



Republic of the Philippines
Supreme Court
Baguio City

MISAEL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

MAY 23 2019

THIRD DIVISION

ROLANDO D. CORTEZ,
Petitioner,

G.R. No. 224638

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO, and
CARANDANG,* JJ.

- versus -

Promulgated:

LUZ G. CORTEZ,
Respondent.

April 10, 2019

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DECISION

PERALTA, J.:

Petitioner Rolando D. Cortez assails in this petition for review on *certiorari* the Decision¹ dated November 5, 2015 and the Resolution² dated May 13, 2016 of the Court of Appeals (CA) in CA-G.R. CV No. 100062. The CA affirmed the Decision³ dated July 9, 2012 of the Regional Trial Court (RTC) of Valenzuela City, which denied petitioner's petition for the annulment of his marriage to respondent Luz G. Cortez on the ground of psychological incapacity.

The antecedent facts are as follows:

* Designated Additional Member per Special Order No. 2624 dated November 28, 2018.
¹ Penned by Associate Justice Manuel M. Barrios, with Associate Justices Ramon M. Bato, Jr. and Eduardo B. Peralta, Jr. concurring; *rollo*, pp. 44-53.
² *Id.* at 55-56.
³ Per Judge Nancy Rivas-Palmones of Branch 172; *id.* at 132-145.

Petitioner and respondent were married on March 5, 1990. On June 9, 2003, petitioner filed an Amended Petition⁴ for the declaration of nullity of his marriage on the ground of his and respondent's psychological incapacity. He alleged that respondent was introduced to him by the former's brother and the latter's friend. In February 1990, he was invited to a birthday party of respondent's cousin at the latter's house, and after consuming three bottles of beer, he became dizzy and passed out. When he woke up, he was already in a room with respondent and was clad only in his underwear and they were covered with a blanket. Respondent's brother, a policeman, suddenly entered the room and said "*May nangyari na pala sa inyo, dapat panagutan mo iyan.*" He then went home to his mother's house in disbelief.⁵

Petitioner claimed that at about the same time, he was already scheduled to work abroad as a seaman. While at the airport, he was stopped by a hold-departure order issued by the POEA because of respondent's complaint as she was then pregnant. He was forced by respondent's brothers to marry respondent before a Municipal Trial Court Judge of Meycauayan, Bulacan. Thereafter, he and respondent went to his agency where he designated her as his allottee. They went to the POEA to submit their marriage contract and the allotment paper, and he was able to leave for his seaman duty. They never had a honeymoon nor sexual intercourse.⁶

Petitioner averred that while he was abroad, respondent gave birth to a son named John Rol G. Cortez on September 14, 1990. When he came back to the Philippines in March 1991, he was forced by respondent and her brothers to attend the child's baptism on March 31, 1993 and paid for it. He never lived with respondent since his return as he stayed in his sister's house in Valenzuela City until his departure for abroad on October 16, 1991. While overseas, he was shocked to learn from respondent that she had given birth to a baby girl on February 3, 1992 who was named Rose Lyn G. Cortez. The baby was baptized upon his return to the Philippines in October 1992, and he paid for the expenses. He tried to religiously give support despite his doubts and reservations. However, in 1994, he came to know that respondent had a husband and a child in Samar by the name of Nida Guimbaolibot, thus, he suspended giving support to respondent and the two children. However, respondent filed a case of abandonment against him but was later dismissed, as they executed a compromise agreement for the support of the children.⁷

Petitioner claimed that: upon his return to the Philippines in 1998 from his work overseas, he subjected himself to a seminal examination which showed that he had low sperm count and did not have the capacity to impregnate a woman; he continued giving financial support to avoid being

⁴ Docketed as Civil Case No. 115-V-D3; *id.* at 86-99.

⁵ *Rollo*, p. 24.

⁶ *Id.* at 24-25

⁷ *Id.* at 26.



harassed, but stressed that he never cohabited with respondent; and he claimed that they got married not out of love but because of respondent's desire to ensure material support for herself and the children.⁸

In her Answer,⁹ respondent alleged that she and petitioner were introduced by a common friend in 1988; that they began to have a deep relationship sharing each other's pains and secrets; that she intimated to petitioner that she had been sexually abused before and bore a child; that they became sweethearts and he would sleep over at her apartment. When she got pregnant, they decided to get married on March 5, 1990 before a Municipal Trial Court Judge of Meycauayan, Bulacan. When petitioner left for overseas work, they stayed in touch; that he is a responsible husband who saw to it that his wife be named as his allottee. On September 14, 1990, their son was born and petitioner came home for his baptism. She declared that she was five months pregnant when petitioner left again for abroad on October 16 1991 and that the child was baptized upon petitioner's return in October 1992. She claimed that their marital woes started in 1994 when petitioner told her that his new year's wish was to be with another woman, Susan Barry; that they began to have fights and petitioner left their apartment in 1995. She filed a complaint for abandonment and demanded support for their children. She learned that petitioner and Susan Barry are now living together.

