



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

AIKO YOKOGAWA-TAN,
Petitioner,

G.R. No. 254646

Present:

- versus -

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

**JONNELL TAN and THE
REPUBLIC OF THE
PHILIPPINES,**
Respondents.

Promulgated:

OCT 23 2023

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DECISION

LEONEN, J.:

The existence of grounds for legal separation does not foreclose the possibility of psychological incapacity.

This Court resolves a Petition for Review on *Certiorari*¹ assailing the Decision² of the Court of Appeals, which affirmed the Decision³ of Branch 162, Regional Trial Court, Pasig City dismissing the Petition for Declaration of Nullity of Marriage filed by Aiko Yokogawa-Tan (Aiko).

* On official business.

¹ *Rollo*, pp. 10–56.

² *Id.* at 58–75. The November 27, 2020 Decision in CA-G.R. CV No. 111517 was penned by Associate Justice Japar B. Dimaampao (now a member of this Court) and concurred in by Associate Justices Zenaida T. Galapate-Laguilles and Florencio M. Mamaug, Jr. of the Third Division, Court of Appeals, Manila.

³ *Id.* at 76–83. The May 7, 2018 Decision in JDRC No. 11294-SJ was penned by Judge Cesar Pabel D. Sulit of Branch 162, Regional Trial Court, Pasig City.

Sometime in December 2003, Aiko and Jonnell Tan (Jonnell) met at a Christmas party and eventually became friends. Thereafter, Jonnell started pursuing Aiko. Aiko felt as though she was “the most important person in the eyes of [Jonnell].”⁴ They went out on dates, and Aiko, through this time, developed a deepening affection for Jonnell. They lived together for several years until Aiko got pregnant. The parties decided to marry since Aiko’s pregnancy was becoming apparent.⁵

On January 29, 2012, they were married by a minister, Rev. Herman O. Rosales, at the Living Stones on the Rock Church in Quezon City. The parties initially lived at Illumina Residences, in a unit acquired by Jonnell’s parents.⁶

On June 6, 2012, their only child together, Aimii Tan, was born. Aiko then decided to stay first in her parents’ house while she recovered from her caesarean delivery. While there, Jonnell barely visited her. In the very few times he did, Jonnell acted as though he was “a mere guest, a fleeting visitor.”⁷ He did not even help Aiko with her postpartum recovery and in taking care of their newborn child.⁸

Upon the parties’ return to their conjugal abode, Jonnell would be gone all day and would only come back late at night. Most of the time, he came home in the wee hours of the morning. Aiko never again experienced any sweetness from Jonnell. The latter became cold and avoided conversing, bonding, and having any sexual intimacy with her.⁹

A painful episode was when Aimii fell off the sofa. Jonnell simply walked out on Aiko and their child. Aiko immediately called her mother and a friend for help, and the child was rushed to the emergency room of a nearby hospital. Fortunately, Aimii was treated successfully and turned out fine.¹⁰

One day, Aiko accidentally discovered a text message addressed to Jonnell from a medical clinic saying that Jonnell’s daughter was due for a check-up. Aiko personally visited the medical clinic and found the name of Jonnell’s daughter with another woman. She learned that Jonnell and the other woman had a stall in the nearby marketplace where they sold vegetables. She also learned that even before their marriage, Jonnell was already in a relationship with the other woman.¹¹

⁴ *Id.* at 17.

⁵ *Id.* at 58–59.

⁶ *Id.* at 77.

⁷ *Id.* at 20.

⁸ *Id.* at 77–78.

⁹ *Id.*

¹⁰ *Id.* at 78.

¹¹ *Id.*

In January 2015, Jonnell left their conjugal home and continued to live with his mistress. Aiko was thus compelled to return to her parents' house.¹²

On November 14, 2016, Aiko filed a Petition for Declaration of Nullity of Marriage on the ground of psychological incapacity.¹³ She contended that there was a clear failure on the part of Jonnell to comply with his obligations as a husband to show love, respect, fidelity, and moral and psychological support to her.

