



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

SECOND DIVISION

ZETH D. FOPALAN,
Petitioner,

G. R. No. 250287

Members:

-versus-

LEONEN, *SAJ, Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

NEIL F. FOPALAN,
Respondent.

Promulgated:
JUL 20 2022

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DECISION

LAZARO-JAVIER, J.

The Case

This petition for review on *certiorari* assails the Decision¹ dated September 10, 2018 and Resolution² dated August 19, 2019 of the Court of

¹ *Rollo*, pp. 25–32, penned by Associate Justice Eduardo B. Peralta and concurred in by Associate Justices Ramon R. Garcia and Geraldine C. Fiel-Macaraig.

² *Id.* at 35–38, penned by Associate Justice Eduardo B. Peralta and concurred in by Associate Justices Ramon R. Garcia and Geraldine C. Fiel-Macaraig.

Appeals in CA-G.R. CV No. 107835 entitled “*Zeth D. Fopalan vs. Neil F. Fopalan*” upholding the validity of petitioner’s marriage to respondent; and denying petitioner’s motion for reconsideration.

ANTECEDENTS

On June 25, 2013, petitioner Zeth D. Fopalan filed the petition³ for declaration of nullity of her marriage to respondent Neil F. Fopalan. She alleged that she met respondent in college as they were both taking up Political Science at Arellano University. One day, respondent just grabbed her hand while she was walking and told her he was infatuated with her.⁴ Thereafter, he started sending her love letters and roses. It took a couple of months before she and respondent became a couple but they soon broke up when she learned that respondent had another girlfriend.⁵ Respondent later explained that he was actually dating five different women simultaneously because he was “keeping his options open.”⁶

After they broke up, she focused on her studies and entertained other suitors. After some time, she and respondent started talking again and overtime, they developed a mutual understanding. Even then, she knew that respondent was also seeing another girl, a certain Shirley, and their relationship had been going on for the past seven years.⁷ Respondent confessed to her that he cannot break up with Shirley because the latter had threatened to commit suicide if he did. She (petitioner) also learned that respondent’s mother disliked Shirley who worked as a helper to support her studies. Respondent’s mother threatened to disinherit him if he married Shirley.⁸

Despite respondent’s other relationship, she (petitioner) continued to see him.⁹ She and respondent eventually became sexually intimate but she never thought of demanding from respondent to break up with Shirley.¹⁰ She just accepted the reality that sooner or later, respondent would have to choose between her and Shirley.¹¹

Shirley, however, got married to another man. This prompted respondent to follow her (petitioner) to her hometown in Dumaguete City where her mother had opened a school. Respondent decided to stay with her in Dumaguete and they lived with the school janitor and the latter’s family.¹²

³ Record, pp. 1–7.

⁴ *Id.* at p. 57.

⁵ *Id.*

⁶ *Id.* at p.58.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at p. 59.

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Later on, her mother advised her that her live-in arrangement may not set a good influence to the students.¹³ On August 7, 1995, she and respondent got married in church rites in Dumaguete City. After the wedding, she and respondent continued living in their family-owned school where they worked as canteen helpers and later, as office staff.¹⁴

Much later, they moved to the petitioner's hometown in Romblon.¹⁵ When her entire savings got depleted, she went back to Manila to look for a job. Respondent stayed in Romblon though.¹⁶ When she found a job in Manila, she rented a small space where she lived alone.¹⁷ Later on, she got lucky to land a job as a school teacher. She then rented a place in Sta. Mesa where she and respondent lived for two years. She was the only one working and earning while respondent took charge of the household.¹⁸ Respondent, however, soon got tired of this arrangement so they decided to move back to Dumaguete City.¹⁹ They went back to work in her family-owned school.²⁰

On October 16, 1999, she gave birth to their son, Matthew Joseph D. Fopalan (Matthew). But she got disappointed with how respondent hostile-treated their new born child. One time, he shook the infant to stop him from crying.²¹ The child was later diagnosed with autism.²²

As soon as he learned of his son's autism, respondent's attitude toward the latter turned from bad to worse. He never played with his son though he always found time playing basketball with his co-workers every Saturday afternoon.²³ He would not even allow the child to switch channels whenever they happen to watch television together. Over the years, respondent would distance himself farther from the child.²⁴ He never bonded with his son. He even did bad things to the child, leaving an imprint in the latter's young and vulnerable mind. She could only cry in frustration and pray for respondent to change for the better.²⁵ Due to his neglect and indifference, she assumed the role of both mother and father to their child Matthew.

Aside from his manifest inability to love and support his own son, respondent was also unfaithful to her. Sometime in 2011, she read a message on his phone: "*Ingat ka. I miss you. I love you.*"²⁶ She suspected that the

¹³ *Id.* at 59.

¹⁴ *Id.*

¹⁵ Record, p. 60.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.* at 61.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.* at 62.

message came from a working student in their school.²⁷ She also found a photo of a naked teen girl in his phone.²⁸ But her desire to preserve their marriage prevailed so she just ignored these things and focused instead on taking care of Matthew.²⁹ She also adopted another child so Matthew will have a brother and a playmate.³⁰

Then, she read yet another message from respondent's phone: "*Alam mo naman mahal kita 18 years na.*"³¹ Right off, it dawned upon her that respondent was a hopeless case. He would never change. She confronted him about his attitude and his illicit affairs.³² But he quickly turned the tables on her, blaming her for causing him to get jealous of her adopted child.³³ She knew he was just making it up since his extramarital affairs long preceded the birth of their son and the adoption of their second child.

Realizing once more that respondent would never change, she left their home and billeted in a hotel with her two sons.³⁴ She was, nonetheless, forced to return due to her mother's prodding to work things out with respondent. He also threatened to kill himself if she did not return.

Even then, he carried on with his illicit affairs and never stopped even during and after she underwent breast operation.³⁵ She realized it was time to leave for good.

She consulted psychologist Dr. Nedy Lorenzo Tayag for a psychiatric evaluation of herself and respondent. When Dr. Tayag talked to respondent's brother to ascertain respondent's whereabouts and invite him to come to her clinic for psychological evaluation, the brother informed Dr. Tayag that he did not know how to contact respondent since he kept changing his phone number. Hence, Dr. Tayag never got the chance to interview respondent himself.

In her Psychological Report,³⁶ Dr. Tayag observed that petitioner has an average intellect and her logical reasoning is well within the expected range for her age group.³⁷ She is practical and her ambitions provide her determination and focus.³⁸ Her triumphs and accomplishments make up for

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*

³⁰ *Id.*

³¹ Record, p. 62.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ *Id.* at 54-77.