Petitioner consulted Dr. Felicitas Artiaga-Soriano, a psychiatrist, whose psychiatric evaluation report stated that petitioner is a person with dependency inclination and has a passive aggressive personality disorder, and was emotionally scarred and bitter for having been forced to marry respondent without love, hence, he had no intention whatsoever to do the duties and obligations of a husband and a father. On the other hand, she found respondent to be suffering from an anti-social personality disorder and that her deceitfulness and persistence in getting money from petitioner had traumatized the latter even more. She declared both parties psychologically incapacitated to comply with the essential marital obligations of marriage.¹⁰

On July 9, 2012, the RTC rendered its Decision, the dispositive portion of which reads:

WHEREFORE, the petition is hereby DENIED. The marriage of Rolando D. Cortez and Luz G. Cortez subsists and remains valid.

Let a copy of this [O]rder be furnished to the parties and their counsels, the Civil Registrars of Valenzuela City and Meycauayan, Bulacan, the National Statistics Office, the Office of the Solicitor General, and the Office of the City Prosecutor of Valenzuela City.

⁸ *Id.* at 26-27

⁹ *Id.* at 100-103.

¹⁰ *Id.* at 112-121.



SO ORDERED.¹¹

The RTC made the following disquisition:

The court cannot close its eyes with the evidence on record. All the portrayal of petitioner about himself and the respondent is the opposite of what he described.

The evidence showed that prior to their marriage on March 5, 1990, petitioner and respondent already knew each other. He knew their ten-year age difference. In the postcard dated August 28, 1988 he sent to respondent, petitioner showed that he cared about respondent by writing the words: "*Pls. take care of yourself and always pray to GOD.*" Petitioner personally applied for a marriage license which he subscribed on February 22, 1990. On March 5, 1990, he signed an allotment slip making the respondent as the authorized person to receive the allotment. And in the said allotment slip, the address of both the petitioner and respondent are the same, that is 3rd Floor St. Cruz [A]partment, Doña Mercedes II Subd., Malhacan, Meycauayan, Bulacan. He likewise made respondent as his allottee when he left abroad in 1992 and in 1994. He attended the baptism of his son John Rol, and contrary to his assertion that his mother learned only later about his marriage with respondent, the evidence showed that his mother was present during the baptismal party of his son. Petitioner also attended to the baptismal of their second child. Contrary to petitioner's assertion that he did not love respondent, did not live with her or have sex with her, the pictures depicting petitioner and respondent on the bed together with respondent wearing skimpy clothes marked as Exhs. 12-13, clearly showed that petitioner and respondent were intimate with each [other] and appeared to be happy together. It was not denied that said pictures were taken sometime in March 1991 to October 1991 while petitioner was in the Philippines using the camera bought by petitioner from abroad. While petitioner was abroad, he showed that he cared for his family by writing respondent a letter asking for her understanding and asking her to take care of herself and their children and promised to respondent that he will save money so that they could put up a business. In order to secure the future of his children with respondent, petitioner invested on educational plans. And even if already separated with respondent, petitioner did not stop supporting his children.

X X X X

Petitioner's claim that respondent is also psychologically incapacitated to comply with her marital obligations is unfounded. Record shows that respondent was actually a caring wife and a loving mother to her children. Respondent had shown that she is capable of fulfilling her martial obligations in the way she cared for the [petitioner] and their children. Respondent filed a complaint against petitioner for abandonment on January 24, 1995[,] which was amended on February 15, 1995 to obligate petitioner to support his children which he actually abandoned. Respondent should not be faulted for filing the case against petitioner to compel him to support his children. All respondent wanted was for petitioner to support

¹¹ *Id.* at 145.

their children which is his obligation as a father. As shown in petitioner's own evidence, he entered into a compromise with respondent on July 17, 1995 resulting in the dismissal of his case.

x x x x

Petitioner's denial that he fathered the two children of respondent is unsubstantiated. The doctor who allegedly examined his sperm count was not presented in court to prove his allegation that he could not bear a child. As admitted by petitioner, at the beginning he did not doubt the paternity of his children. He only started to doubt the paternity of his children when he found out that respondent had a child before they got married. In short, petitioner is not denying that he and respondent were actually living together upon his return from assignment abroad, for which reason the children were created. x x x.

x x x x

Besides in his authorization dated November 21, 2000 addressed to Scholarship Plan Phils., Inc. given to respondent marked as Exh. 4, petitioner described John Rol Cortez and Rose Lyn Cortez as "my children" and "our children."¹²

Petitioner filed a motion for reconsideration, which the RTC denied in an Order¹³ dated October 4, 2012.

