



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAPHY VALDEZ DE SILVA,
Petitioner,

G.R. No. 247985

Present:

- versus -

GESMUNDO, C.J., Chairperson,
CAGUIOA,
LAZARO-JAVIER,
LOPEZ, M.,* and
LOPEZ, J., JJ.

DONALD DE SILVA and
REPUBLIC OF THE
PHILIPPINES,

Promulgated:

Respondents.

OCT 13 2021 *withhold*

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DECISION

LOPEZ, J., J.:

In dissolving marital bonds on account of either party’s psychological incapacity, the Court is not demolishing the foundation of families, but it is actually protecting the sanctity of marriage, because it refuses to allow a person afflicted with a psychological disorder, who cannot comply with or assume the essential marital obligations, from remaining in that sacred bond.¹

This resolves a Petition for Review on *Certiorari*² assailing the Court of Appeals’ (CA) February 26, 2019 Decision³ and June 14, 2019 Resolution⁴ in CA-G.R. CV No. 108537, reversing the November 11, 2015 Decision⁵ of the Regional Trial Court, Branch 73, Antipolo City (RTC), that

* On wellness leave.

¹ *Ngo-Te v. Yu-Te*, 598 Phil. 666, 698 (2009).

² *Rollo*, pp. 11-28.

³ penned by Associate Justice Victoria Isabel A. Paredes, with Associate Justices Marlene B. Gonzales-Sison and Ruben Reynaldo G. Roxas concurring; *id.* at 29-37.

⁴ *Id.* at 38-39.

⁵ Penned by Acting Presiding Judge Leli Cruz Suarez; *id.* at 41-49.

declared the marriage of Donald De Silva and Raphy Valdez De Silva void *ab initio* under Article 36 of the Family Code due to psychological incapacity.

Donald De Silva (*respondent*) and Raphy Valdez De Silva (*petitioner*) were high school sweethearts, both attending Camp General Emilio Aguinaldo High School in Quezon City.⁶ Despite having doubts, as respondent had been unfaithful and engaged in heavy gambling during the course of their relationship, petitioner chose to remain with him.⁷ On June 25, 2005, the parties were married⁸ at the Archdiocese Shrine of St. Joseph in Quezon City. Their union did not produce any children.

On July 24, 2012, petitioner filed before the RTC a Petition⁹ for declaration of nullity of marriage under Article 36 of the Family Code. The petition alleged that respondent's personality made him completely unable to discharge the essential obligations of marriage. As early as a week after their wedding, petitioner was surprised to discover that the monetary gifts they had received, which was intended for their savings account, were used up by respondent for his gambling and cockfighting.

In the succeeding months, petitioner continued to notice a shift in her husband's attitude. While petitioner extended financial help to the businesses that respondent would propose, the latter would end up spending the capital to sustain his gambling and drinking. As a result of respondent's excessive spending without maintaining gainful employment, petitioner was constrained to work twice as hard to provide for their needs, doubling up her shifts in the dental clinic to scrape enough for their food and utilities.¹⁰ To make matters worse, when petitioner would fail to hand over money for respondent's ardent gambling, she would be subjected to physical and verbal abuse. During their quarrels, he would resort to threats, pointing a knife at her, saying "*sawa ka [nang] magbigay ng pera, sabihin mo sa akin?*"¹¹ On several occasions, respondent would also punch petitioner on the arm when she refused to support his vices. In one instance, respondent went as far as threatening to burn the house of petitioner's mother if the latter would continue to refuse him. Aside from his drinking and gambling, petitioner also found out that respondent maintained several extramarital affairs; in fact, there were times when respondent would not return to their conjugal home for days, as he would spend it elsewhere with other women.¹²

In 2007, respondent compelled petitioner to provide monthly support to his mother in the amount of ₱2,000.00. Despite petitioner's initial refusal,

⁶ Judicial Affidavit, records, folder 2, p. 95.

⁷ *Id.* at 93.

⁸ Certificate of Marriage, *rollo*, p. 40.

⁹ Records, folder 1, pp. 1-6.

¹⁰ *Id.* at 2

¹¹ *Id.*

¹² *Id.* at 3.

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as her income was barely enough for the both of them, she eventually acquiesced after respondent threatened to kill her entire family if she continued to refuse him.¹³

In 2008, without the knowledge of petitioner, respondent took out two large amounts of loans, one amounting to ₱100,000.00, the other ₱200,000.00. For failure of respondent to satisfy his loan obligations, petitioner was threatened by three men, who visited them in their home. Petitioner regretfully sold her jewelry just to pay off such loans and for such threats to cease.¹⁴

In 2011, due to the overwhelming stress she faced from working double shifts, compounded with respondent's physical and verbal abuse, petitioner was confined at Sunrise Hill Therapeutic Community Hospital due to serious trauma, taking her around three months to recuperate.¹⁵

Finally, sometime in April 2012, petitioner finally decided to leave the conjugal abode. In fact, the couple had been separated since then. Despite leaving home, the verbal abuses persisted. On April 8, 2012, petitioner received a text from respondent, saying: "*kapag hinde ka nagbigay ng pera sa akin sasabuyan ko ng gasoline ang bahay ng nanay mo at susunugin ko, kaya mo pa ba ang pagsustento sa akin kung hinde mo na kaya bigyan mo na lang ako ng pera at maghiwalay na tayo.*" Fearful of what respondent might do, petitioner, accompanied by her mother, Rosalina Valdez y Calugay (*Rosalina*), reported the incident to the Antipolo City Police Station.¹⁶ At the same time, petitioner and her mother applied for a Barangay Protection Order (*BPO*) against respondent, which was subsequently issued by the Punong Barangay on April 25, 2012.¹⁷

In support of the instant petition, petitioner presented the Psychological Assessment Report¹⁸ of clinical psychologist Dr. Nedy L. Tayag (*Dr. Tayag*). Dr. Tayag conducted her psychological evaluation of petitioner through personal examination, while her assessment of the psychological behavior of respondent was based on her interviews of petitioner, Rosalina, and respondent himself, who she was able to interview on the phone. A portion of the Report reads:

REMARKS:

x x x x

¹³ *Id.* at 2-3.

