivision, Almanza, Las Pinas [sic] City (Exh. 'D').

Without discounting the truthfulness of the report and testimony of Dr. Cecilia Villegas to the effect that respondent suffers from a personality disorder of a sexual deviant or pervert type, this Court is of the considered view that the same is not supported by veritable proof that such disorder is so grave or serious as to incapacitate respondent from performing his marital obligations. Firstly, it is clear from the record that Dr. Villegas' evaluation and examination of respondent was based on the data and information supplied by petitioner herself (TSN, pp. 20-21, 11 January 1999), the very person interested in sustaining her petition; hence, the conclusions derived therefrom are of doubtful veracity. Secondly, the law requires that prior to the filing of the petition, there must be an occasion when either or both of the parties in a marriage contract has been found by a clinical or medical psychologist or psychiatrist to be suffering from psychological incapacity and such fact is to be averred in the petition. But as this petition stands here now, petitioner consulted Dr. Villegas only for the purpose of sustaining her petition (pp. 30-31, *Ibid.*); hence, the findings of Dr. Villegas cannot impartially render the legal aid the same is supposed to give to this Court to arrive at an impartial decision as said findings are tainted with legal infirmity."²⁶

Maria appealed²⁷ before the appellate court.

²⁴ Id. at 107.

²⁵ Id. at 105-106.

²⁶ Id. at 106.

²⁷ Records, p. 198.

Ruling of the Court of Appeals:

The appellate court sustained²⁸ the judgment of the trial court.

It held that the grounds relied upon by Maria to support her petition to declare the nullity of her marriage with Joselito, *i.e.*, sexual perversion, abandonment, Joselito's attempt against her life, and sexual infidelity, assuming said circumstances to be true, are not grounds for annulment of the marriage but at best valid grounds for legal separation under Article 55 of the Family Code.²⁹

Maria moved for a reconsideration but it was denied in the appellate court's November 14, 2011 Resolution.³⁰

Hence, this recourse of petitioner hinged on the following grounds:

A. THE ASSAILED DECISION FAILED TO CONSIDER THE PETITION BASED ON THE UNDISPUTED EVIDENCE. RATHER IT WAS RESOLVED BASED ON A *PRIORI* PRESUMPTIONS AND GENERALIZATIONS.

B. SADISM IS A SEXUAL ANOMALY THAT RENDERS RESPONDENT PSYCHOLOGICALLY INCAPACITATED UNDER RULE (SIC) 36 OF THE FAMILY CODE.

C. PETITIONER PROVED WITH CLEAR AND CONVINCING EVIDENCE RESPONDENT'S PSYCHOLOGICAL INCAPACITY, PERSONALITY DISORDER, DEVIANCE AND PERVERSION; AND SUCH PSYCHOLOGICAL INCAPACITY IS GRAVE, HAS JURIDICAL ANTECE[DE]NCE AND IS INCURABLE.

D. RESPONDENT, PROVEN TO BE A SEXUAL DEVIANT AND PERVERT, IS PSYCHOLOGICALLY INCAPACITATED TO PERFORM HIS ESSENTIAL MARITAL OBLIGATIONS TO PETITIONER.³¹

Maria posits that the appellate court's judgment was based on *priori* assumptions and generalizations.³² In affirming the denial of the petition for declaration of nullity of marriage, the appellate court simply made a pronouncement that "Article 36 of the Family Code, as amended 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"³³ without explaining why Joselito's sexual sadism, abandonment and infidelity do not constitute psychological incapacity.³⁴

²⁸ *Rollo*, pp. 8-18.

²⁹ *Id.* at 16-17.

³⁰ *Id.* at 20-21.

³¹ *Id.* at 33-34.

³² *Id.* at 34-36.

³³ *Id.* at 16.

³⁴ *Id.* at 36-37.