³⁷ *Id.* at 67-68.

³⁸ *Id.* at 68.

all her frustrations.³⁹ She gets easily affected, thus, needs constant reassurance. Although she strives to show her autonomy, there are times when she doubts herself as she relies on support and motivation from other people.⁴⁰ While she had her own shortcomings and flaws which affected her relationship with respondent, she remained aware of the roles and responsibilities she had to fulfill as wife and made efforts to fulfill them with sincerity.⁴¹

As for respondent, Dr. Tayag found him to be suffering from narcissistic and anti-social personality disorder and his psychological condition had caused the deterioration of his marriage to petitioner.⁴² This condition is primarily characterized by respondent's "patterns of pervasive grandiosity, need for admiration, and lack of empathy along with a complete disregard for, and violation of, the rights of others."⁴³

She noted that based on respondent's behavior, he had a "sense of entitlement,"⁴⁴ was "short-sighted, incautious, and imprudent," and has failed to "plan ahead, consider alternatives, or heed consequences."⁴⁵ Respondent had no future plans for his family even though his son was suffering from autism. He left to petitioner the sole obligation to care and provide for him. Respondent also persistently engaged in extramarital affairs despite the pressing domestic concerns facing the family which he just ignored.⁴⁶ Respondent was also found to be "insensitive, irritable, and aggressive" and had "deficit in social charitableness, compassion, and remorse."⁴⁷

Dr. Tayag further reported that respondent's personality disorder is considered grave as it started in his early years of life, which had become a permanent aspect of his personality structure and is deemed to be difficult to cure by any clinical intervention.⁴⁸ Respondent was, thus, declared psychologically incapacitated to fulfill his essential marital obligations to petitioner.

By Order⁴⁹ dated June 28, 2013, the trial court directed the service of summons on respondent. Despite receipt of notice, however, respondent failed to file his answer. In yet another Order⁵⁰ dated August 12, 2013, the trial court directed the public prosecutor to investigate whether there was collusion

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* at 69.

⁴² Record, p. 69-70.

⁴³ *Id.* at 70.

⁴⁴ *Id.*

⁴⁵ *Id.* at 72.

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ *Id.* 76.

⁴⁹ *Id.* at 17.

⁵⁰ *Id.* at 23.

between the parties. The public prosecutor subsequently reported there was no collusion between the parties.

Petitioner, Dr. Tayag, and petitioner's co-worker Araceli Nobleza (Nobleza) each testified and affirmed the contents of their respective judicial affidavits. The judicial affidavit of Mark Anthony De Vera, petitioner's brother, was marked but his testimony was dispensed. Respondent, on the other hand, did not take any part in the proceedings.

RULING OF THE REGIONAL TRIAL COURT

By Decision⁵¹ dated February 24, 2016, the trial court declared the marriage between petitioner and respondent void *ab initio* on ground of the psychological incapacity on the part of respondent.

On motion for reconsideration⁵² by the Office of the Solicitor General (OSG), the trial court reversed, *per* Order⁵³ dated August 25, 2016. It declared the marriage between petitioner and respondent to be valid and subsisting.

PROCEEDINGS BEFORE THE COURT OF APPEALS

On appeal, petitioner challenged the trial court's finding that the failure of Dr. Tayag to personally examine respondent was fatal to the petition and that the evidence adduced was insufficient to establish respondent's psychological incapacity to perform his marital duties to petitioner.

By Decision⁵⁴ dated September 10, 2018, the Court of Appeals affirmed. It ruled that the totality of petitioner's evidence failed to sufficiently establish respondent's alleged psychological incapacity. For there was nothing to illustrate the gravity, incurability, or root cause of respondent's alleged narcissistic and anti-social personality disorder.

For one, the result of the psychological assessment on respondent was based solely on petitioner's version of events during their marriage, albeit the same was corroborated by her friend and respondent's brother. Their accounts though were hearsay. *For another*, a marital relationship overwhelmed by disappointment and disillusionment may have produced a sad but not a void marriage.

⁵¹ Record, pp. 229–234, penned by Judge Sonia T. Yu-Casano.

⁵² *Id.* at 235–242.

⁵³ *Id.* at 269–271, penned by Judge Sonia T. Yu-Casano.

⁵⁴ *Id.* at 25–32, penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon R. Garcia and Geraldine C. Fiel-Macaraig.



By Resolution⁵⁵ dated August 19, 2019, the Court of Appeals denied petitioner's motion for reconsideration.

PRESENT PETITION

Petitioner now faults the Court of Appeals for sustaining the validity of her marriage to respondent. She asserts anew that the failure of the psychologist to personally examine respondent does not militate against the finding that he is suffering from psychological incapacity, which prevents him from fulfilling his essential marital duties to her. Verily, the totality of the evidence adduced supports a finding of respondent's psychological incapacity.

On the other hand, the OSG defends the validity of the marriage between petitioner and respondent. It maintains that the scope of a petition for review on *certiorari* under Rule 45 is limited to pure questions of law. Whether respondent is suffering from psychological incapacity as established by the totality of evidence is a question of fact which is beyond the scope of the present petition.⁵⁶ Further, none of the recognized exceptions was shown to exist in this case.⁵⁷

Too, assuming that the present petition falls within the ambit of a Rule 45 petition, still the same must fail for utter lack of merit.⁵⁸ In *Tan-Andal vs. Andal*,⁵⁹ it was clarified that psychological incapacity is neither a mental incapacity nor a personality disorder that must be proven through expert opinion. What must be proved is the durable or enduring aspects of one's "personality structures," which manifest through clear acts of dysfunctionality that undermine the family. These aspects need not be given by an expert. Testimonies of ordinary witnesses present in the life of the spouses before the latter contracted marriage about the behaviors of the incapacitated spouse would suffice for the judge to determine if these behaviors are indicative of a serious incapacity to assume the essential marital obligations.⁶⁰ As it was, however, the personality structure of respondent was not established as there was no evidence to prove aspects of respondent's personality *prior* to his marriage. Petitioner, thus, failed to prove that respondent's supposed psychological incapacity was juridically antecedent.⁶¹

⁵⁵ *Id.* at 35–37, penned by Associate Justice Eduardo B. Peralta, Jr. and concurred in by Associate Justices Ramon R. Garcia and Geraldine C. Fiel-Macaraig.

⁵⁶ *Rollo*, p. 52.

⁵⁷ *Id.* at 54–55.