¹⁴ *Id.* at 3.

¹⁵ Medical Receipts and Prescriptions, records, folder 2, pp. 79-92.

¹⁶ Certification, *id.* at 10.

¹⁷ Barangay Protection Order, *id.* at 11-12.

¹⁸ Records, folder 1, pp. 10-33.

The kind of relationship that the petitioner and the respondent have created is seen to be parasitic in the sense that the respondent is feeding off from the efforts of the petitioner. Looking at this, **the marriage had deteriorated due to the psychological incapacitation of the respondent as well as the relative psychological disturbance that the petitioner suffered from.** From this, it was clear that the respondent cannot perform and fulfill the things expected from him as a husband while the petitioner, though aware of her roles and obligations was not able to execute these properly due to the anxiety and tension felt from the kind of treatment that she had received from the person who was supposed to care for her.

The petitioner, RAPHY, is seen to suffer from a relative psychological disturbance which caused her to be ineffective in some of her decisions and roles that she was expected to fulfill as a wife. However it cannot be denied that she did what she can in order to save the marriage and keep in (sic) strong even without any support or effort from the respondent. She tried to complement his shortcomings and make up for these even though it had been a toll for her, physically and emotionally exhausting, Raphy had held on as for (sic) as long as she can in order to honor her marriage vows. Though the situation was far from the fairy tale picture that any woman wants, she wanted to believe that she can change and turn Donald around so that they can have a good relationship as husband and wife. But as time passed, she began to realize that she was being taken advantage and not appreciate as she ought to be. As Raphy assimilate (sic) this and saw that her suffering were also being extended to her parents and other loved ones, she began to see that it was not worth it such that she left the violent kind of home that Donald was making.

Meanwhile, in the case of DONALD, he is seen to suffer from a clinical condition which is known as **ANTI SOCIAL PERSONALITY DISORDER.** This is a pervasive pattern of disregard for and violations of the rights of others as seen in various contexts and manifested in the following:

x x x x

From the kind of upbringing that he has, the respondent has primarily become self-oriented as he is only aimed towards the fulfillment of his self-interest. This was the kind of example that he had seen from his father who indulged his own whims and caprices instead of fulfilling his roles and obligations as a husband, *His (sic) father, Marciano sells coconut in the market and depicted as someone who likes to drink and when inebriated, he would challenge his kids to fight him. He is also a womanizer and gambler.* With this kind of attitude of his father, the respondent was seen to be exposed to intense emotional abuse and neglect. Worse his mother's loud and temperamental ways did not help to give him assurance that he has their support, *The (sic) respondent's mother on the other hand, is also in the same venture as his father and she is characterized as loud and has a temper, "palasigaw sa mga apo, pala-away."*

Moreover, he grew up with lacking satisfactory moral foundations and values, *His (sic) family is described to be loud and rambunctious lot with them growing up to be loud as they come often in the noisy marketplace where their parents' business is situated. Moreover, the family members are fond of borrowing money from people.* Principles like

honor and respect were not given much emphasis by his caregivers as they themselves failed to display such kind of virtues at home, let alone expect the respondent to have one, *The (sic) respondent's family is described to be chaotic, his parents are already separated by (sic) still his father comes home to their abode. "kahit (sic) na dun pa rin umuwi tatay nya, wala ng pakialam ang nanay nya sa tatay nya."* From this kind of environment, he transitioned from a child to a teen and then to an adult, devoid of self-actualizing goals and moral values instead, he mainly functions on immediate gratifications and the possible obstacles that may hinder him from attaining his. Having weak moral foundations, he became as someone who disregarded the needs and feelings of those around him, as he is keen on the satisfaction of his own needs and wants.

Having no good example to influence Donald in a healthy functioning (sic) and straighten his maladaptive manner of going about his expected tasks and roles, he had persisted to be reckless, immature, rebellious, and insensitive. Since he was a child and then became an adult, the respondent failed to change and his irresponsible ways have become more prominent when he reached the latter stage of his development. With this, his condition is seen to be severe, grave and incurable.

It would be difficult to expose him to any kind of clinical intervention, seeing that he does not have any insight of his condition, he would only deflect and resist the attempts to restructure the kind of lifestyle that he had adapted to over the years. Moreover it would a (sic) be tedious endeavor as Donald is seen to develop these attitude, cognitive beliefs and traits when he was still a child and these facts have intrinsically incorporated itself to his personality structure. Over the years, these have become significant and essential features that make up his existence as an individual and seeing that his condition had taken root in the early years of his life and have become more pronounced long before he met the petitioner and joined her in marriage, the psychological incapacity that he exhibits is thereby ruled with juridical antecedence.