Summons was served upon Jonnell by substituted service, but he did not file any Answer. The public prosecutor was ordered to conduct an investigation to determine if there was collusion between the parties. Trial Prosecutor Ireneo Quintano, in his report, found no collusion.¹⁴

Clinical psychologist Dr. Nedy L. Tayag (Dr. Tayag) conducted a psychological evaluation. She reported that the marriage between Aiko and Jonnell failed due to their respective psychological incapacities. Aiko was suffering from a dependent personality disorder, manifested in her: (i) difficulty expressing disagreement with others because of fear of losing support or approval; (ii) incorrigible lack of self-efficacy; and (iii) going to excessive lengths to obtain nurturance and support from others, to the point of volunteering to do things that are unpleasant.¹⁵ Dr. Tayag explained that Aiko's condition is attributed to the faulty childrearing practices and less-ideal familial atmosphere she experienced during the crucial years of her development. Dr. Tayag reported:

With her overindulging parents, [Aiko] did not develop healthy assertion and sense of independence. On each state of her development, [Aiko] just blindly accepted the erroneous insights and faulty beliefs she held about self and embraced the idea that she could not go on without the help of others. Her extreme dependency generated a lot of problems in most of her important functions, which was noted in the marital history.¹⁶

As to Jonnell, Dr. Tayag said he was suffering from antisocial personality disorder, manifested in: (i) his being an irresponsible man; (ii) his being an unfaithful husband; and (iii) his lack of remorse.¹⁷ Jonnell's condition is rooted back to the initial phases of his development, when he was still in the crucial years of his psychological growth. Dr. Tayag noted:

[W]ith the scarce discipline from parents[,] this allowed him to strengthen his inclination to prefer impulsive and irresponsible way of behavior since

¹² *Id.*

¹³ *Id.* at 59.

¹⁴ *Id.*

¹⁵ *Id.* at 63.

¹⁶ *Id.* at 64.

¹⁷ *Id.* at 64-66.

he was not used to being bound on his parents' authority and power. He became pleasure-oriented and his behaviors are (sic) directed to immediate gratification, especially that he was not used into observing certain restrictions imposed by any of his parents. Lying and deceiving are considered more of an option especially that increases his rate to instantly get what he yearns for by trying to manipulate and distort the facts and reality. Responsibilities and personal sacrifices are viewed as obstructions for self-satisfaction than helpful means to improve both of his self-appraisal and social relationships. The absence of effective discipline and proper guidance did not only let this develop, but also made him guiltless in executing these, let alone witnessing his father being a womanizer himself. His maladaptive behaviors and erroneous insights were never corrected, but were even reinforced by his daily experiences. When he reached adulthood, all of these became established and the permanent pillars of his person, which affects his functions in all important aspects of life, including marriage.¹⁸

According to Dr. Tayag, the personalities of both parties are grave, serious, incurable, and rooted in their upbringing. She also declared that the failed marital union between the parties is beyond repair. Dr. Tayag thus recommended that the petition be granted.¹⁹

On May 7, 2018, the Regional Trial Court of Pasig City rendered a Decision²⁰ dismissing the petition for insufficiency of evidence. It found that from the facts presented, Aiko failed to convince the court that their marriage deserves to be nullified based on psychological incapacity. The relevant portion of the Decision reads:

WHEREFORE, having failed to prove a valid and very serious ground to nullify this sacred marriage, and based on the foregoing observations, with much regret, the Court is constrained to DENY the Petition.

Furnish the Office of the Solicitor General and the Public Prosecutor with a copy of this Decision.

SO ORDERED.²¹

Aiko filed a Motion for Reconsideration, but it was denied by the Regional Trial Court in its July 9, 2018 Order.²²

Aiko filed a Notice of Appeal,²³ but in a Decision²⁴ dated November 27, 2020, the Court of Appeals denied the same. The Court of Appeals held that the actuations of the spouses, "by themselves, do not demonstrate that

¹⁸ *Id.* at 66.

¹⁹ *Id.* at 66-67.

²⁰ *Id.* at 76-83.

²¹ *Id.* at 83.

²² *Id.* at 67.