⁵⁸ *Id.* at 55.

⁵⁹ G.R. No. 196359, May 11, 2021.

⁶⁰ *Rollo*, p. 56.

⁶¹ *Id.* at 57.

OUR RULING

We grant the petition.

The petition for declaration of nullity of marriage was decided within the realm of *Republic v. Molina*⁶² where the Court set the guidelines in the interpretation and application of Article 36 of the Family Code,⁶³ on psychological incapacity as a ground for declaration of nullity of marriage. These guidelines in *Molina* had been the touchstone of all subsequent cases on declaration of nullity of marriage, until the very recent case of *Tan-Andal v. Andal*.⁶⁴

In *Tan-Andal*, the Court unanimously modified the parameters set forth in *Molina* on the interpretation of psychological incapacity under Article 36 of the Family Code as a ground for declaration of nullity of marriage. *Tan-Andal* reflected that it was time to revisit the otherwise restrictive view of psychological incapacity as a mental disorder and resolved to view it more in a legal rather than a medical concept.

To put things in perspective, *Tan-Andal* defines psychological incapacity as a “personal condition that prevents a spouse from complying with fundamental marital obligations toward a specific partner and that may have existed at the time of marriage but became evident only through behavior subsequent to the marriage ceremony.”

Before *Tan-Andal*, the jurisprudential definition of psychological incapacity “as a ground to nullify a marriage under Article 36 of the Family Code, referred to no less than a mental – not merely physical – incapacity that caused a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed in Article 68 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support. 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”.⁶⁵

In its present interpretation, psychological incapacity is no longer understood as a mental or personality disorder. Viewed in its legal conceptualization, psychological incapacity is now understood as a condition

⁶² See 335 Phil. 664 (1997).

⁶³ 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.

⁶⁴ Supra note 58.

⁶⁵ See *Santos v. Court of Appeals*, 651 Phil. 68 (1995).

deeply embedded in one's "personality structure" that prevents them from fulfilling the fundamental marital obligations. Whether a person may or may not be aware of it, the condition already exists at the time or even before the solemnization of their marriage but has become manifest only thereafter.

Further, *Molina*⁶⁶ required that psychological incapacity, 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 a 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 the 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.

These characterizations of psychological incapacity have now been modified in *Tan-Andal*, as follows:

1. As to *gravity*, the requirement is retained, albeit not in the sense that the psychological incapacity must be shown to be serious or dangerous. Now, one need only to show that the incapacity is caused by a "genuinely serious psychic cause" rendering one "ill-equipped" to discharge the essential obligations of marriage.

2. Proof of the *juridical antecedence* of the psychological incapacity subsists. For one, this is an indispensable requisite under Article 36, which states that the incapacity must be existing "at the time of the celebration" of the marriage, "even if such incapacity becomes manifest only after its solemnization." For another, "it is an accepted principle of all major and recognized theoretical schools within psychology that a person's behavior is determined by the interaction of certain genetic predispositions and by their environment, working in iterative loops of influence."⁶⁷ Verily, it must be shown that the incapacitated spouse has had prior experiences, antedating the marriage, that could be associated to their psychological malady that makes them incapable of complying with their marital obligations.

The juridical antecedence of the psychological incapacity may be proved by testimonies describing the incapacitated spouse's childhood or environment which may have influenced a particular behavior. An example cited in *Tan-Andal* is violence against one's spouse and children – it can be a manifestation of juridically antecedent psychological incapacity when it is shown

⁶⁶ See supra note 61

⁶⁷ Supra note 58.

that the violent spouse grew up with domestic violence or had a history of abusive romantic relationships before the marriage.

3. Incurability must now be understood *not* in its medical sense but in its legal sense. *Tan-Andal* explains that the psychological incapacity must be proved to be “so enduring and persistent with respect to a specific partner, and contemplates a situation where the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage”.

Notably, since psychological incapacity is no longer considered a mental incapacity nor a personality disorder, *Tan-Andal* does away with expert opinion in proving psychological incapacity. It clarified, though, that there must be proof “of the durable or enduring aspects of a person's personality, called ‘personality structure,’ which manifests itself through clear acts of dysfunctionality that undermines the family. The spouse’s personality structure must make it impossible for them to understand and, more important, to comply with their essential marital obligations”. For this purpose, testimonies of ordinary witnesses may suffice to support a finding of psychological incapacity. Such ordinary witnesses need only “to have been present in the life of the spouses before the latter contracted marriage” in order that they “may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse”.⁶⁸

While cases decided before it did not categorically define the quantum of proof required in proving psychological incapacity, *Tan-Andal* now decisively defines the quantum of evidence required: *clear and convincing evidence*, which is less than proof beyond reasonable doubt (for criminal cases) but greater than preponderance of evidence (for civil cases). The degree of believability is higher than that of an ordinary civil case. Civil cases only require a preponderance of evidence to meet the required burden of proof. This quantum of proof proceeds from the presumption of validity accorded to marriages, which, like all legal presumptions, may be rebutted only by clear and convincing evidence.

As the State is committed to protect the sanctity of every marital union, one petitioning the courts to undo their marriage bears the burden of presenting proof that is clear and persuasive enough to convince, even with counter-evidence from the other party, of the existence of the psychological anomaly that hinders one spouse from fulfilling their marital obligations.

⁶⁸ *Id.*



The totality of petitioner's evidence must, thus, clearly and convincingly establish that respondent is suffering from a psychological incapacity, manifested through acts of dysfunctionality, showing that they are not capable of recognizing, let alone, complying with the basic obligations of marriage.

Applying these modified guidelines as enunciated in *Tan-Andal*, the Court finds that petitioner sufficiently established, by the requisite quantum of evidence, that respondent is psychologically incapacitated to fulfill the essential marital obligations. The totality of the evidence adequately proved that respondent's personality structure rendered him incapable of recognizing and fulfilling his duties as husband to petitioner and as father to his son Matthew and their adopted child.

Manifestations of respondent's disordered personality

Petitioner affirmed and testified on the contents of her judicial affidavit which disclosed the manifestations of respondent's psychological incapacity, thus:

11. Question: How long have you been married to the respondent?

Answer 17 years, sir.

12. Question: During those years that you were living with the (sic) him what did you observed (sic) if any from the respondent?