Given this regard, the herein undersigned feels that there is nothing more to save in this union especially when mutual feelings of love, trust, respect and understanding do not exist anymore between the petitioner and the respondent with this, it is recommended to have this union between the petitioner **RAPHY VALDEZ-DESILVA** (sic) and the respondent **DONALD G. DESILVA** (sic) declared as null and void on the grounds of psychological incapacity of the latter.¹⁹

The Judicial Affidavit²⁰ of Rosalina was also presented to corroborate petitioner's allegations. Rosalina narrated that she had known respondent at a very young age, often seeing him drinking with several "*tambays*" in the market. Upon learning that respondent was courting her daughter in high school, she told her to stay away from him as he did not come from a good family. Despite her apprehensions, petitioner was insistent on their relationship. When respondent asked for her daughter's hand in marriage, Rosalina gave her approval grudgingly. A few days before the wedding, petitioner came to her crying, wanting to call off the wedding upon

¹⁹ *Id.* at 21-27. (Emphasis ours)

²⁰ *Id.* at 140-148.

discovering that respondent had another woman. Despite this incident, the parties were married in 2005. Greatly hurt, Rosalina did not attend the celebration and became estranged from her daughter until 2007, when the latter asked for forgiveness.

After their reconciliation, the couple began to live with Rosalina, occupying the third floor of her house. It was during this time that Rosalina became more aware of the couple's dynamics. Aside from their constant fighting, consisting of physical beatings and verbal abuse, Rosalina also observed that respondent did not have a stable source of income, often asking her to lend him some money. More, she also noticed that several items in their house went missing, particularly several pieces of her jewelry. Fed up of the missing items and their constant violent quarrels, Rosalina demanded that the couple transfer to one of the apartments she owns located in Barangay Dela Paz, Antipolo City. Rosalina also recalls that, in June 2011, petitioner approached Rosalina for help, as she was suffering from battery at the hands of respondent. Aside from sending her to the hospital for treatment, Rosalina sought legal recourse, by helping her daughter apply for a BPO. She likewise reported to the police that respondent had threatened to burn her house if petitioner refused to give him money.

In his Answer,²¹ respondent rejects any impression of being psychologically incapacitated. He affirms that he married petitioner on June 25, 2005, and that they had been a couple since high school. Despite having their own share of misunderstandings, these were nowhere near serious and would always end in reconciliation. Respondent denied engaging in gambling and spending their hard-earned money on his vices. While he does not deny drinking socially, he was not an alcoholic; in fact, it was his friends who would usually spend for their drinks. Respondent failed to finish his college education; nevertheless, he still made conscious efforts to work doubly hard in his coconut business to augment their income. Undeterred by his own financial constraints, he still managed to support his mother and denied asking for help from petitioner. He further maintains that there was no truth in the allegations that he had been womanizing and abusing his wife. Notwithstanding the issuance of a BPO, the same only pertained to his alleged threatening remarks, and not to any semblance of physical abuse. As they had always been able to resolve their marital conflicts, respondent was surprised that last April 8, 2012, petitioner left their conjugal home without any reason. Despite his attempts to speak to his wife, his efforts were not successful, as they were consistently intercepted by petitioner's parents, especially by Rosalina.

On November 11, 2015, the RTC rendered a Judgment²² declaring the marriage of petitioner and respondent void *ab initio* under Article 36 of the

²¹ *Id.* at 55-59.

²² *Rollo*, pp. 41-49.

Family Code, due to respondent's psychological incapacity, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered declaring the marriage of petitioner and respondent void *ab initio* under Article 36 of the Family Code of the Philippine on the ground of respondent's psychological incapacity to perform her (sic) essential marital obligations.

The Decree of Absolute Nullity shall be issued by the Court only after the Entry of Judgment shall have registered with the [L]ocal Civil Registrar (LCR) where the parties' marriage was celebrated and with the LCR of Antipolo City, conformably with Section 22 of A.M. 02-11-10-SC.

Furnish the Office of the Solicitor General, the Public Prosecutor and the herein parties with a copy of this decision.

SO ORDERED.²³

In finding their marriage void *ab initio*, the RTC found petitioner and her witnesses to be credible and their respective testimonies entitled to full faith and credit. The lower court was likewise convinced that the parties' marriage was not founded on mutual love, respect, support, and especially, fidelity.²⁴ Lending credence to Dr. Tayag's psychological assessment and her findings that respondent suffers from Anti-Social Personality Disorder, the nullification of their marriage was proper under the premises. Moreover, it appears that reconciliation would be highly improbable, as the parties have been separated in fact since 2012.²⁵

Aggrieved, respondent filed a Notice of Appeal²⁶ on November 24, 2016, which was given due course in an Order²⁷ dated December 1, 2016.

On February 26, 2019, the CA issued the assailed Decision²⁸ reversing and setting aside the RTC Decision. It disposed, thus:

WHEREFORE, premises considered, the appeal is **GRANTED**. The *Decision dated November 11, 2015* of the Regional Trial Court, Branch 73, Antipolo City, in Civil Case No. 12-9738 is **REVERSED AND SET ASIDE**. The Petition for Annulment of Marriage is **DISMISSED**.

SO ORDERED.²⁹

²³ *Id.* at 49.

²⁴ *Id.* at 47.

²⁵ *Id.* at 47-48.

²⁶ Records, folder 1, pp. 296-297.

²⁷ *Id.* at 298.

²⁸ *Rollo*, pp. 29-37.

²⁹ *Id.* at 36-37.

In finding the appeal meritorious, the CA held that the totality of evidence presented by petitioner was insufficient to show that respondent is psychologically incapacitated. Stated differently, petitioner failed to show that respondent was suffering from a psychological condition so severe that he was unaware of his obligations to his wife and family. On the contrary, respondent's efforts to provide for his family and reconcile with his wife showed a genuine awareness of his marital obligations. With regard to Dr. Tayag's Report, the CA concluded that the same was highly suspect and skewed, as the information was mainly obtained from petitioner and Rosalina. While respondent was interviewed by Dr. Tayag, the phone conversation was too brief to be considered as a thorough and conclusive evaluation.