Petitioner appealed the Decision to the CA. After the submission of the parties' respective Briefs, the case was submitted for decision.

On November 5, 2015, the CA issued its assailed Decision, the decretal portion of which states:

WHEREFORE, in view of the foregoing, the Decision dated 09 July 2012 of the Regional Trial Court (Branch 172, Valenzuela City) is SUSTAINED.

SO ORDERED.¹⁴

The CA gave credence to respondent's claim that he and respondent had an initially loving and harmonious relationship that turned sour after petitioner decided to be with another woman. It found that the totality of the established facts and circumstances did not prove psychological incapacity as contemplated under Article 36 of the Family Code.

Petitioner filed a Motion for Reconsideration, which the CA denied in a Resolution dated May 13, 2016.

¹² *Id.* at 142-144. (Citations omitted)

¹³ *Id.* at 146.

¹⁴ *Id.* at 52-53.

Hence this petition for review on *certiorari* filed by petitioner.

The issue for resolution is whether the CA erred in affirming the RTC's finding that the totality of evidence presented by petitioner failed to show that either or both parties were psychologically incapacitated to comply with their essential marital obligations which would result in the nullity of their marriage.

We find no merit in the petition.

Article 36 of the Family Code provides:

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.

In *Yambao v. Republic of the Phils.*,¹⁵ We stated:

Article 36 contemplates incapacity or inability to take cognizance of and to assume basic marital obligations and not merely difficulty, refusal, or neglect in the performance of marital obligations or ill will. 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. It is not enough to prove that a spouse failed to meet his responsibility and duty as a married person; it is essential that he must be shown to be incapable of doing so due to some psychological illness.¹⁶

and in *Republic of the Philippines v. Katrina S. Tobora-Tionglico*,¹⁷ We held:

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



¹⁵ 655 Phil. 346 (2011).

¹⁶ *Id.* at 358-359.

¹⁷ G.R. No. 218630, January 11, 2018.

We find no error was committed by the CA when it concurred with the RTC's finding that petitioner failed to show that he and respondent were both psychologically incapable of knowing and performing their marital and parental obligations. A perusal of the records would show that such finding is supported by the evidence. We quote with approval the CA's findings in this wise:

x x x While petitioner-appellant described their marriage as one attended by force and reluctance, respondent-appellee painted a picture of an initially loving and harmonious relationship that turned sour after petitioner-appellant decided to be with another woman.

The pieces of evidence on record appear to be more in consonance with the version of respondent-appellee who incidentally, appears determined to save the marriage.

For one thing, the postcard dated 28 August 1988 that was sent by petitioner-appellant to respondent-appellee supports her claim that they already had a relationship even before 1989. Moreover, the signature of petitioner-appellant on the Application for Marriage License dated 22 February 1990 belie his claim that he was forced to marry respondent-appellee on their wedding day, specifically, 05 March 1990. Additionally, the pictures of the couple and their children undeniably depict filial cohabitation as a family and, including his letters and educational plans for the children, show that petitioner-appellant genuinely cared for respondent-appellee and their children. Furthermore, the claim of petitioner-appellant disputing his paternity of the two (2) children, self-serving and uncorroborated by scientific evidence, is undeserving of credence; even more so as We also note that petitioner-appellant continued to support the children even after the parties have already separated in fact, which conduct is inconsistent with the allegations now being advanced by petitioner-appellant.

x x x x

In this case, both parties undoubtedly comprehend the nature and importance of their spousal and parental duties. The letters of respondent-appellee to petitioner-appellant attached to his Reply dated 9 October 2003 - demonstrate the former's capacity and willingness to understand and forgive the latter even after he had committed infidelity to their marital union. Petitioner-appellant described respondent-appellee to be deceitful and manipulative; yet, in contrast, she asked for his forgiveness for being a nagging wife and for being jealous. In Our view, these are not the qualities of a person who is psychologically incapacitated to understand and comply with the essential marital obligations espoused under the law.