Answer: At first it was ok but eventually *nagging* (sic) *different behavior sir, yung attitude nya lumabas* and I have noticed that he's so secretive, he easily gets angry especially when our child was born. *Parang hindi naman sya prepared to have a family sir.*

13. Question: Will you please elaborate on this?

Answer: *Nuong una pa man po ng marriage namin[g] halos ako lang ang nagtrabaho at bumubuhay sa amin, wala po syang trabaho and walang drive na ayusin ang sitwasyon namin.*

Lalo po ito lumala nung pinanganak yung anak naming na si Matthew. Lagi po syang galit at mainit ang ulo sa amin kahit walang dahilan.

There was even an incident that happened when Matthew was still young sir, I think age 2 when Matthew was crying hard, Neil grabbed him from my hand and then run (sic) and shook violently our child. *Nakikiusap*

po ako na tigilan nya pero diretso pa rin po sya halos mawalan ng malay yung anak namin[g]. Hindi ko po maintindihan bakit parati syang galit.

14. Question: Why do you think the respondent was acting in this manner?

Answer: First, I have no idea because it was the first time that I saw him doing that sir.

Dati naman yun lang arrogant and careless attitude nya ang pinapakita nya, but that was the first time he became physically violent sir.

I don't know but later on our son Matthew was diagnosed as autistic, *hindi ko po alam if that violent incident contributed to his situation.*

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18. Question: Earlier you stated that during (sic) respondent appears not to be prepared for married life, will you kindly tell us what was the basis of this claim of yours?

Answer: *Kasi po in our entire married life, parang ako lang nag-effort to put our family together. He does not really perform his obligation to provide support as a husband. Wala po sya respeto sa akin and kinakahiya nya anak naming lalo na ng malaman nya na autistic.*

Ako lang po ang halos bumubuhay sa amin.

19. Question: Why do you say so?

Answer: *Kasi kahit pareho kami earning, lahat po ng kinikita nya sa kanya lang ni hindi po sya nagshare sa gastusin ako po lahat. Solo po nya ang sweldo nya at ginagamit nya lang pansarili.*

Kahit man lang emotional support I don't feel sir, more often he would do what he wants to do without regard if I would be hurt or my son's feelings would be affected.

20. Question: How would you describe your marital relationship?

Answer: *Parang parati me kulang, parang one way lang sir. Ako lang ang nagbibigay ng effort para maging pamilya kami.*

21. Question: Will you kindly elaborate on this?

Answer: *More often sir ako yung gagawa ng paraan parang masabing family kami.*

22. Question: Why do you say so?

Answer: *Example sir, I would often ask him that we go to church as a family or go out to have some family moments but he would refused (sic) to come with us. Even in the baptismal ng bata sir ayaw nya especially when he found out na aming anak ay may special need.*

23. Question: Will you kindly explain this condition of your child?

Answer: *He was diagnosed as Hyper Active Autistic sir. One reason na bihira kaming lalabas na tatlo kasi yung bata nadiagnosed na special child so kung hindi ako yung gagawa ng first move na lalabas kami or mamasyal sa bahay lang talaga kami. After work bahay lang and then wala yung bonding naming tatlo its either ako or si Matthew lang sa room tapos sya sa baba watching TV the whole afternoon. There were even days that he would not even talk to me or my son sir.*

24. Question: Aside from this how else would you describe you're your relationship with your husband?

Answer: *Walang sincerity, sir. I have not felt na puedeng sabihin na nandun yung trust sa isa't isa. Openness sa isa't isa sir. Yung dream para sa pamilya naming, walang pangarap sir, habang tumatagal kami lalo sya nagging self centered and distant sa amin.*

25. Question: Why do you say so?

Answer: *Until now wala kaming sariling bahay or ipon man lang sir nakaasa lahat sa akin si Neil and to my family. We are still leaving (sic) in the house in San Pedro owned by my family, nakatira na po ako dun student pa lang ako and when we got married until now di kami nakapundar ng sariling bahay para sa pamilya. Parang... where are we going?*

Yung salary nya kanya lang. Ayaw nya ibigay sa akin yung payslip nya. So sa bahay kung ano lang yung sa kanya that is what he will buy. I have not felt that he is a husband to me in that (sic) 17 years that we were together.

26. Question: Did you ever talked (sic) to him about how you feel about him?

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Answer: Yes sir, but this will only end up in arguments and at the end I will just let it go, because I loved him and I want to preserve our family.

27. Question: You also stated a while ago that the respondent became distant to you and your son.

Answer: *Yes sir, maraming beses, kapag pupunta kami ng Romblon sir where he came from to visit his family hindi pwedeng maglaro yung bata sa barko kakargahin nya, ilalagay nya sa ibabaw ng deck sa kama kasi daw makulit nakakahiya. When we are there in their house he will not allow na ilalabas yung bata so we would just stay inside the house, while he would go out sa bahay lang kami, maiwan kami sa bahay and he will hide us. Wala yung father relationship, yung makikita mong naglalaro. Wala syang ipinoprovide na time sa amin sir.*

28. Question: What else madam witness?

Answer: Education, sir of our son, I alone would shoulder the tuition fee even the searching for the school. He would not even bother to accompany me and I could see that he is ashamed of our son.

29. Question: Why do you say so?


Answer: There were incidents sir in the past that I would plead to him to accompany our son to the school for various activities since I had to go to work and other parents would notice that he would stay inside the car after dropping off our son to teachers and wait until the activity is over. He would not even attend sir and I was informed by this by the other parents.

30. Question: What was your reaction after being informed about this?

Answer: I felt so bad sir, this is our son and his father is ashamed of him so I confronted him and again this led to arguments and the more that he would become distant and cold to us.

31. Question: You said that you were together with your husband for at least 17 years, why did it take you 17 years to separate from him if you and your son have been suffering from the relationship?

Answer: Sir I love my husband and I took every effort to preserve our family, *pero wala pong nagbago lalo po lumala ang situation namin that's why I decided to separate specially after the incident involving third parties sir.*



32. Question: Will you kindly elaborate on this?

Answer: Yes sir, at first I accidentally discovered several affectionate text messages from another girl.

33. Question: What was your reaction after you discovered this?

Answer: I confronted him sir and he responded that this was just a "wrong send". I saw a text message "I LOVE YOU" in his cell phone. I believed him and I ignored it.

One time, he accidentally left his cell phones. Hindi nya nailock yung cellphones nya, usually nilolock nya yung cellphone nya, a text message came and I saw the message of the girl saying "*papasok na ako sa opisina, mag ingat ka, I love you, I miss you.*" He actually has 3 cell phones sir and when I opened the others I saw pictures of naked girls taken by him. One was a student in the school we owned.

34. Question: What was your reaction after discovering this?

Answer: I was completely shocked sir. All these years I have taken his emotional abuse against me and my son and I have kept silent sir only to preserve our family, to discover only that he has been having extramarital affairs right in (sic) my very nose, worse from students in the school which we own. I felt betrayed sir, I cried and cried and prayed hard that I could be given the strength to go through this.

35. Question: What did you do after this?

Answer: I confronted him, talked and discussed what I saw and discovered and he admitted these infidelit[ies] with several girls, but pleaded that I do not confront the *girls ayaw nya kasi daw masisira daw yun pamilya.*

36. Question: What was your reaction to this?

Answer: *Madali akong makaintindi sir. Kapag sinabi nyang alam mong wala syang pera and ako na sumagot sa gastusin, sige ako na pero alam kong meron naman sya. Ako yung naghihirap para gumawa ng paraan. Magtrabaho na marami, mag overtime, balik balik ako Laguna and Dumaguete, iniintindi ko na lang para walang gulo.* I solely take care of our son whom he is ashamed but this was my last straw, I and my son suffered enough sir, so I told him to leave the house.

37. Question: When was this?

Answer: January 2012 sir.

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41. Question: Will you please tell us the reason why you had to ask your husband to leave.

Answer: I had enough sir. Before this incident I got sick and discovered a mass in my breast. *Nagkaron ako ng bukol sa may left breast ko sir kakatago ng mga problema, kaiiyak siguro kaya natakot na din ako.*

I and my son suffered emotionally and I felt that my condition would only worsen if I would continue to live with him and he would continue to treat me the way he did. I tried my best to preserve our family, loved him the best I can as a wife, given him all the support and space he needs thinking one day it would be better, but he has not bothered and considered all these sir, he has not supported me financially and emotionally all these years, I need to act for me and my son sir, *parang lalo lang lalala sakit ko* if I continue to be with him.

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Petitioner's friend and co-worker Nobleza corroborated the former's testimony. Nobleza had known petitioner and respondent since 1995 and she had witnessed respondent's arrogance and controlling nature. She had also observed how respondent disrespected petitioner and maltreated his own child, *viz.:*

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Question: You mentioned that you sense that Zeth is not happy with their marriage and that you know the demeanor or attitude of her husband, will you please elaborate on this?

Answer: Yes sir, whenever sir Neil would be in the school, he would often display his arrogance towards everybody, *masakit magsalita kahit sino walang sinasanto, even towards Mam Zeth.*

Question: Why do you say this?

Answer: He would often berate Mam Zeth and their child even in front of us or other people could her (sic) him.

Question: Will you please explain further?

Answer: Because often he would shout at Mam Zeth in front of us or at time[s] he would vent his anger towards their

⁶⁹ Record, pp. 44-48.

son, *di ba special child nga po kaya sinasabihan nya na sa inyo iyang lahi nagmana, sa amin walang ganyang lahi. I believe he should not say that because that is their son sir.*

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Question: How will you describe Neil as a husband to Zeth?

Answer: He is not loving or caring sir. Excuse me sir but we think that he is just after the money of Mam Zeth and her family, I do not see the love, he has no respect for her.

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Question: How will you describe Neil Fopalan as a father based on your observation?

Answer: *Si Matthew Joseph sir, yung bata may sobra takot sa kanya. Yung minsan mayron kaming celebration duon ginawa sa hotel, tinago lang nya, siguro ikinahiya nya kasi maraming estudyante dahil me special need po. Si Matthew nung maliit pa medyo takbo dito takbo duon, sobra pagagalitan nya yung bata. Parang hindi sya yung ama. I believe he is ashamed of his son.*

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Question: Do you know of any reason why they separated?

Answer: We learned that a third party was involved sir. A girl from Romblon.

Question: From Romblon?

Answer: Yes sir, Neil's former girlfriend in Romblon.

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Petitioner and her witness testified that respondent had invariably manifested his psychological incapacity in various ways: **first**, by failing to provide financial and emotional support to his family; **second**, by failing to help provide a nurturing environment to his son; and **finally**, by committing repeated acts of infidelity to his wife.

Likewise, respondent is deemed psychologically incapacitated to fulfill his marital obligations in the legal sense, applying the criteria enunciated in jurisprudence for psychological incapacity, *i.e.*, gravity, juridical antecedence, and incurability. For this purpose, we apply the modified characterizations in *Tan-Andal*. Consider:

⁷⁰ Record, pp. 80-81.

Gravity

Tan-Andal explains that the condition of the psychologically incapacitated spouse cannot be categorized merely as mild characterological peculiarities, mood changes, and occasional emotional outbursts.

Here, respondent demonstrated an utter failure and unwillingness to fulfill the fundamental obligations as spouse to petitioner and parent to his son Matthew and their adopted child, which basic duties are defined under Articles 68 to 71 and Articles 220 to 221 of the Family Code,⁷¹ respectively.

Respondent never accorded petitioner the love and respect due to her as his wife and partner. The entire school witnessed respondent's arrogance

⁷¹ ARTICLE 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support. (109a)

ARTICLE 69. The husband and wife shall fix the family domicile. In case of disagreement, the court shall decide.

The court may exempt one spouse from living with the other if the latter should live abroad or there are other valid and compelling reasons for the exemption. However, such exemption shall not apply if the same is not compatible with the solidarity of the family. (110a)

ARTICLE 70. The spouses are jointly responsible for the support of the family. The expenses for such support and other conjugal obligations shall be paid from the community property and, in the absence thereof, from the income or fruits of their separate properties. In case of insufficiency or absence of said income or fruits, such obligations shall be satisfied from their separate properties. (111a)

ARTICLE 71. The management of the household shall be the right and duty of both spouses. The expenses for such management shall be paid in accordance with the provisions of Article 70. (115a)

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ARTICLE 220. The parents and those exercising parental authority shall have with the respect to their unemancipated children or wards the following rights and duties:

- (1) To keep them in their company, to support, educate and instruct them by right precept and good example, and to provide for their upbringing in keeping with their means;
- (2) To give them love and affection, advice and counsel, companionship and understanding;
- (3) To provide them with moral and spiritual guidance, inculcate in them honesty, integrity, self-discipline, self-reliance, industry and thrift, stimulate their interest in civic affairs, and inspire in them compliance with the duties of citizenship;
- (4) To furnish them with good and wholesome educational materials, supervise their activities, recreation and association with others, protect them from bad company, and prevent them from acquiring habits detrimental to their health, studies and morals;
- (5) To represent them in all matters affecting their interests;
- (6) To demand from them respect and obedience;
- (7) To impose discipline on them as may be required under the circumstances; and
- (8) To perform such other duties as are imposed by law upon parents and guardians.

ARTICLE 221. Parents and other persons exercising parental authority shall be civilly liable for the injuries and damages caused by the acts or omissions of their unemancipated children living in their company and under their parental authority subject to the appropriate defenses provided by law.

and disrespect toward petitioner. Worse, respondent had wronged petitioner not only by his insolence but by his philandering ways, by engaging in illicit affairs with students from the school where he and his wife worked, knowing full well that sooner or later, petitioner and her family would discover such indiscretions.

Respondent also never shared in the responsibility to provide for the family. He left all this to his wife although he was gainfully employed himself. He never bothered to even ask about the family's expenses and whether petitioner's salary was enough to cover them. Petitioner became the sole provider from the very beginning of the marriage, taking on the burden all by herself when it should have been a shared task between her and respondent.

Aggravating respondent's already grievous character is his indifference toward his son Matthew who had been diagnosed with autism. Due to Matthew's condition, the child is in need of extra affection, care, attention, understanding, and utmost patience. Respondent miserably failed to provide his son with any of these. On the contrary, he was distant from his son. He was ashamed of Matthew. Respondent did not help provide an environment where Matthew could thrive as a person, despite his condition; instead, he was the very person to stifle his growth. He did not support Matthew in a way that a loving parent should; on the contrary, he ignored him as if he did not exist and detested being seen in public with him.

In *Tan-Andal*, the Court held that the spouses' obligations to their children is as much a part of the spouses' obligations to each other such that one's failure to perform their obligations to their children may be a ground for nullification of their marriage. But it must also be clearly shown that the failure to meet their obligations must be of such grievous nature that it reflects on the capacity of one of the spouses for marriage.

Respondent's utter failure to support Matthew reflects such a disordered personality because he, as parent, should be the first person to show acceptance and compassion, yet, it was he who first rejected him. Clearly, respondent's behavior, ways, and manners demonstrate a condition far from just being a mild characterological peculiarity. He displayed a personality so disordered that it disables him to function well enough to perform his basic duties as husband and father.

Juridical Antecedence

Juridical antecedence simply means that the condition existed prior to the celebration of marriage.



Respondent's psychological incapacity is rooted in his childhood. He was adopted by Antonio Sr. and Nazaria together with his other brothers Antonio Jr. and Charton.⁷² Their adoptive parents had five biological children, four daughters and one son. The family's living arrangement was that respondent's two brothers continued to reside with their biological parents who lived only next door from their adoptive parents. It was only respondent who lived with their adoptive parents.⁷³ Growing up, respondent harbored a grudge against the biological son, Antonio Jr. and his adoptive mother as she loved her own son more.⁷⁴ Based on the psychological evaluation of respondent, this unhealthy socio emotional extensions attributed to the formation of respondent's egocentric and irresponsible attitudes,⁷⁵ as clearly shown during his cohabitation with petitioner. He came from a confusing situation and this directed the formation of his identity as he was growing up.⁷⁶ Having two sets of parents, two sets of values governing him, caused internal chaos for respondent and his caregivers failed to see and correct it.⁷⁷ As for his relationship with his siblings, the same was far from caring and this provoked feelings of insecurity.⁷⁸ Due to these factors in his development, respondent grew up to be insensitive and inconsiderate toward the needs and feelings of those around him.⁷⁹

Respondent's philandering ways also antedate his marriage. While he and petitioner were dating, he was simultaneously dating other women and he was not even discreet about his situation. He was not ashamed to admit that he was dating five (5) women all at the same time, justifying his action that he was still choosing from among them *the best fit*. Respondent, thus, demonstrated his egocentricity and his propensity to be unfaithful. His selfishness also manifested in all the other aspects of his married life.

Incurability

In its legal sense, incurability of the psychological incapacity now refers to its being "enduring and persistent," in contrast to the previous concept that the condition *could no longer be cured, or although susceptible to cure, is beyond the means of the incapacitated spouse.*

Tan-Andal teaches that the psychological disorder may also be said to be incurable if "the couple's respective personality structures are so incompatible and antagonistic that the only result of the union would be the inevitable and irreparable breakdown of the marriage."⁸⁰

⁷² Record, p. 56.

⁷³ *Id.* at 75.

⁷⁴ *Id.*

⁷⁵ *Id.* at 74.

⁷⁶ *Id.* at 75.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* at 76.

⁸⁰ *Supra* note 58

The enduring and persistent quality of respondent's psychological incapacity was adequately shown. Petitioner and respondent had lived together as husband and wife for seventeen (17) years and for this length of time, respondent was relentlessly immature, irresponsible, and indifferent. He had never, at any point in the marriage, showed that he would change or improve his ways. Sadly for petitioner, it took her 17 long years to finally realize that a change of heart for respondent was never coming.

Further, the personality structures of petitioner and respondent are so adverse to each other, making the breakdown of their marriage inevitable. Respondent, on one hand, is irresponsible, uncaring, and undependable while petitioner, on the other hand, is devoted, trusting, and always too willing to assume the sole responsibility for all obligations in the marriage. By doing so, petitioner had been so consumed such that nothing was left of her, or perhaps, a little amount of self-respect was left, enough to strengthen petitioner to end her relationship with respondent. At any rate, the differences in their personality structures prevented petitioner and respondent from having a loving and peaceful married life.

PSYCHOLOGICAL REPORT OF EXPERT

As discussed, it had long been recognized that a report rendered by a psychologist or psychiatrist is not necessary to establish the psychological incapacity of either or both spouses. In any event, *Tan-Andal* laid down the parameters for determining the sufficiency of such report even without a personal examination of the supposed psychologically incapacitated spouse, *viz.*:

It is true that expert opinion — **which, we reiterate, is no longer required** but is considered here given that the case was filed during the effectivity of *Molina* — was made by Dr. Garcia without having to interview Mario. Even Dr. Garcia herself admitted during cross-examination that her psychiatric evaluation would have been more comprehensive had Mario submitted himself for evaluation. However, the Court of Appeals erred in discounting wholesale Dr. Garcia's expert opinion because her methodology was "unscientific and unreliable."

x x x

x x x x According to the Court, opinions are products of personal interpretation and belief and, therefore, they are inherently subjective and generally inadmissible in evidence. Thus, **to qualify as an expert and the opinion admitted as expert opinion, the witness must be shown to possess special knowledge, skill or training relevant to the matter he or she is testifying on, and that the opinion was rendered on the basis of any of these special criteria.** This is apart from the requirement that the



testimony, in itself, be credible, that is, based on “common experience and observation . . . as probable under the circumstances.” (Emphases supplied)

x x x

x x x x [T]he rule [on admissibility of expert opinion] requires the following. First, that the “knowledge” testified on must be “scientific,” that is, it must be “more than subjective belief or unsupported speculation.” Second. The specialized knowledge be of such character that the trial judge be “able to understand the evidence or to determine a fact in issue.” Third, the trial judge, like a “gatekeeper,” takes a firsthand look on “the scientific validity . . . [or] the evidentiary relevance or reliability . . . of the principles that underlie” the testimony being offered as expert opinion. **“The focus . . . must solely be on the principles and methodology, not on the conclusions they generate.”** (emphases added, citations omitted)

x x x

On hearsay, x x x x they are generally inadmissible. **However, if “the expert opinion [is] based on otherwise inadmissible hearsay, [it is] to be admitted only if the facts or data are ‘of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon a subject.’”** x x x x (emphases ours, citations deleted)

Essentially, expert opinion, to be admissible as evidence, must come from a credible expert who is in possession of special knowledge, skill or training; it must be derived using sound “scientific” principles and methodology; and must not be based on hearsay.⁸¹

Applying these parameters to the present case, the Court gives credence to Dr. Tayag’s psychological assessment of respondent though she did not personally examine him.

A. Dr. Tayag testified as an expert witness:

There had been no challenge to the expertise of Dr. Tayag in the field of clinical psychology. She had been practicing clinical psychology since 1976. At the time she testified, she was chief psychologist for HLT Psychiatric and Psychological Services in Mandaluyong City, where she had been working since 1992. As clinical psychologist, she administers psychological tests to patients, personnel, and other referrals; evaluates the psychological profile of patients and clients; and conducts individual and group psychotherapy. She had been consulted and had testified as expert

⁸¹ Halog v. Halog, G.R. No. 231695, October 6, 2021.

witness in connection with cases for nullity of marriage for more than a hundred times already.⁸²

B. Methodologies and procedures applied by Dr. Tayag:

Dr. Tayag testified on the methodologies and procedures she applied in assessing petitioner's and respondent's respective psychological conditions, *viz.*:

x x x

10. Question: Now, Ms. Witness, do you know ZETH DELA CRUZ-FOPALAN, the petitioner in this case?

Answer: Yes, sir, professionally.

11. Question: How do you know her?

Answer: Petitioner, Zeth personally sought my professional opinion on her and her husband's psychological background.

12. Question: Why did petitioner, Zeth seek your professional opinion, if you know?

Answer: From my understanding, she was thinking of filing a petition to declare her marriage with respondent, Neil null and void on the ground of psychological incapacity. Thus, she wanted to verify with me whether she or her husband, or both of them, was suffering from the said condition?

13. Question: What did you do after learning of her intention?

Answer: I personally administered several tests on petitioner, Zeth to assess her psychological make-up.

14. Question: What were these tests that you administered on petitioner, Zeth?

Answer: I administered the Revised Beta Examination II, Bender Visual Motor Gestalt Test, Draw-A-Person Test, Rorschach Psycho Diagnostic Test, Sach's Sentence Completion Test, Minnesota Multiphasic Personality Inventory I (MMPI), Hand Test and Self Analysis plus clinical interview. (Emphases supplied)

15. Question: How were these tests conducted?

Answer: The tests were conducted successively. And based from the test result and clinical interview on petitioner

⁸² Record, pp. 85-86.

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Zeth, overall analysis petitioner is psychologically healthy to perform her essential marital obligation.

16. Question: What about respondent NEIL F. FOPALAN? What were your impressions on him, if any?

Answer: Based on the psychodynamic analysis of his behaviors, attitudes and character as known to petitioner Zeth and to her corroborative witnesses MARK ANTHONY VERA and ARACELI A. NOBLEZA as well phone interview with the brother of respondent Efren Fopalan. I found respondent Neil to be suffering from NARCISSISTIC and ANTI SOCIAL PERSONALITY DISORDERS. (Emphases supplied)

17. Question: Why do you say that respondent Neil is suffering from NARCISSISTIC and ANTI SOCIAL PERSONALITY DISORDERS.

Answer: Neil has a sense of entitlement unreasonably expects favorable treatment or automatic compliance with his expectations. Early in their relationship, he had expected her to accept without any question that he was seeing other girls besides her. Neil was seen to be an indifference (sic) father towards their son and with his attitude, the petitioner tried to fill his void and while she was doing this, it gave him freedom to do as he pleased without bothering himself with the responsibilities that he needs to do for his wife and son. He is short-sighted, incautious, and imprudent failing to plan ahead[,] consider alternatives[,] or heed consequences. With how things are going at home, the respondent is seen to make no plans for his family. He is insensitive, irritable, and aggressive as expressed in a wide-ranging deficit in social charitableness, compassion[,] and remorse. Neil is seen to be insincere with the apologies that he would give to the petitioner. He construes events and relationships in accord with socially unorthodox beliefs and morals. Even from the start, Neil does not believe in monogamy, he started a relationship with the petitioner and dated four other girls behind her back and he did not see anything wrong with the picture.

18. Question: What do you think is the root cause of respondent Neil's condition?

Answer: The condition of the respondent had sprouted in the early years of his life when he was exposed to the ill-effective ways of his caregivers along with unhealthy socio-emotional extensions. These have attributed to the formation of the egocentric and irresponsible attitudes which the respondent has shown and adapted at present. The kind of home environment and the kind of attachments that he had performed with significant people in his life have played a huge factor to the personality disorders that he exhibited and hindered him from performing well in the various aspects of life. Though already being adopted by another couple, the respondent lives just a stone's throw away from his real

parents. Having two sets of parents had wreck (sic) havoc on the respondent's personality development and emotional formation as the values and views of these caregivers are wholly different. This caused internal chaos within the respondent which his caregivers were unable to see and correct. With the different values governing him, the values for responsibility and conscientiousness were overlooked thus attributing to the unruly and abject ways of Neil.

19. Question: Why did you say that respondent Neil's condition is grave, serious, chronic, severe, and incurable?

Answer: It is grave as it [is] fully engrained (sic) into his system long before he met petitioner, which eventually result[ed], to his severe inability to effect fidelity, trust, commitment[,] and responsibility. It is also serious as it fully distorted his concept regarding marital relationship. It is also incurable, as up to this very moment, no scientific breakthrough will help respondent to acknowledge his incapacity thru therapy or psychological intervention. The psychological incapacity of the respondent is indeed deeply rooted; it is already in his character. No amount of therapy, no matter how intensive, can possibly change the respondent in so far as incapability to perform his essential marital obligations with the petitioner is concerned. Although petitioner made efforts to try to save the marriage but to no avail as [he] would always be in denial of his own psychological incapacity therefore he would likewise resist any treatment or therapy this is because he considered himself "normal" and functions in a normal situation. (Emphases supplied)

20. Question: You mentioned that his personality impairments is (sic) incurable. What consequence, if any, would that have on their marital relationship?

Answer: Because of the incurability of his personality impairments, the prospects for reconciliation is deemed uncertain, if not, totally impossible.

21. Question: Based on your testimony, you have diagnosed respondent Neil to be suffering from some form of psychological disorder. What effect, if any, do their conditions have on their marriage?

Answer: It has been seen that respondent was unable to carry out his expected role in the marriage.

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29. Question: What would be your recommendation of this marriage with petitioner and the respondent?

Answer: It is my considered view that, as a consequence of respondent's disorder, which my clinical examinations have shown to be serious, incurable[,] and to

have antecedents, I recommended that this marriage be declared null and void. It was doomed from the start. There is no marriage to speak of.

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C. Dr. Tayag's findings were based on admissible evidence:

As held in *Tan-Andal*, expert opinion based on otherwise hearsay evidence could still be admitted if the facts are "of a type reasonably relied upon by experts in the particular field in forming opinions or inferences upon a subject." Hence, Dr. Tayag's findings are not rendered inadmissible by the fact alone that she was unable to personally interview respondent owing mainly to the latter's failure to personally appear for a psychological evaluation. At any rate, Dr. Tayag still managed to draw a conclusion on respondent's condition based on the information given by petitioner and her witnesses. In *Tan-Andal*, the Court ruled that clinical interviews of patients and collaterals, as a method of data collection, remain to be a principal technique in diagnosing psychiatric disorders. The information gathered here does qualify to be "of a type reasonably relied upon by experts." Consequently, Dr. Tayag's expert opinion based on the results of her clinical interviews may be admitted in evidence.

In any event, we reiterate that the personal examination of the allegedly psychologically incapacitated spouse by a physician or psychologist is not a condition *sine qua non* for a declaration of nullity of marriage due to psychological incapacity. So long as the totality of evidence sufficiently proves the psychological incapacity of one or both of the spouses, a decree of nullity of marriage may be issued.⁸⁴

True, physical and verbal abuse, neglect, and abandonment of spouse and children, or acts of infidelity including adultery or concubinage, each constitutes a ground for legal separation. But where each one of these grounds or a combination thereof, at the same time, manifests psychological incapacity that had been existing even prior to the marriage, the court may void the marriage on ground of psychological incapacity under Article 36 of the Family Code.⁸⁵

Here, respondent's neglect and infidelity are clear manifestations of a disordered personality structure, existing even before the celebration of his marriage to petitioner, which prevents him from complying with his essential marital obligations. Thus, the Court must declare his marriage void *ab initio* on ground of psychological incapacity under Article 36 of the Family Code.

⁸³ Record, pp. 87-92.

⁸⁴ See *Halog v. Halog*, G.R. No. 231695, October 6, 2021.

⁸⁵ *Id.*

Undeniably, respondent is psychologically incapacitated, in the legal sense, to comply with the fundamental marital obligations enshrined under the Family Code. His psychological incapacity has rendered him incapable of fulfilling his duty to observe mutual love, respect, and fidelity to his wife, and has prevented him from giving help and support to her and their child. His grievous character has translated to years of neglect and indifference toward his family and has entrapped his wife and child to a loveless marriage and apathetic home life, and which might have trapped him the same way, too. To repeat, the Court must, thus, declare his marriage to petitioner void *ab initio* on ground of psychological incapacity under Article 36 of the Family Code.

It is the policy of the State to protect and strengthen the family as the basic social institution and marriage as the foundation of the family, and by this avowed policy, any doubt must be resolved in favor of the validity of the marriage.⁸⁶ But there is just no marriage to strengthen nor protect in this case. It was a marriage that is considered void from the beginning under the law because of respondent's psychological incapacity to recognize and give true meaning to the marital bonds.

All told, applying Article 36 of the Family Code as revisited in the landmark case of *Tan-Andal*, the Court finds that there is clear and convincing evidence here to support the conclusion that respondent is psychologically incapacitated, in the legal sense, from complying with his marital obligations in relation to petitioner. Consequently, their marital union is declared void *ab initio*.

ACCORDINGLY, the petition is **GRANTED**. The Decision dated September 10, 2018 and Resolution dated August 19, 2019 of the Court of Appeals in CA-G.R. CV No. 107835 are **REVERSED and SET ASIDE**. The Decision dated February 24, 2016 of the Regional Trial Court- Branch 31, San Pedro, Laguna is **REINSTATED**.


The marriage between Zeth D. Fopalan and Neil F. Fopalan is declared **VOID *ab initio*** on the ground of psychological incapacity on the part of Neil F. Fopalan. Their property relation as husband and wife is **DISSOLVED**.

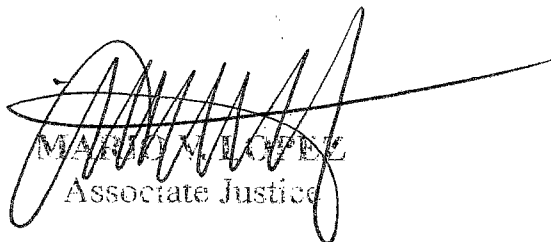
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

⁸⁶ See *Castillo v. Republic*, 805 Phil. 209, 243 (2017).

WE CONCUR:


MARVIC MARIO VICTOR F. LEONEN
Senior Associate Justice
Chairperson, Second Division


MARIANO LOPEZ
Associate Justice


JOSE P. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

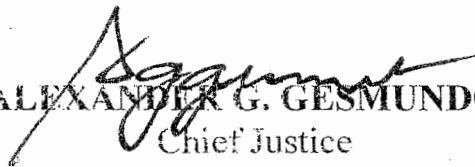
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC MARIO VICTOR F. LEONEN
Chairperson, Second Division

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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.


ALEXANDER G. GESMUNDO
Chief Justice

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