Petitioner's Motion for Reconsideration³⁰ was denied by the CA in its assailed Resolution³¹ dated June 14, 2019.

Hence, the instant petition.

The essential issues for the Court's resolution are whether or not the CA erred in ruling that (1) petitioner failed to establish that respondent is suffering from a severe psychological condition; and (2) petitioner failed to establish the root cause of respondent's psychological capacity.

Petitioner argues that the evidence proffered clearly points to the conclusion that respondent had persistently failed to comply with his marital duties: *first*, he had been physically and verbally abusive; *second*, he was far from loving and respectful, having engaged in extramarital relations with other women; and *third*, he had failed to give financial support to the family, as he was without any gainful employment; worse, he would spend his wife's money on his vices. Petitioner further insists that the root cause of respondent's psychological incapacity was sufficiently established, as Dr. Tayag was able to interview both parties. At any rate, petitioner invokes the ruling in *Marcos v. Marcos*,³² where the Court held that there is no requirement that the respondent spouse be personally examined by a physician or psychologist as a condition *sine qua non* for the declaration of nullity of marriage based on psychological incapacity.

In his Comment,³³ respondent asseverates that petitioner failed to establish that he was suffering from a severe psychological condition. The testimony of Rosalina is implausible at best, as her admission to having allegedly witnessed the verbal and physical abuse, yet not lifting a finger to

³⁰ CA rollo, pp. 128-134.

³¹ *Id.* at 144-145.

³² 397 Phil. 840, 842 (2000).

³³ Rollo, pp. 68-78.

help, is contrary to human experience and is unworthy of belief. Moreover, the CA was likewise correct in ruling that Dr. Tayag's Report was based entirely on hearsay and the self-serving information provided by petitioner and Rosalina. Regardless of having interviewed respondent on the phone, the same was not sufficient to assess his condition; neither did the said Report discuss the concept of his supposed anti-social personality disorder, its causes, its symptoms, or even its cure. Due to the gaping insufficiencies in the report, the root cause of the psychological incapacity was not medically or clinically identified and the alleged incapacity was not proven to have existed before or at the time of the celebration of the marriage. Lastly, respondent's condition was not proven to be medically or clinically incurable, as there was no showing that he underwent certain procedures that would help mitigate his illness.

Stripped of verbiage, the core issue is whether the marriage between the parties should be rendered void *ab initio* by reason of the respondent's psychological incapacity.

The Court's Ruling

The Court rules in the *affirmative*. The petition is granted.

Development of Article 36 and the concept of psychological incapacity in law and jurisprudence.

The principle in *Adong v. Cheong Seng Gee*³⁴ astutely expresses the basic tenet of all laws on marriage and family in this country – that the basis of human society throughout the civilized world is marriage. No less than the Constitution has laid down the edict to protect the family as the country's basic social institution,³⁵ with marriage as the foundation of the family. As such, it has been decreed as an inviolable social institution which deserves the utmost protection from the State.³⁶ Reasonably, doubts attending the same are to be resolved in favor of the continuance and validity of the marriage and that the burden of proving its nullity shall rest at all times upon the petitioner.³⁷

³⁴ 43 Phil. 43, 56 (1922).

³⁵ Article II, Section 12 of the 1987 Constitution reads:

Section 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government. (Emphasis ours)

³⁶ Article XV, Section 2 of the 1987 Constitution reads:

Section 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

³⁷ *Eliscupidez v. Eliscupidez*, G.R. No. 226907, July 22, 2019.

From this mandate flows the commitment of Philippine law to act as a bulwark to the institution of marriage. Article 1 of the Family Code pertinently provides:

Article 1. Marriage is a special contract of permanent union between a man and a woman entered into in accordance with law for the establishment of conjugal and family life. It is the foundation of the family and an inviolable social institution whose nature, consequences, and incidents are governed by law and not subject to stipulation, except that marriage settlements may fix the property relations during the marriage within the limits provided by this Code.

In this regard, marriage in this jurisdiction is not just a civil contract, but a new relation, an institution the maintenance of which the public is deeply interested.³⁸ Given the particular nature of marriage characterized as a lifetime commitment which cannot be dissolved by simple whim of the parties, the State has surrounded it with safeguards to preserve its purity, continuity, and permanence, especially since the security and stability of the State is largely dependent on it.³⁹

Concededly, the most controversial of these safeguards is Article 36 of the Family Code, which seeks to assail the validity of a marriage by reason of psychological incapacity. Article 36 states:

Article 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.

Contrary to the assertion of the Office of the Solicitor General (*OSG*) in *Republic v. Molina*⁴⁰ that Article 36 is the “most liberal divorce procedure in the world,” the provision was crafted in order to serve as an implement of the constitutional protection of marriage. As elucidated in *Antonio v. Reyes*,⁴¹ void *ab initio* marriages under Article 36 “do not further the initiatives of the State concerning marriage and family, as they promote wedlock among persons who, for reasons independent of their will, are not capacitated to understand or comply with the essential obligations of marriage.”

While Article 36 owes its roots to Canon Law,⁴² the provision has evolved to become a secular legal creation. Notably, the provision remains

³⁸ *Tilar v. Republic of the Philippines*, 813 Phil. 734, 740 (2017).

³⁹ *Jimenez v. RP*, 109 Phil. 273, 276 (1960).

⁴⁰ 335 Phil. 664, 668 (1997).

⁴¹ 519 Phil. 337, 355 (2006).