Finally, even granting for the sake of argument that petitioner-appellant's contentions are true, the petition for declaration of nullity of marriage would still fail because the juridical antecedence, gravity and incurability of the parties' alleged psychological incapacity have not been proven. Here, the complained acts depicting the alleged psychological disorder of the parties happened after the marriage. There was likewise no showing of any underlying cause rooted in the parties' childhood or



adolescence that could have triggered a disorder. x x x Mere stubbornness or refusal to cohabit with his or her spouse or the act of cohabiting with another woman will not be automatically considered as a psychological disorder. Moreover, demanding financial support for one's own children cannot even be considered morally or fundamentally wrong, much less a disorder.¹⁸

Factual findings of the CA, especially if they coincide with those of the RTC, as in the instant case, is generally binding on us.¹⁹ In a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, this Court, may not review the findings of facts all over again. It must be stressed that this Court is not a trier of facts, and it is not its function to re-examine and weigh anew the respective evidence of the parties.²⁰ The jurisprudential doctrine that findings of the Court of Appeals are conclusive on the parties and carry even more weight when these coincide with the factual findings of the trial court, must remain undisturbed, unless the factual findings are not supported by the evidence on record.²¹ We find no reason not to apply this doctrine in the instant case.

Petitioner reiterates that he married respondent not out of love but because he was forced to marry her in order to lift the hold departure order made by the POEA and to be able to work abroad as a seaman, hence, he is psychologically incapacitated to comply with the essential marital obligations of marriage. Such claim does not rise to the level of psychological incapacity that would nullify his marriage. In *Republic of the Phils. v. Spouses Romero*,²² We held:

That he married Olivia not out of love, but out of reverence for the latter's parents, does not mean that Reghis is psychologically incapacitated in the context of Article 36 of the Family Code. In *Republic v. Albios*, the Court held that:

Motives for entering into a marriage are varied and complex. The State does not and cannot dictate on the kind of life that a couple chooses to lead. Any attempt to regulate their lifestyle would go into the realm of their right to privacy and would raise serious constitutional questions. The right to marital privacy allows married couples to structure their marriages in almost any way they see fit, to live together or live apart, to have children or no children, to love one another or not, and so on. Thus, marriages entered into for other purposes, limited or otherwise, such as convenience, companionship, money, status, and title, provided that they comply with all the legal requisites, are equally valid. Love, though the ideal consideration in a marriage contract, is not the only valid cause for marriage. Other considerations, not precluded by law, may validly support a marriage.²³

¹⁸ *Rollo*, pp. 50-52.

¹⁹ *Villanueva v. CA*, 536 Phil. 404, 408 (2006).

²⁰ *Valdez v. Reyes*, 530 Phil. 605, 608 (2006).

²¹ *Id.*

²² 781 Phil 737 (2016).

²³ *Id.* at 747-748.

Petitioner argues that he might have neglected or refused to act in accordance with the norms imposed or expected by society or might have found difficulty in performing such acts, but his neglect, refusal or difficulty was made or committed without realizing that he has marital obligations to perform as husband to respondent. Petitioner relies on the psychiatric evaluation report of Dr. Soriano which showed the antecedence, gravity and incurability of his psychological incapacity at the time of the celebration of the marriage. The Report stated, among others, that petitioner was the youngest of 8 children of a strict father and a mother who was not into mothering; that he grew up with affectional deprivation; that feeling confused, inadequate and inclined to be dependent, he needed support from people around him, waver in his stance and adjustment when confronted by unfamiliar and difficult situations. Thus, Dr. Soriano concluded that:

As for the petitioner, who has introversive learning, fraught with underlying anxiety and fears because of his marital experience leaving him emotionally scarred and bitter. Forced to marry the respondent without love and without the intention to do the obligations of marriage aside from financial support as demanded by the respondent, made him also psychologically incapacitated to do the duties and obligations of marriage based on lack of intention, has no inclination whatsoever to know the other no disposition to do service to others and is totally indifferent to the presence of the other - as he did not love the respondent since.²⁴

x x x x

Thus, the antecedence can be traced to his rearing and family environment making him a person with dependency inclination and passive-aggressive in traits. As said, his psychological incapacity stems from his traits and his not loving the respondent from the very beginning. That is where gravity comes in as that is obviously, solid evidence, that he, from the beginning had no intentions whatsoever to do the duties and obligations of a husband and a father.²⁵

We find that the report failed to show how petitioner's personality traits incapacitated him from complying with the essential obligations of marriage. On the contrary, the report established that because petitioner was forced to marry respondent without love, he had no intention to do his full obligations as a husband. 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 on some debilitating psychological condition or illness.²⁶

Notably, petitioner admitted that it was only when he learned in 1994 that respondent had a child prior to their marriage in 1990 that he stopped

²⁴ *Rollo*, p. 121.

²⁵ *Id.* at 123.

²⁶ *Navales v. Navales*, 578 Phil 826, 843 (2008).

giving support to respondent and their two children; that because of the abandonment case filed against him and the threats coming from respondent's brothers if he would stop supporting respondent and the children that he entered into a compromise agreement with respondent regarding the financial support for their children; that despite giving support, however, he refused to live with respondent. Petitioner's showing of ill-will and refusal to perform marital obligations do not amount to psychological incapacity on his part.

Petitioner's claim of lack of realization that he has marital obligation to perform as husband to respondent is not a consideration under Article 36 of the Family Code as what the law requires is a mental illness that leads to an inability to comply with or comprehend essential marital obligations.²⁷

We, likewise, agree with the CA's and the RTC's findings that respondent was not shown to be psychologically incapacitated to comply with her marital obligations. As the CA found, respondent was shown to be a caring wife and a loving mother to her children. The findings and conclusions made by Dr. Soriano that respondent did not have the mind, will and heart to perform the obligations of marriage as she did not show concern for petitioner and was just contented to get money from the latter cannot be given credence. There was no other basis for Dr. Soriano to arrive at such finding other than the information supplied by petitioner. To make conclusions and generalizations on a spouse's psychological condition based on the information fed by only one side is not different from admitting hearsay evidence as proof of the truthfulness of the content of such evidence.²⁸ Moreover, such finding was contradicted by respondent's letters²⁹ to petitioner which were attached to petitioner's Reply filed with the RTC where she wrote how much she wished for petitioner's good health and safety; that the money she received from petitioner's allotment was used to pay for the house rental, children's education and other incidental expenses; that she would like to save money to buy a house for the future of their children; and that she asked for forgiveness for nagging him because of jealousy and that she still loves him. Respondent had shown that she is capable of fulfilling her marital obligations and that she valued her marriage as she even opposed the petition for annulment of her marriage and participated in the trial of the case.

We emphasized that the burden of proving psychological incapacity falls upon petitioner. He must prove that he or respondent suffer from a psychological disorder which renders them incapable of taking cognizance of the basic marital obligations, which he failed to do.

²⁷ See *Tani-Dela Fuente v. De la Fuente*, 807 Phil. 32 (2017).

²⁸ *Republic of the Philippines v. Katrina S. Tobora-Tionglico*, *supra* note 17.

²⁹ Records, pp. 72-75.



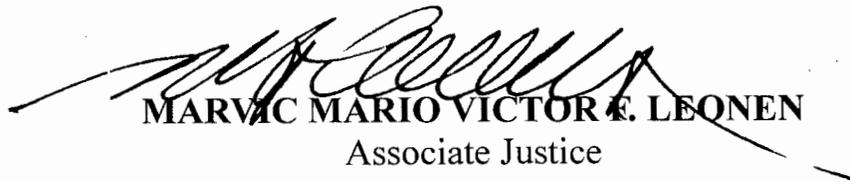
WHEREFORE, the petition for review on *certiorari* is **DENIED**. The Decision dated November 5, 2015 and the Resolution dated May 13, 2016 of the Court of Appeals in CA-G.R. CV No. 100062 are hereby **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


MARVIC MARIO VICTOR E. LEONEN
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice


ROSMARI D. CARANDANG
 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.


DIOSDADO M. PERALTA
 Associate Justice
 Chairperson, Third Division

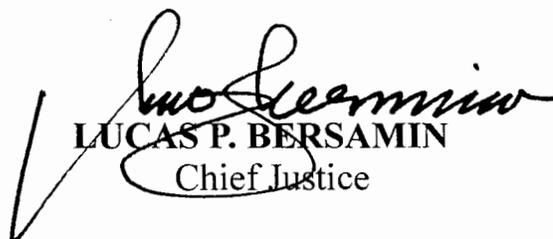
CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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.

CERTIFIED TRUE COPY

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MISAELO DOMINGO C. BATTUNG III
 Deputy Division Clerk of Court
 Third Division

MAY 23 2019


LUCAS P. BERSAMIN
 Chief Justice