



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

**“G.R. No. 252964 – ALBERTO DG. YANORIA, petitioner, versus REPUBLIC OF THE PHILIPPINES and EVELYN M. CONSTANTINO-YANORIA, respondents.**

After reviewing the Petition and its annexes, inclusive of the Court of Appeals (CA) Decision<sup>1</sup> dated January 24, 2020 and Resolution<sup>2</sup> dated July 6, 2020 in CA-G.R. CV No. 112233, as well as the Decision<sup>3</sup> dated March 15, 2017 issued by the Regional Trial Court of Pasay City, Branch 109 (RTC) in Civil Case No. R-PSY-15-18915-CV, the Court resolves to **DENY** the Petition and **AFFIRM** the Decision of the CA.

Here, petitioner Alberto DG. Yanoria (Alberto) mainly argues that the CA erred in characterizing the findings of Dr. Regina Velasco Beltran (Dr. Beltran) as unreliable and one-sided. Citing *Kalaw v. Fernandez*<sup>4</sup> (*Kalaw*), Alberto asserts that “the existence or non-existence of a party’s psychological incapacity should be final and binding for as long as such findings and evaluation of the testimonies of witnesses and other evidence are not shown to be clearly and manifestly erroneous.”<sup>5</sup> Alberto’s reliance on *Kalaw* is misplaced.

In *Kalaw*, the Court declared the marriage of the parties therein void based on: (i) the testimony of Catholic canon law expert, Fr. Gerard Healy; (ii) the testimony of court social worker Jocelyn V.

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<sup>1</sup> *Rollo*, pp. 68-79. Penned by Associate Justice Remedios A. Salazar-Fernando, with the concurrence of Associate Justices Edwin D. Sorongon and Walter S. Ong.

<sup>2</sup> *Id.* at 82-83.

<sup>3</sup> *Id.* at 145-151. Penned by Presiding Judge Tingaraan U. Guiling.

<sup>4</sup> G.R. No. 166357, January 14, 2015, 745 SCRA 512.

<sup>5</sup> *Rollo*, pp. 20-21. Emphasis omitted.

Arre who conducted a case study on the parties and their minor children;<sup>6</sup> (iii) the testimony of the parties' eldest child; and (iv) the testimony and report of psychologist Dr. Cristina Gates whose findings were based on interviews conducted not only with petitioner therein, but also with his sister and his youngest son.

Here, the evidence on record are the testimonies of Alberto, the nephew of respondent Evelyn Yanoria (Evelyn) Briane Asuncion (Briane), and Dr. Beltran.

Dr. Beltran's findings were based on information relayed by Alberto, Evelyn's sister Lilibeth Bancud (Lilibeth) and the latter's husband Gerardo Dela Cruz (Gerardo). A careful perusal of Dr. Beltran's report shows that the material information relayed by Lilibeth and Gerardo were based on matters which were only relayed to them by Evelyn. To quote:

**INTERVIEW WITH CORROBORATIVE WITNESS**  
— *Lilibeth Bancud* x x x:

x x x x

[Evelyn] related to the Witness that her husband would always give the alibi that he was busy with his work as a Purchaser, since he constantly went out x x x drinking with several suppliers. Unavoidably, this gives way to meeting several bar girls and be (sic) in fleeting affairs with some of them. This had become the source of their marital squabbles. It was admitted by [Evelyn] that she would nag on her husband and would not listen to his explanation, because she felt cheated by him.

Later, because of their continuous misunderstanding and [Evelyn's] desire to provide a bright future to her family, she left to work abroad. The Witness confessed that before [Evelyn] left the Philippines, she confided that she confirmed that her husband x x x is gay x x x.

x x x x

**INTERVIEW WITH CORROBORATIVE WITNESS**  
— *Jose Gerardo A. Dela Cruz* x x x:

x x x x

According to the Witness, [Evelyn] also observed the effeminate [acts] of [Alberto] and confronted him regarding this. However, [Alberto] denied that he is a homosexual, until one day

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<sup>6</sup> See *Kalaw v. Fernandez*, G.R. No. 166357, September 19, 2011, 657 SCRA 824.

in April 2008, [Evelyn] chanced upon [Alberto] in a mall, walking hand in hand with a man. This was told to him by [Evelyn] who was too frustrated x x x of what she discovered about her husband.<sup>7</sup>

Evidently, Dr. Beltran's findings with respect to the parties' alleged disorders are heavily based on *unestablished* facts as neither Lilibeth nor Jose testified to the foregoing matters before the RTC. Too, they do not appear to support Dr. Beltran's conclusion that the parties' disorders are serious, grave, incurable, and existed during the early stages of their lives.<sup>8</sup>

On the other hand, while Briane's testimony adverted to the parties' mutual jealousy, fondness of socializing with others, persistent quarrels, and lack of sexual intimacy, Briane confirmed that Alberto "[tried] his best to become a good husband and father to his wife and child."<sup>9</sup> Further, Alberto himself recognized that she and Evelyn lived harmoniously at the beginning of their married life. Alberto also confirmed that while Evelyn was in Hong Kong, she regularly communicated with and sent monthly allowance to their child.<sup>10</sup>

The circumstances attendant in this Petition cannot be likened to those in *Kalaw*. To be sure, the "totality of evidence" rule in *Kalaw* cannot be stretched to apply to cases where, as here, no other evidence apart from Alberto's testimony exists on record to corroborate the facts which served as basis for the psychological assessment in question.

All told, the Court finds no basis to deviate from the findings of the CA.

The motion for extension of time to submit certified copies of annexes of the petition for review on certiorari, filed by Atty. Delbert F. Evora of Ferancullo Evora Askali Law Firm, counsel for petitioner, requesting for a period of fifteen (15) days from August 26, 2020 or immediately thereafter, within which to submit a certified true copy of the annexes to the petition for review on certiorari, for reasons stated therein is **DENIED**; and the manifestation of Atty. Delbert F. Evora is **NOTED WITHOUT ACTION**, and his motion to admit certified copies of annexes of the petition for review on certiorari, for reasons stated therein, is **DENIED**.

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<sup>7</sup> *Rollo*, pp. 136-137.


<sup>8</sup> See *id.* at 535 and 537.

<sup>9</sup> *Id.* at 310.

<sup>10</sup> *Id.* at 317 and 321.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *8-27-21*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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The Hon. Presiding Judge  
Regional Trial Court, Branch 109  
1300 Pasay City  
(Civil Case No. R-PSY-15-18915-CV)

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