⁴² Canon 1095 of the New Canon Law reads:

silent as to the definition of psychological incapacity. Such silence is no oversight, but appears to be the original intent of the legislature. Justice Alicia Sempio-Diy, a member of the Civil Code Revision Committee, emphasized that the concept of psychological incapacity defies definition in order to allow resiliency in its application:

The Committee did not give any examples of psychological incapacity for fear that the giving of examples would limit the applicability of the provision under the principle of *ejusdem generis*. Rather, the Committee would like the judge to interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.⁴³

Justice Eduardo Caguioa, also a member of the Committee, and the proponent for the incorporation of Article 36 of the Family Code, points that such definition should be solely left to the court's discretion, taking into consideration the certain facts of every case it confronts:

A code should not have so many definitions, because a definition straight-jackets the concept and, therefore, many cases that should go under it are excluded by the definition. That's why we leave it up to the court to determine the meaning of psychological incapacity.⁴⁴

Originally understood to be a concept free from demarcation, it is indeed woeful that the Court's later interpretations appear to run in direct contravention to what was envisaged by the legislature.

Despite acknowledging the need to define and limit the scope of psychological incapacity in *Salita v. Judge Magtolis*,⁴⁵ it was not until *Santos v. CA*⁴⁶ that the Court first ventured in interpreting Article 36, explaining that psychological incapacity must be characterized by (1) gravity, (2) juridical antecedence, and (3) incurability. Elaborating on these terms, the Court continued that 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

The following are incapable of contracting marriage:

1. Those who lack sufficient use of reason;
2. Those who suffer from a grave lack of discretionary judgment concerning the essential matrimonial rights and obligations to be mutually given and accepted;
3. Those who, because of causes of a psychological nature, are unable to assume the essential obligations of marriage.

⁴³ *Santos v. Court of Appeals, et al.*, 310 Phil. 21, 36 (1995).

⁴⁴ Congressional Hearing before the Senate Committee on Women and Family Relations, February 3, 1988, as cited in Sta. Maria, *Persons and Family Relations Law* (2010 ed.), p. 205.

⁴⁵ 303 Phil. 106, 114 (1994).

⁴⁶ *Supra* note 43.

marriage; and it must be *incurable* or, even if it were otherwise, the cure would be beyond the means of the party involved.”⁴⁷

Apart from setting basic parameters, the Court’s later pronouncement in the case was perplexing, equating psychological incapacity with personality disorders, a technical medical condition:

x x x There is hardly any doubt that the intendment 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. This psychologic condition must exist at the time the marriage is celebrated.
x x x⁴⁸

In *Republic v. Molina*,⁴⁹ the Court established more definitive guidelines to aid in the interpretation and application of Article 36, incorporating the three requirements in *Santos*. Better known as the *Molina* guidelines, they are as follows:

x x x x

(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 the *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 physically 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 explained. Expert evidence may be given by qualified psychiatrist and clinical psychologists.

⁴⁷ *Id.* at 39. (Italics ours)

⁴⁸ *Id.* at 40. (Emphasis ours)

⁴⁹ *Supra* note 40.

(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.

(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. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.

(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, nor 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. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:

The following are incapable of contracting marriage:
Those who are unable to assume the essential obligations of marriage due to causes of psychological nature.

Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decision of such appellate tribunal. Ideally — subject to our law on evidence — what is decreed as canonically invalid should also be decreed civilly void.

This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church — while remaining independent, separate

and apart from each other — shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.⁵⁰

Predictably, notwithstanding the mere intention to guide the Bench and the Bar, it appears that the jurisprudentially developed parameters in *Santos*, and later *Molina*, have somehow allowed couples to unduly remain in loveless, permanent relationships, which undeniably serve to further debase and adulterate the very institution of marriage. Regrettably, instead of serving as guidelines, they have been applied almost rigidly and mechanically. Such unintended consequences of *Molina* were further discussed in *Ngo Te v. Yu-Te*,⁵¹ to wit:

The unintended consequences of *Molina*, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. Far from what was intended by the Court, *Molina* has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying *Molina*, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals.⁵²

In an attempt to close the floodgates to avoid further misinterpretation, the Court, in the most recent case of *Tan-Andal v. Andal*,⁵³ has finally taken pains to restate the prevailing understanding of the doctrine, which has proven to be, in every manner, “restrictive, rigid, and intrusive of our rights to liberty, autonomy, and human dignity.”⁵⁴ After all, as iterated in *Kalaw v. Fernandez*,⁵⁵ the judicial understanding of psychological incapacity must be continuously informed by evolving standards, taking into account the particulars of each case, by current trends in psychological and even canonical thought, and by experience.

*Refining Article 36 in light of
Tan-Andal v. Andal*

In *Tan-Andal*, the facts are as follows:

Mario Victor M. Andal (*Mario*) and Rosanna L. Tan (*Rosanna*) were married in 1995. The following year, Rosanna gave birth to their only

⁵⁰ *Id.* at 676-679. (Citations omitted)

⁵¹ *Supra* note 1.

⁵² *Id.* at 696.

⁵³ G.R. No. 196359, May 11, 2021.

⁵⁴ *Id.*

⁵⁵ 750 Phil. 482, 506-507 (2015).

daughter, Ma. Samantha. In 2003, Rosanna filed a Petition to declare her marriage to Mario null and void, claiming that Mario was psychologically incapacitated to comply with his essential marital obligations.

Rosanna alleged that even before they were married, she noticed that Mario had difficulty managing his finances, was always out on drinking sprees with his friends, and was extremely irritable and moody. While they were married, Mario was unable to secure any sort of employment; worse, he was addicted to marijuana and had exhibited symptoms of paranoia, thinking that everyone was out to attack him. She also attributes Mario to the closure of her firm, as he used up the company funds for his drug use. There were likewise no sincere efforts on Mario's part to get rehabilitated, having been voluntarily confined thrice. On one occasion, Rosanna was shocked to find that he relapsed one day, smoking marijuana in the same room as their daughter. Since 2000, the parties have long since separated and had not lived together ever since. Mario also failed to give support to his wife and daughter.