²³ *Id.*

²⁴ *Id.* at 58-75.

both parties are psychologically incapacitated as these may have simply been borne out of jealousy, emotional immaturity, irresponsibility or dire financial constraints.”²⁵ Moreover, Dr. Tayag’s medical report fails to show that the personality disorders of the spouses were impressed with the qualities of juridical antecedence and incurability. The findings in the medical report were also found to be inadequate having been based only on the one-sided narrations of Aiko and her friend Teresita Sarmiento. The relevant portion of the Decision reads:

WHEREFORE, the *Appeal* is hereby **DENIED**. The *Decision* dated 7 May 2018 of the Regional Trial Court of Pasig City, Branch 162, in Civil Case No. JDRC 11294-SJ, is **AFFIRMED**.

SO ORDERED.²⁶

Hence, Aiko filed the present Petition.²⁷

Petitioner argued that the Regional Trial Court and the Court of Appeals erred in ignoring the testimony of Tayag, a clinical psychologist whose expertise has been recognized and acknowledged by Philippine courts and by this Court, particularly in a dissenting opinion concerning *Matudan v. Republic*.²⁸ Petitioner contended that Dr. Tayag’s expert testimony and medical report had sufficiently shown, explained, and proved the parties’ psychological incapacity. Petitioner added that Dr. Tayag’s diagnosis of the parties’ personality disorders was never contravened or disputed either by a countervailing testimonial or documentary evidence from any witness, as neither the respondent nor the State presented any evidence.²⁹

Petitioner further contended that it would be impossible for a marriage to work when only one party is willing to perform their marital obligations. This is not the concept of marriage deemed by the framers of the Family Code. According to petitioner, in granting the Petition, the Court would not be demolishing the foundation of families, but would actually protect the sanctity of marriage, by disallowing a person who cannot comply with the essential marital obligations to remain in that sacred bond.³⁰

Finally, petitioner pleaded for the Court to accord compassionate justice to her and her child, who was abandoned by her father, and the opportunity to enjoy life to the fullest and to become part of a whole family once again.³¹

²⁵ *Id.* at 71.

²⁶ *Id.* at 75.

²⁷ *Id.* at 10–56.

²⁸ 799 Phil. 449 (2016) [Per J. Del Castillo, Second Division].

²⁹ *Rollo*, pp. 24–51.

³⁰ *Id.*

³¹ *Id.* at 51–52.

In compliance with this Court's July 12, 2021 Resolution,³² the Republic of the Philippines, through the Office of the Solicitor General, filed a Comment/Opposition dated November 11, 2021.³³

Public respondent countered that the Court of Appeals correctly found that petitioner failed to prove that neither she nor private respondent was psychologically incapacitated to fulfill essential marital obligations.³⁴

Despite notice, private respondent did not file a Comment.

In compliance with this Court's September 19, 2022 Resolution,³⁵ petitioner filed a Reply to the Comment/Opposition³⁶ dated November 8, 2022. Petitioner maintains that the guidelines in *Tan-Andal v. Andal*³⁷ were satisfied.³⁸

This Court must determine now whether the Court of Appeals erred in ruling that petitioner failed to demonstrate either of the spouses' psychological incapacity.

We grant the Petition.

Article 36 of the Family Code recognizes that a marriage contracted by a person who is psychologically incapacitated to comply with essential marital obligations is void:

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.

Psychological incapacity has since been given many interpretations, the most popular of which may be that in *Republic v. Court of Appeals and Molina*.³⁹ *Molina* set forth the 8-point guidelines (*Molina* guidelines) governing the determination of psychological incapacity:

(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

³² *Id.* at 109–110.

³³ *Id.* at 138–162.

³⁴ *Id.* at 147–158.

³⁵ *Id.* at 212–213.

³⁶ *Id.* at 215–233.

³⁷ G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*].

³⁸ *Rollo*, pp. 216–231.

³⁹ 335 Phil. 664 (1997) [Per J. Panganiban, *En Banc*].

validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family, recognizing it "as the foundation of the nation." It decrees marriage as legally "inviolable," thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be "protected" by the state.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.