Maria claims that the CA erred in assuming that sexual perversion cannot be a ground for annulment of marriage because the same is a ground for legal separation. The appellate court failed to consider that the sexual sadism of Joselito affected the foundation of their marriage. Joselito's sadistic behavior of forcing Maria to perform anal sex with him, without regard to her feelings, showed that Joselito was patently incapable of fulfilling his marital duty of loving and respecting her.³⁵

The appellate court's disregard of the assessment of an expert witness on Joselito's personality disorder is contrary to settled jurisprudence that "[b]y the very nature of Article 36, courts, despite having the primary task and burden of decision-making, must not discount but, instead, must consider as decisive evidence the expert opinion on the psychological and mental temperaments of the parties."³⁶

Since it was clinically found that: (1) Joselito is a sexual deviant/sadist type, as manifested by his preference for anal and oral sex; and (2) that said personality disorder of Joselito is characterized by seriousness or gravity and incurability, it should be discernible that Joselito is not capable of adhering to a normal sex life. Maria asserts that one who unconsciously inflicts sexual violence on his wife, such as Joselito, is incapable of complying with the essential marital obligations of observing mutual love and respect. Having been declared by a psychiatrist that Joselito is not capacitated to understand or comply with the essential marital obligations, a declaration of nullity of their marriage is in order.³⁷

Issue:

The sole issue for resolution in this case is whether the totality of evidence presented by Maria is sufficient to prove that Joselito is psychologically incapacitated to perform his essential marital obligations, meriting the dissolution of his marriage with Maria.

Our Ruling

We answer in the negative.

Article 36 of the Family Code reads:

ART. 36. A marriage contracted by any party who, at the time of the celebration, 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.

³⁵ Id. at 37-39.

³⁶ *Ngo Te v. Yu-Te*, 598 Phil. 666, 700 (2009).

³⁷ *Rollo*, pp. 40-46.

*Republic v. Iyoy*³⁸ instructs that the psychological incapacity must be characterized by:

- (a) Gravity - It must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in a marriage;
- (b) Juridical Antecedence - It must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after the marriage; and
- (c) Incurability - It must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.³⁹

*Republic v. Court of Appeals and Molina*⁴⁰ (*Molina*), provided the following guidelines in the interpretation and application of Article 36 of the Family Code, viz.:

(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 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 application of the provision under the principle of *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

(3) The incapacity must be proven to be existing at the time of the celebration of the marriage. The evidence must show that the illness was existing when the parties exchanged their I do's. The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.

³⁸ 507 Phil. 485 (2005).

³⁹ Id. at 498.

⁴⁰ 335 Phil. 664, 676 (1997).

(4) Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job x x x .

(5) Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, mild characterological peculiarities, mood changes, occasional emotional outbursts cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

(6) The essential marital obligations must be those embraced by Articles 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

(7) Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts x x x .

x x x x

(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, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the *defensor vinculi* contemplated under Canon 1095.

However, with the recent promulgation of *Tan-Andal v. Andal*⁴¹ (*Tan-Andal*), We have modified the *Molina* guidelines to prevent its stringent application in previous nullity cases which is antithetical to the way the concept of psychological incapacity was created.

In *Tan-Andal*, the husband had a serious drug addiction who constantly failed to overcome his vices and went in and out of a rehabilitation center. His drug addiction was so severe that he even smoked *marijuana* in the same room where their daughter is. His drug addiction also drove his wife's construction

⁴¹ G.R. No. 196359, May 11, 2021.

company to bankruptcy as he took the company's money to fund his drug addiction.

The physician-psychiatrist in *Tan-Andal* diagnosed the husband with narcissistic antisocial personality disorder and substance abuse disorder with psychotic features based on the interviews of the wife, daughter, and sister-in-law of the husband, and the husband's handwritten personal history which the latter made while he was in the rehabilitation center.