On the other hand, Mario argued that it was Rosanna who was psychologically incapacitated, alleging that he was persuaded to marry her as she was planning to abort their child. When they would have quarrels, it was Rosanna who was uncontrollable, resorting to banging her head on furniture and even hurting Ma. Samantha. During one of their fights, Rosanna drove Mario out of the house. Since he had no cash with him, and fearful that his return would further anger his wife, he used up the credit limits of his credit cards. He further maintains that he had always been a good father to Ma. Samantha. While he admitted his drug problem, he denied ever being a threat to his family, having completed the required rehabilitation program in a health facility.

Aside from declaring the marriage void *ab initio*, thereby reversing and setting aside the CA ruling and reinstating the RTC Decision, the Court found the case to be an opportune time to finally give a comprehensive and nuanced interpretation of what constitutes psychological incapacity.

First, it refined the first *Molina* guideline by clarifying the quantum of proof required in nullity cases. While nullity cases were viewed as any other civil case requiring preponderance of evidence, the Court now holds that the plaintiff-spouse must prove his or her case with *clear and convincing evidence*, such quantum of proof that requires more than preponderant evidence, but less than proof beyond reasonable doubt. The reason for this is that this jurisdiction follows the presumption of validity in marriages and as with any presumption, such as the presumption of regularity in the performance of duty, in the issuance of public documents, and the like, it can only be rebutted with clear and convincing evidence.

Second, it rectified the erroneous understanding of the second *Molina* guideline by enunciating that *psychological incapacity is not only a mental incapacity nor only a personality disorder that must be proven through expert opinion. There may now be proof of the durable aspects of the person's personality which make it impossible for him or her to understand and, more importantly, to comply with his or her essential marital obligations.* Consequently, proof of such aspects of personality need not only be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the marriage may testify on the behaviors they have observed from the allegedly incapacitated spouse. This rectification addresses the all too familiar practice in nullity cases for spouses to pathologize each other, in an attempt to unshackle themselves from the eroded marriage. The Court retained the requirement of gravity to exclude any character peculiarities, mood changes, and occasional emotional outbursts; such incapacity must be clearly shown to be caused by a genuinely serious psychic cause.

Third, the Court amended the third *Molina* guideline, ruling that *psychological incapacity is incurable, not in the medical, but in the legal sense.* The Court contemplated this to mean that the incapacity is 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.

Fourth, given that essential marital obligations embrace the relationship between spouses, as well as between parents and children, the Court resolved that *it is not all kinds of failure to meet their obligations to their children that will have the effect of nullifying the vinculum between the spouses.* Necessarily, each and every case must clearly show that it is of such grievous nature that it reflects on the capacity of one of the spouses for marriage.

Fifth, given that Article 36 was essentially lifted from canon law, the persuasive effect of the *decisions of the National Appellate Matrimonial Tribunal of the Catholic Church of the Philippines on nullity cases pending before secular courts is retained.*

Here, Rosanna was found to have discharged the burden of proof required to nullify her marriage to Mario. Clear and convincing evidence of her husband's psychological incapacity consisted mainly of testimony on his personality structure and how it was formed primarily through his childhood and adult experiences, manifesting long before his marriage to Rosanna.

While it may be true that expert opinion is no longer required, it can still be considered; thus, the CA erred in discounting the expert opinion of the psychiatrist for being “unscientific and unreliable.” Facts reveal that the mental evaluation of Mario was not based on collateral information, as the psychiatrist based her diagnosis on a personal history handwritten by Mario himself. This, aside from interviews from Rosanna, Ma. Samantha, and Jocelyn Genevieve, Rosanna’s sister, is sufficient to come up with a reliable diagnosis. After all, the Court said in *Marcos v. Marcos*,⁵⁶ “personal examination of the allegedly psychologically incapacitated spouse is not required for a declaration of nullity of marriage due to psychological incapacity.”⁵⁷

Hence, as long as the totality of evidence, as in this case, sufficiently proves the psychological incapacity of one or both of the spouses, a decree of nullity may be issued. Justice Marvic Mario Victor F. Leonen, in the words of his *ponencia*:

Here, the totality of evidence presented by Rosanna clearly and convincingly proved that Mario’s drug abuse was of sufficient durability that antedates the marriage. Admittedly, part of the marriage is accepting a person for who he or she is, including his addictions. However, in Mario’s case, his persistent failure to have himself rehabilitated, even bringing his child into a room where he did drugs, indicates a level of dysfunctionality that shows utter disregard not only of his obligations to his wife but to his child.

What is undisputed is that Mario failed to render mutual help and support to his wife, failing to find gainful employment and even driving to bankruptcy the construction firm founded by Rosanna by siphoning its funds for his drug use. He failed to exercise his rights and duties as a parent to Ma. Samantha.

*Application of the amended guidelines
in light of Tan-Andal v. Andal*

With *Tan-Andal* serving as a guidepost, this Court finds that respondent is psychologically unfit to discharge the duties expected of him as a husband.

To recapitulate, the standard of proof in nullity cases is now clear and convincing evidence. In *Riguer v. Mateo*,⁵⁸ the standard of proof is derived from American common law. It is “less than proof beyond reasonable doubt (for criminal cases) but greater than preponderance of evidence (for civil

⁵⁶ *Supra* note 32.