(2) The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological — not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or psychically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of *ejusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

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

(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, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

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



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

(8) The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the *defensor vinculi* contemplated under Canon 1095.⁴⁰ (Citations omitted)

This Court later observed in *Ngo Te v. Yu-Te*⁴¹ that the foregoing created an overly restrictive standard in establishing psychological incapacity:

In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in *Molina*, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the “most liberal divorce procedure in the world.” 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*

⁴⁰ *Id.* at 676–679.

⁴¹ 598 Phil. 666 (2009) [Per J. Nachura, Third Division].

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.⁴² (Citations omitted)

Thus, this Court revisited the *Molina* guidelines in *Tan-Andal v. Andal*.⁴³ It traced the history of Article 36 and found the need to modify and refine the *Molina* guidelines to conform with the actual intent and import behind Article 36.⁴⁴

First, *Tan-Andal* determined that the appropriate quantum of proof in psychological incapacity cases is clear and convincing evidence.⁴⁵

Second, *Tan-Andal* categorically abandoned the second guideline in *Molina* requiring the psychological incapacity to be medically or clinically identified and sufficiently proven by experts.⁴⁶ Rather, the Court requires “proof of a person’s ‘personality structure’ which makes it impossible for them to understand and comply with their marital obligations.”⁴⁷

Third, *Tan-Andal* restated the three characteristics of psychological incapacity: juridical antecedence, incurability, and gravity.⁴⁸ *Georfo v. Republic*⁴⁹ summarizes the characteristics as follows:

Juridical antecedence is established by showing that the psychological incapacity exists at the time of the celebration, even if it only manifests during the marriage. It may be proven by “testimonies describing the environment where the supposedly incapacitated spouse lived that may have led to a particular behavior.”

While it is difficult to pinpoint when the psychological incapacity existed, it is enough that the petitioner show that the incapacity, “in all reasonable likelihood,” already exists at the time the marriage was celebrated. Since the spouses will only assume marital obligations after the marriage, their psychological capacity to fulfill those obligations will only manifest after the celebration of the marriage.

Incurability must be viewed in the legal, not medical, sense. Veering away from the medical orientation, the third *Molina* guideline was amended. Psychological incapacity is not a medical illness which can be

⁴² *Id.* at 695–696.

⁴³ G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*].

⁴⁴ *Georfo v. Republic*, G.R. No. 246933, March 6, 2023 [Per J. Leonen, Second Division].

⁴⁵ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*] at 27. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁴⁶ *Id.* at 30–31.

⁴⁷ *Georfo v. Republic*, G.R. No. 246933, March 6, 2023 [Per J. Leonen, Second Division] at 12. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁴⁸ *Id.*

⁴⁹ *Id.* at 13. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

cured: it must 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.”

To satisfy the requirement of incurability, there must be a showing of an “undeniable pattern of such persisting failure to be a present, loving, faithful, respectful, and supportive spouse [that] must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other.”

The requirement on the gravity of the psychological incapacity was retained, which must be “caused by a genuinely psychic cause.” It must not be mere “mild characterological peculiarities, mood changes, occasional emotional outbursts,” nor “mere refusal, neglect[,] difficulty, much less ill will.”⁵⁰ (Citations omitted)

Applying this to the case, this Court finds that the marriage between petitioner and respondent is void on the ground of respondent’s psychological incapacity.

Although no longer required, *Tan-Andal* allows courts to consider expert testimony:⁵¹

It is true that Dr. Garcia gave the expert opinion — which, we reiterate, is no longer required but is considered here given that it was offered in evidence — 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 allegedly “unscientific and unreliable.”

Unlike ordinary witnesses who must have personal knowledge of the matters they testify on, expert witnesses do not testify in court because they have personal knowledge of the facts of the case. The credibility of expert witnesses does not inhere in their person; rather, their testimony is sought because of their special knowledge, skill, experience, or training that ordinary persons and judges do not have. Rule 130, Section 49 of the Rules of Court on the opinion of expert witness provides:

SECTION 49. *Opinion of expert witness.* — The opinion of a witness on a matter requiring special knowledge, skill, experience or training which he is shown to possess, may be received in evidence.⁵² (Citations omitted)

Such expert testimony need not rely on a personal examination of the

⁵⁰ *Id.*

⁵¹ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*] at 36. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁵² *Id.*

allegedly psychologically incapacitated spouse.⁵³ In *Santos-Gantan v. Gantan*,⁵⁴ the Court said that:

Camacho-Reyes v. Reyes ordains that the non-examination of one of the parties will not automatically render as hearsay or invalidate the findings of the examining psychiatrist or psychologist, since marriage, by its very definition, necessarily involves only two (2) persons. As such, the totality of the behavior of one spouse during the cohabitation and marriage is generally and genuinely witnessed mainly by the other.

The absence of such personal examination is not fatal so long as the totality of evidence sufficiently supports a finding of psychological incapacity. Consequently, petitioner bears the burden of proving the gravity, juridical antecedence,⁵⁵ and incurability of respondent spouse's psychological incapacity.⁵⁵ (Citations omitted)

By the foregoing standards, Dr. Tayag's findings sufficiently support a finding of psychological incapacity on the part of respondent. The most blatant of his behaviors being maintaining a life with his paramour and their extramarital child in complete disregard of his own spouse, their child, and his marital obligations.

While sexual infidelity is a ground for legal separation under Article 55 of the Family Code, the Court has ruled that the existence of grounds for legal separation does not foreclose the possibility of psychological incapacity. In *Tan-Andal*, the Court ruled that a marriage severed by legal separation may be attended by psychological incapacity:

That drug addiction is a ground for legal separation will not prevent this Court from voiding the marriage in this case. A decree of legal separation entitles spouses to live separately from each other without severing their marriage bond, but no legal conclusion is made as to whether the marriage is valid. Therefore, it is possible that the marriage is attended by psychological incapacity of one or both spouses, with the incapacity manifested in ways that can be considered as grounds for legal separation. At any rate, so long as a party can demonstrate that the drug abuse is a manifestation of psychological incapacity existing at the time of the marriage, this should be enough to render the marriage void under Article 36 of the Family Code.⁵⁶

In *Clavecilla v. Clavecilla*,⁵⁷ the Court said that although sexual infidelity is a ground for legal separation, it may also be a manifestation of psychological incapacity:

⁵³ *Marcos v. Marcos*, 397 Phil. 840, 850 (2000) [Per J. Panganiban, Third Division].

⁵⁴ 888 Phil. 141 (2020) [Per J. Lazaro-Javier, First Division].

⁵⁵ *Id.* at 152–153.

⁵⁶ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*] at 40. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁵⁷ G.R. No. 228127, March 6, 2023 [Per C.J. Gesmundo, First Division].

The Court would like to clarify that although sexual infidelity is a ground for legal separation under Art. 55 of the Family Code, it may be deemed as a manifestation of psychological incapacity. *Castillo v. Republic* elucidated that there must be evidence linking the unfaithfulness with the inability to perform essential spousal obligations:

In order for sexual infidelity to constitute as psychological incapacity, the respondent's unfaithfulness must be established as a manifestation of a disordered personality, completely preventing the respondent from discharging the essential obligations of the marital state; there must be proof of a natal or supervening disabling factor that effectively incapacitated him from complying with the obligation to be faithful to his spouse. It is indispensable that the evidence must show a link, medical or the like, between the acts that manifest psychological incapacity and the psychological disorder itself.

Accordingly, the allegation of marital infidelity cannot be automatically ruled as an invalid ground to declare a marriage void *ab initio*. As long as the alleged sexual infidelity stemmed from the psychological incapacity of the unfaithful spouse, then it can be a valid ground for declaration of nullity of marriage under Art. 36 of the Family Code.⁵⁸ (Citations omitted)

Indeed, “[s]uch blatant insensitivity and lack of regard for the sanctity of the marital bond and home cannot be expected from a married person who reasonably understand[s] the principle and responsibilities of marriage.”⁵⁹

This is consistent with Dr. Tayag's findings that respondent's sexual infidelity is a manifestation of his antisocial personality disorder.⁶⁰ Persons with antisocial personality disorder “may repeatedly disregard or violate the rights of others, may lie, deceive or manipulate others, act impulsively, or disregard their or others' safety.”⁶¹ Hence, respondent's blatant disregard of the consequences of his affair on petitioner.

Respondent's psychological incapacity manifested in other behaviors as well. Examples of respondent's disregard for others' rights and safety were his failure to show any concern for his spouse after childbirth and his inappropriate response of leaving abruptly when his newborn child fell off a sofa. He spent very little time at home and when he did, he was cold and indifferent towards petitioner. Eventually, respondent abandoned his family.

Per Dr. Tayag's findings, respondent “does not give importance to his

⁵⁸ *Id.* at 10–11. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁵⁹ *Republic v. Mola Cruz*, 836 Phil. 1266, 1284 (2018) [Per J. Gesmundo, Third Division].

⁶⁰ *Rollo*, pp. 91–92.

⁶¹ American Psychiatric Association, *Antisocial Personality Disorder: Often Overlooked and Untreated*, available at <https://www.psychiatry.org/news-room/apa-blogs/antisocial-personality-disorder-often-overlooked> (last accessed on August 16, 2023).

marital ties and personal commitments.”⁶² He acts irresponsible, untrustworthy, and unreliable.⁶³ The meaning of marriage and marital obligations is lost on respondent. Thus, respondent never fulfilled any of his obligations to be “present, loving, faithful, respectful, and supportive.”⁶⁴

Dr. Tayag opined that respondent’s lack of remorse for any of these behaviors is also a manifestation of his antisocial personality disorder.

The foregoing constitutes “clear acts of dysfunctionality that show a lack of understanding and concomitant compliance with one’s essential marital obligations due to psychic causes.”⁶⁵

Respondent’s psychological incapacity has juridical antecedence. His behavioral patterns, specifically his sexual infidelity, were manifest since before the celebration of the marriage. Dr. Tayag traced respondent’s behavioral problems to his childhood as well. The lack of discipline in his upbringing reinforced his impulsiveness and irresponsibility. He became pleasure-oriented and viewed responsibilities as obstacles to immediate gratification. Respondent did not receive proper guidance to correct these behavioral patterns. Worse, he was aware of his own father’s sexual infidelity as well.⁶⁶

Respondent’s psychological incapacity is incurable in that all his maladaptive behaviors became established and permanent pillars of his person, affecting all his functions, including how he behaves as a spouse. Further, his personality is so incompatible and antagonistic with petitioner’s, considering Dr. Tayag found her to be overly dependent and seriously lacking self-efficacy.⁶⁷ Taking these together, their marriage was bound for inevitable and irreparable breakdown, as it in fact did.

Respondent’s psychological incapacity is grave and rooted in a genuinely psychic cause. As discussed above, his incapacity is deep-seated in his personality structure. His beliefs and actions went unchecked since childhood that it became ingrained in his system until he developed antisocial personality disorder. Clearly, his condition is neither mild nor occasional.

⁶² *Rollo*, p. 92.

⁶³ *Id.*

⁶⁴ *Cayabyab-Navarro v. Navarro*, G.R. No. 216655, April 20, 2022 [Per J. Perlas-Bernabe. Second Division] at 5. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁶⁵ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*] at 34. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

⁶⁶ *Rollo*, pp. 92–93.

⁶⁷ *Id.* at 90.

In contrast, while Dr. Tayag diagnosed petitioner with a personality disorder, petitioner failed to satisfactorily establish how the same relates to her fulfillment of essential marital obligations. In any case, the psychological incapacity of one spouse is sufficient to declare a marriage void *ab initio*.

Considering the totality of evidence, this Court finds that petitioner established with clear and convincing evidence that respondent is psychologically incapacitated to fulfill his essential marital obligations. Thus, their marriage is void under Article 36 of the Family Code.

On a final note, this Court takes exception to the non-gender-fair language of the court and the line of questioning of the prosecutor in the Regional Trial Court's May 7, 2018 Decision. The Decision was opened with a statement made by petitioner on the witness stand:

*"Sir, nauna po yung marriage kasi before I found out that he has a child with the other, because I know that he has a girlfriend, I didn't realize na may baby talaga sila."*⁶⁸

The Decision goes on to say:

Believing that the respondent had not been faithful to her, despite knowing fully well that the latter had another girlfriend other than her prior to their marriage, here comes the petitioner, praying to this Court that her marriage to the respondent be declared null and void on the ground of psychological incapacity of the respondent under Article 36 of the New Family Code.⁶⁹

It implied that petitioner was at fault and should not be afforded relief for marrying respondent knowing he had an affair.

The Decision later paints respondent's infidelity as a contest between the women:

Both women being pregnant, it became a "contest" as to who should win the "guy". The petitioner appears to have won, when she got the blessings [sic] of the respondent's parents to marry her.⁷⁰

Meanwhile, the court and the prosecutor posed the following questions to petitioner on cross-examination:

⁶⁸ *Rollo*, p. 76.

⁶⁹ *Id.*

⁷⁰ *Id.* at 80.

“So you’re the winner?”⁷¹

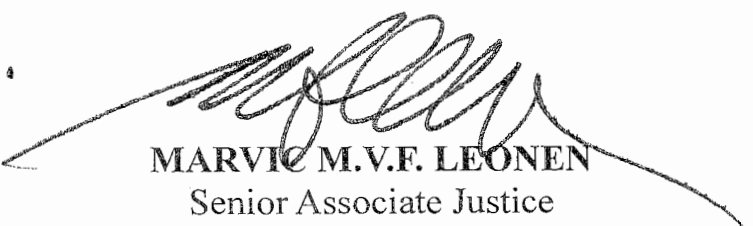
“*So parang pinikot mo lang ba siya, ganun ba ang ibig mong sabihin?*”⁷²

Together, the foregoing reinforces the trope that women are out to entrap men into marriage. The disparaging language shifts the blame on the woman for marrying the unfaithful man after getting pregnant as if society did not stigmatize single mothers. “Parting is already a sorrow. It need not be more than what it already is.”⁷³ The bench and the bar are reminded to abide by the Guidelines on the Use of Gender-Fair Language in the Judiciary and Gender-Fair Courtroom Etiquette.⁷⁴

WHEREFORE, the Petition is **GRANTED**. The November 27, 2020 Decision of the Court of Appeals in CA-G.R. CV No. 111517 is **REVERSED** and **SET ASIDE**.

The marriage between petitioner Aiko Yokogawa-Tan and private respondent Jonnell Tan is **DECLARED** null and void on the ground of private respondent’s psychological incapacity.

SO ORDERED.



MARVIC M.V.F. LEONEN
Senior Associate Justice

⁷¹ *Id.*

⁷² *Id.* at 81.

⁷³ *Tan-Andal v. Andal*, G.R. No. 196359, May 11, 2021 [Per J. Leonen, *En Banc*] at 45. This pinpoint citation refers to the copy of the decision uploaded to the Supreme Court website.

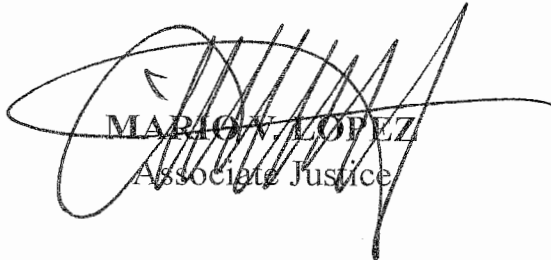
⁷⁴ A.M. No. 21-11-25-SC (2022).

WE CONCUR:

On official business

AMY C. LAZARO-JAVIER


Associate Justice



MARION LOPEZ
Associate Justice



JHOSEP V. LOPEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

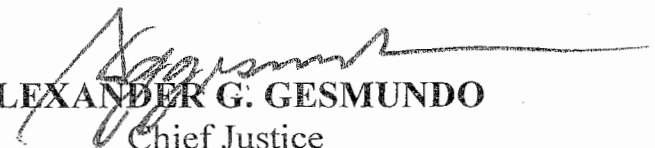
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson

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