In concluding that the husband was psychologically incapacitated, We used the following parameters (*Tan-Andal* guidelines) in determining what constitutes psychological incapacity:

- (1) The psychological incapacity must be shown to have been existing at the time of the celebration of marriage;
- (2) Caused by a durable aspect of one's personality structure, one that was formed prior to their marriage;
- (3) Caused by a genuinely serious psychic cause; and
- (4) Proven by clear and convincing evidence.⁴²

Moreover, psychological incapacity is now neither a mental incapacity nor a personality disorder that must be proven by expert opinion, *viz.*:

[T]his Court now categorically abandons the second *Molina* guideline. **Psychological incapacity is *neither* a mental incapacity nor a personality disorder that must be proven through expert opinion. There must be proof, however, of the durable or enduring aspects of a person's personality, called "personality structure," which manifests itself through clear acts of dysfunctionality that undermines the family.** The spouse's personality structure must make it impossible for him or her to understand and, more important, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the latter contracted marriage may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse. From there, the judge will decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.

In this way, the Code Committee's intent to limit the incapacity to "psychic causes" is fulfilled. **Furthermore, there will be no need to label a person as having a mental disorder just to obtain a decree of nullity.** A psychologically incapacitated person need not be shamed and pathologized for what could have been a simple mistake in one's choice of intimate partner, a mistake too easy to make as when one sees through rose-colored glasses. A person's psychological

⁴² Id.

incapacity to fulfill his or her marital obligations should not be at the expense of one's dignity, because it could very well be that he or she did not know that the incapacity existed in the first place.⁴³ (Emphasis ours)

Thus, as categorically declared by the Court, expert testimony or the testimony of a psychologist/psychiatrist is no longer required to prove psychological incapacity. Ordinary witnesses who have been present in the spouses' lives before they contracted marriage may testify on their observations as to the incapacitated spouse's behavior. What is important is that the totality of evidence is sufficient to support a finding of psychological incapacity.

Similarly, juridical antecedence of psychological incapacity may be proven by ordinary witnesses who can describe the incapacitated spouse's past experiences or environment while growing up which may have triggered one's particular behavior.⁴⁴ At any rate, the gravity of psychological incapacity must be shown to have been caused by a genuinely serious psychic cause. Thus, "mild characterological peculiarities, mood changes, occasional emotional outbursts" are still not accepted grounds that would warrant a finding of psychological incapacity under Article 36 of the Family Code.⁴⁵

Tan-Andal also modified the requirement on incurability — that psychological incapacity under Article 36 of the Family Code must now be incurable, not in the medical, but in the legal sense.⁴⁶ As explained, psychological incapacity must be:

[x x x] so enduring and persistent with respect to a specific partner, and contemplates a situation where the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage. "[A]n undeniable pattern of such persisting failure [to be a present, loving, faithful, respectful, and supportive spouse] must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other."⁴⁷ (Emphasis Ours)

Using the foregoing yardsticks, We reviewed the totality of evidence presented by Maria and found that the same was miserably wanting to sustain the conclusion that Joselito was psychologically incapacitated to perform the basic obligations of marriage.

The personality evaluation report⁴⁸ prepared by Dr. Villegas carried a finding that Joselito suffers from a sexual deviant personality disorder or

⁴³ Id.

⁴⁴ Id.

⁴⁵ Id., citing *Republic v. Court of Appeals and Molina*, 335 Phil. 664, 678 (1997).

⁴⁶ Supra note 43.

⁴⁷ Id., citing J. Perlas-Bernabe's Concurring Opinion.

⁴⁸ *Rollo*, pp. 82-85.

perversion. Notably, this was based solely on Maria's narrations. The psychiatric examination on Maria and interview on her regarding Joselito's family background merely established that the cause of Joselito's personality disorder is likely due to the contrasting parenting behavior of Joselito's father and mother. The relevant portion of her evaluation reads:

On the other hand, Joselito grew up in a family, presenting a strong psychopathology. A cruel father, with whom children are afraid of and a protecting and over solicitous mother, developed confusion in their emotional attachment and identification. It would just be a natural occurrence, that they would lean towards a lesser resistance, developed a faulty role identification, especially in children of the opposite sex. The caring and protecting attitude of the mother, without the balancing effect of the father, gave the children unnatural security and attachments, which became inappropriate in adulthood. Because of faulty identification, he was not able to resolve and became fixated in a sexual stage of development, without reaching a mature genital level.⁴⁹

The psychiatrist's description of Joselito's parents' traits does not give this Court a deeper intuitive understanding of Joselito's psychological state. Notably, there was no information how Joselito reacted towards the supposed contrasting personalities of his parents during his formative years. Neither was there any account as to how the said contrasting parenting behavior affected Joselito's social, intellectual, moral, and emotional growth.

Although it had been emphasized in *Marcos vs. Marcos*⁵⁰ and reiterated in *Tan-Andal* that there is no requirement for one to be personally examined by a physician before he may be declared psychologically incapacitated because what is important is the presence of evidence that adequately establishes the party's psychological incapacity, still, the totality of evidence presented by Maria is lacking to support a finding of psychological incapacity on the part of Joselito.

To emphasize, the testimonies of ordinary witnesses who have been present in the life of the spouses **before the latter contracted marriage** should include behaviors that they **have consistently observed from the supposedly incapacitated spouse**.⁵¹ Here, not only was there no interview or psychological test conducted upon Joselito, there was nobody who testified on vital information regarding his personality structure, upbringing and childhood such as members of his family, relatives, friends, and co-workers. The evaluation of Dr. Villegas on Joselito was based merely on information, accounts and descriptions relayed solely by Maria which glaringly and expectedly are biased.

⁴⁹ Id. at 84.

⁵⁰ 397 Phil. 840, 850 (2000).

⁵¹ Supra note 43.

Applying the amended guidelines in the *Tan-Andal* case, Maria should have presented witnesses who have been present in their lives before they contracted marriage and who could very well testify on the respondent's behavior. As it stands, the evidence at hand is insufficient to prove juridical antecedence.

We likewise observed that Dr. Villegas merely made a general statement that Joselito's personality disorder is characterized by gravity and incurability. Dr. Villegas utterly failed to expound on the extent or degree of gravity and incurability of Joselito's claimed personality disorder. In any case, it must be stressed that the determination of psychological incapacity is not overly reliant on a psychological report, as long as the totality of evidence presented supports a finding of psychological incapacity. However, apart from the psychological report, there is no other evidence presented to substantiate the allegation of psychological incapacity.

Anent Dr. Villegas' statement that Joselito's preference for oral and anal sex is a grave and serious personality disorder because it affects the sexual function of Joselito and the sexual life of Maria,⁵² We hereby reiterate our pronouncement in *Molina* that "mere showing of 'irreconcilable differences' and 'conflicting personalities' [as in the present case,] in no wise constitutes psychological incapacity."⁵³

In *Republic v. Cabantug-Baguio*,⁵⁴ it was ruled that the failure of the parties to meet their responsibilities and duties as married persons does not amount to psychological incapacity. In this case, the couple's irreconcilable sexual preferences would in no way amount to psychological incapacity. Joselito's inability to sexually satisfy his wife Maria because the latter prefers the conventional way of coitus could not be taken to mean that Joselito is psychologically incapacitated. Sexual incompatibility is not a ground for declaration of nullity of marriage.

With regard to the other grounds relied upon by Maria in support of her petition for the declaration of nullity of her marriage, *i.e.*, sexual infidelity and abandonment, this Court agrees with the CA that said circumstances, assuming that they were true, are grounds for legal separation under Article 55 of the Family Code and not for declaration of nullity of marriage under Article 36 of the Family Code.

Article 36 contemplates *incapacity* or *inability* to take cognizance of and to assume basic marital obligations and not merely *difficulty*, *refusal*, or *neglect*

⁵² TSN, January 11, 1999, pp.14-15.

⁵³ *Supra* note 42 at 674.

⁵⁴ 579 Phil. 187, 199 (2008).

in the performance of marital obligations or *ill will*.⁵⁵ This incapacity consists of the following: (a) a true inability to commit oneself to the essentials of marriage; (b) this inability to commit oneself must refer to the essential obligations of marriage: the conjugal act, the community of life and love, the rendering of mutual help, the procreation and education of offspring; and (c) the inability must be tantamount to a psychological abnormality.⁵⁶

It is worthy to emphasize that Article 36 of the Family Code contemplates downright incapacity or inability to take cognizance of and to assume the basic marital obligations.⁵⁷ It is not enough to prove that a spouse failed to meet his responsibilities and duties as a married person; incapacity must be so enduring and persistent with respect to a specific partner, that the only result of the union would be the inevitable and irreparable breakdown of the marriage.⁵⁸

Irreconcilable differences, conflicting personalities, emotional immaturity and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and abandonment, by themselves, also do not warrant a finding of psychological incapacity under the said Article.⁵⁹ It must be stressed that an unsatisfactory marriage is not a null and void marriage.⁶⁰

Time and again, it has been held that the State takes a high stake in the preservation of marriage rooted in its recognition of the sanctity of married life and its mission to protect and strengthen the family as a basic autonomous social institution.⁶¹ Hence, any doubt should be resolved in favor of the existence and preservation of the marriage and against its dissolution and nullity.⁶² Presumption is always in favor of the validity of marriage. *Semper praesumitur pro matrimonio*.⁶³

WHEREFORE, the petition is hereby **DENIED** for lack of merit. The August 28, 2006 Decision and November 14, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 80952 sustaining the validity of the marriage of Maria Vicia Carullo-Padua with Joselito Padua are hereby **AFFIRMED**.

⁵⁵ *Cortez v. Cortez*, G.R. No. 224638, April 10, 2019.

⁵⁶ *Yambao v. Republic*, 655 Phil. 346, 358-359 (2011).

⁵⁷ *Cortez v. Cortez*, supra note 57.

⁵⁸ Supra note 43.

⁵⁹ *Carating-Siyngco vs. Siyngco*, 484 Phil. 396, 413, (2004); *Dedel vs. Court of Appeals*, 466 Phil. 226, 233 (2004); *Guillen-Pesca vs. Pesca*, 408 Phil. 713, 714 (2001); *Marcos vs. Marcos*, supra note 52; *Hernandez vs. Court of Appeals*, 377 Phil. 919, 931 (1999).


⁶⁰ *Alcazar vs. Alcazar*, 618 Phil. 616, 632 (2009).

⁶¹ *Castro v. Castro*, G.R. No. 210548, March 2, 2020.

⁶² *Carating-Siyngco vs. Siyngco*, supra note 62 at 412.

⁶³ Id.

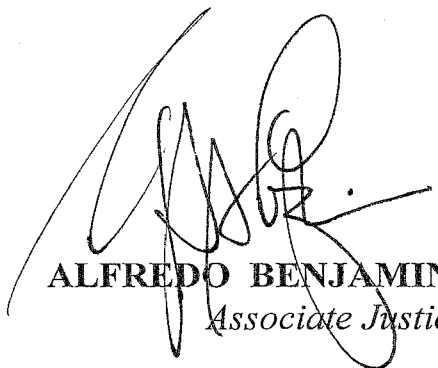
SO ORDERED.



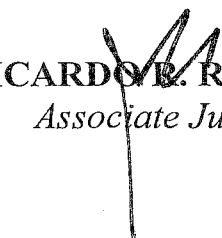
RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:

On official leave.
ESTELA M. PERLAS-BERNABE
Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice




RICARDO E. ROSARIO
Associate Justice



JOSE MIDAS MARQUEZ
Associate Justice

ATTESTATION

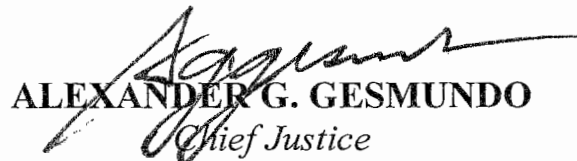
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



~~RAMON PAUL L. HERNANDO~~
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.



ALEXANDER G. GESMUNDO
Chief Justice