⁵⁷ *Id.* at 847.

⁵⁸ 811 Phil. 538 (2017).

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cases). The degree of believability is higher than that of an ordinary civil case.”⁵⁹ As opined by the *ponente* in his concurring opinion in *Tan-Andal*, while it may be true that nullity cases are civil in nature, to provide a higher standard of evidence in other cases that are not otherwise constitutionally protected, is to disregard the *sui generis* nature of marriages *vis-a-vis* other civil cases.⁶⁰

Here, petitioner has sufficiently overcome the *onus probandi* to prove the nullity of her marriage with respondent *via* clear and convincing evidence. To echo *Tan-Andal*, “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.”⁶¹

Data gathered from the testimonies of petitioner, her mother Rosalina, expert witness Dr. Tayag, and even respondent himself, reveals that the latter developed traits such as untrustworthiness, irresponsibility, aggressiveness, lack of compassion and remorse antedating the marriage. Dr. Tayag recounts “having no good example to influence Donald in a healthy functioning (sic) and straighten his maladaptive manner of going about his expected tasks and roles, he had persisted to be reckless, immature, rebellious, and insensitive. Since he was a child, and then became an adult, respondent failed to change and his irresponsible ways have become more prominent when he reached the latter stage of his development. With this, his condition is seen to be severe, grave and incurable.”⁶²

Further, petitioner was able to fully substantiate her allegations of their crumbling marital relationship. Documentary evidence confirms that she was confined in a therapeutic hospital in 2011 for around three months while taking medicine for depression and anxiety due to her exasperation with respondent.⁶³ As asserted by Rosalina, a Certification⁶⁴ from the Antipolo City Police Station likewise proves that on one occasion, respondent threatened to burn down Rosalina’s house if petitioner refused to give respondent money. As admitted by respondent himself, a BPO⁶⁵ was indeed issued on April 25, 2012, against him due to verbal abuse. Records further prove that respondent had taken out numerous loans, even pawning his wife’s jewelry and selling to Rosalina his firearm for his selfish endeavors;⁶⁶ all this he did without gaining employment, leaving his wife to fully support their family. Most telling is the fact that petitioner and respondent have been separated *de facto* since 2012. Having been apart for

⁵⁹ *Id.* at 547.

⁶⁰ *Tan-Andal v. Andal*, *supra* note 53.

⁶¹ *Id.*

⁶² Psychological Assessment Report, records, folder 2, p. 30.

⁶³ Medical Receipts and Prescriptions, *id.* at 79-92.

⁶⁴ Certification, *id.* at 10.

⁶⁵ Records, folder 2, p. 11.

⁶⁶ *Id.* at 39-43.

almost ten years, absent any clear showing of an intent to cohabit, there is enough indication to conclude that the marriage has been so strained that it has long been without peace and harmony – ideals which the State so aims to protect.

In stark contrast, respondent relied on mere suppositions and conjectures to bolster his own version of the facts. Aside from bare allegations that he was financially stable, running a coconut business, and that he had never abused his wife, he never bothered to present proof or present witness testimony to refute petitioner's claims. Basic is the rule in evidence that "bare allegations, unsubstantiated by evidence, are not equivalent to proof."⁶⁷ While this Court commiserates with respondent, it is hard-pressed to render his testimony as self-serving, possessing no serious evidentiary value.

Equally significant, this Court now turns to the veracity of Dr. Tayag's Report as a contributing factor in the determination of respondent's incapacity.

Reports of psychologists and psychiatrists have undeniably become an indelible part in deciding nullity cases, having proven to be helpful in allowing courts to reach an intelligible and informed judgment. Cognizant that different perspectives should govern the disposition of petitions for nullity, the Court, in *Santos*, declared that "the well-considered opinions of psychiatrists, psychologists, and persons with expertise in psychological disciplines might be helpful and even desirable."⁶⁸

However, the Court has excessively relied too much on the assessments of psychiatrists and psychologists, perhaps due to the misnomer that psychological incapacity has been equated to personality disorders. Unsurprisingly, despite the pivotal ruling in *Marcos* that a "medical examination of the person concerned need not be resorted to,"⁶⁹ the Court, in *Tan-Andal*, has observed that even as recent as 2019, it has dismissed a nullity case because the root cause of the spouse's alleged psychological incapacity "was not sufficiently proven by experts."⁷⁰ On the other hand, the Court, in dismissing petitions for nullity, has also been known to hastily disregard such reports wholesale for being hearsay, having been based only on information from the petitioner-spouse. In *Republic v. Tobora-Tionglico*,⁷¹ the Court reasoned: "to make conclusions and generalizations on a spouse's psychological condition based on the information fed by only one side, as in the case at bar, is, to the Court's mind, not different from

⁶⁷ *Domingo v. Robles*, 493 Phil. 916, 921 (2005).

⁶⁸ *Santos v. Court of Appeals*, *supra* note 43, at 41.

⁶⁹ *Marcos v. Marcos*, *supra* note 32, at 850.

⁷⁰ *Tan-Andal v. Andal*, *supra* note 53.

⁷¹ 823 Phil. 672, 692 (2018).

admitting hearsay evidence as proof of the truthfulness of the content of such evidence.”

Thus, courts are once again reminded to decide each case on the *totality of evidence*, which must still be sufficient to prove that the incapacity was grave, incurable, and existing prior to the time of the marriage.⁷² Accordingly, every circumstance that may have some bearing on the degree, extent, and condition of that incapacity must be evaluated, so that “no precipitate and indiscriminate nullity is peremptorily decreed.”⁷³ After all, the adherence to the totality of evidence rule is consonant to practical realities. This Court is not blind to the near impossibility of compelling the supposedly incapacitated spouse to undergo psychological evaluations for purposes of rendering the marriage void. As already pointed out in *Tan-Andal*: “while ideally, the person to be diagnosed should be personally interviewed, it is accepted practice in psychiatry to base a person’s psychiatric history on collateral information, or information from sources aside from the person evaluated. This is usually done if the patient is not available, incapable, or otherwise refuses to cooperate, as in this case.”⁷⁴

Similar to the evaluation in *Tan-Andal*, where the respondent’s personal handwritten history was crucial in lending credence to the psychiatrist’s findings, it is of no question that the report in this case was not anchored unilaterally on assumed knowledge and indirect information gathered from petitioner. Here, respondent himself categorically admitted that he was interviewed personally by Dr. Tayag through the telephone.⁷⁵ In casting doubt on the report’s credibility, respondent offers nothing more than the flimsy argument that he only spoke with Dr. Tayag briefly, without even mentioning the content of their conversation to prove what information she actually received. To be clear, it was through interviews from both parties and Rosalina, who intimately knew respondent before and after the inception of the marriage, that Dr. Tayag was able to trace the history of respondent’s psychological condition and relate it to his existing incapacity at the time of the celebration of the marriage. Glaringly, the CA committed a reversible error in brushing aside the opinions tendered by Dr. Tayag and concluding that the information collated in her report were obtained mainly from petitioner and Rosalina.

Unlike the CA’s assertion that the report lacked specificity, the report identified the tests administered on the petitioner. It also explained that respondent’s incapacity was rooted in his upbringing long before his marriage to petitioner. Verily, it was his hostile family environment that deprived him of his awareness of the duties and responsibilities of the matrimonial bond he assumed:

⁷² *Mendoza v. Republic*, 698 Phil. 241, 243 (2012).

⁷³ *Santos v. Court of Appeals*, *supra* note 43, at 41.

⁷⁴ *Tan-Andal v. Andal*, *supra* note 53.

⁷⁵ TSN, March 4, 2015, p. 9.

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The culprit behind the development of these antisocial traits of the respondent are seen to be the kind of parenting style that he was raised to (sic) and the home environment that he was exposed to during the early years of his life. Being from a broken family and the kind of modeling that he has seen from his parents during the early years of his life have molded him into the kind of person that he is at present.⁷⁶

In fine, there is no reason to completely disregard the report and the findings arrived therein. Besides, given the qualifications of Dr. Tayag as expert, having been a clinical psychologist since 1976⁷⁷ and having been presented in numerous nullity cases as witness, there is sufficient justification to rely on her methodology. As enunciated in *Castillo v. Republic*,⁷⁸ “the probative force of the testimony of an expert does not lie in a mere statement of her theory or opinion, but rather in the assistance that she can render to the courts in showing the facts that serve as a basis for her criterion and the reasons upon which the logic of her conclusion is founded.”

All told, the psychological report, taken together with the documentary and testimonial evidence presented, warrant the declaration that respondent is psychologically incapacitated to perform his essential marital obligations at the time of his marriage to petitioner. The characteristics he exhibited before and during the marriage are more than just a mere difficulty, refusal, or neglect on his part. The parties having been living separately for almost 10 years likewise shows an already impaired relationship that is beyond repair; neither do the facts demonstrate the capacity of the spouses to accept the other which is indispensable to the marital relationship.

As a final note, this Court cites the principle in *Kalaw* that “the fulfillment of the obligations of marriage depends, according to Church decisions, on the strength of this interpersonal relationship. A serious incapacity for interpersonal sharing and support is held to impair the relationship and consequently, the ability to fulfill the essential marital obligations. The marital capacity of one spouse is not considered in isolation but in reference to the fundamental relationship to the other spouse.”⁷⁹

WHEREFORE, in view of the foregoing, the instant petition is **GRANTED**. The Decision of the Court of Appeals, dated February 26, 2019 in CA-G.R. CV No. 108537, is hereby **REVERSED** and **SET ASIDE**.

⁷⁶ Psychological Assessment Report, records, folder 2, p. 29.

⁷⁷ Resume, *id.* at 32.

⁷⁸ 805 Phil. 209, 223 (2017).

⁷⁹ *Kalaw v. Fernandez*, *supra* note 55, at 511.

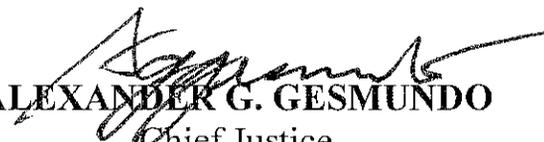
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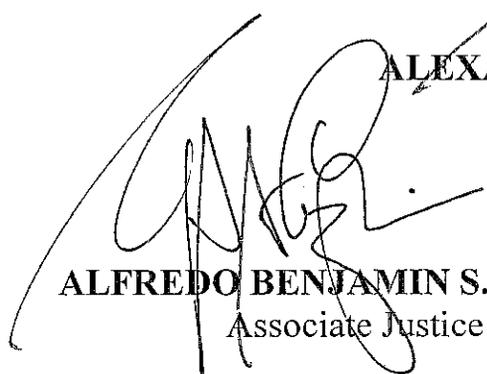
The Decision dated November 11, 2015 of the Regional Trial Court, Branch 73, Antipolo City in Civil Case No. 12-9738 is **REINSTATED**.

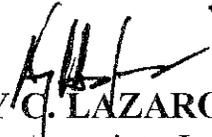
SO ORDERED.


JHOSEP LOPEZ
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice

On wellness leave
MARIO V. LOPEZ
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice