



Republic of the Philippines  
**Supreme Court**  
Manila

SECOND DIVISION

REPUBLIC OF THE PHILIPPINES,  
Petitioner,

G.R. No. 170022

Present:

CARPIO, J.,  
Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, JJ.

- versus -

Promulgated:

CESAR ENCELAN,  
Respondent.

JAN 09 2013

*[Signature]*

X-----X

DECISION

BRION, J.:

We resolve the petition for review on *certiorari*<sup>1</sup> filed by petitioner Republic of the Philippines challenging the October 7, 2005 amended decision<sup>2</sup> of the Court of Appeals (CA) that reconsidered its March 22, 2004 decision<sup>3</sup> (*original decision*) in CA-G.R. CV No. 75583. In its original decision, the CA set aside the June 5, 2002 decision<sup>4</sup> of the Regional Trial Court (RTC) of Manila, Branch 47, in Civil Case No. 95-74257, which

<sup>1</sup> Under Rule 45 of the 1997 Rules of Civil Procedure; *rollo*, pp. 9-37.

<sup>2</sup> Penned by Associate Justice Elvi John S. Asuncion, and concurred in by Associate Justices Godardo A. Jacinto and Lucas P. Bersamin (now a member of this Court); *id.* at 39-42.

<sup>3</sup> *Id.* at 43-50.

<sup>4</sup> Records, pp. 436-438; penned by Judge Nimfa Cuesta-Vilches.

*[Signature]*

### **The Factual Antecedents**

On August 25, 1979, Cesar married Lolita<sup>5</sup> and the union bore two children, Maricar and Manny.<sup>6</sup> To support his family, Cesar went to work in Saudi Arabia on May 15, 1984. On June 12, 1986, Cesar, while still in Saudi Arabia, learned that Lolita had been having an illicit affair with Alvin Perez. Sometime in 1991,<sup>7</sup> Lolita allegedly left the conjugal home with her children and lived with Alvin. Since then, Cesar and Lolita had been separated. On June 16, 1995, Cesar filed with the RTC a petition against Lolita for the declaration of the nullity of his marriage based on Lolita's psychological incapacity.<sup>8</sup>

Lolita denied that she had an affair with Alvin; she contended that Alvin used to be an associate in her promotions business. She insisted that she is not psychologically incapacitated and that she left their home because of irreconcilable differences with her mother-in-law.<sup>9</sup>

At the trial, Cesar affirmed his allegations of Lolita's infidelity and subsequent abandonment of the family home.<sup>10</sup> He testified that he continued to provide financial support for Lolita and their children even after he learned of her illicit affair with Alvin.<sup>11</sup>

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<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.* at 7-8.

<sup>7</sup> *Id.* at 2 and 73. Also stated as "1989" and "1990" in other parts of the record and the TSN; *rollo*, pp. 44 and 92; TSN, August 22, 1996, p. 36; records, p. 119.

<sup>8</sup> Records, pp. 1-4.

<sup>9</sup> *Id.* at 165-167 and 313-318.

<sup>10</sup> *Id.* at 115-119.

<sup>11</sup> *Id.* at 104-114.

Cesar presented the psychological evaluation report<sup>12</sup> on Lolita prepared by Dr. Fareda Fatima Flores of the National Center for Mental Health. Dr. Flores found that Lolita was “*not suffering from any form of major psychiatric illness[,]*”<sup>13</sup> but had been “unable to provide the expectations expected of her for a good and lasting marital relationship”;<sup>14</sup> her “transferring from one job to the other depicts some interpersonal problems with co-workers as well as her impatience in attaining her ambitions”;<sup>15</sup> and “her refusal to go with her husband abroad signifies her reluctance to work out a good marital and family relationship.”<sup>16</sup>

### **The RTC Ruling**

In its June 5, 2002 decision,<sup>17</sup> the RTC declared Cesar’s marriage to Lolita void, finding sufficient basis to declare Lolita psychologically incapacitated to comply with the essential marital obligations.

The petitioner, through the Office of the Solicitor General (*OSG*), appealed to the CA.

### **The CA Ruling**

The CA originally<sup>18</sup> set aside the RTC’s verdict, finding that Lolita’s abandonment of the conjugal dwelling and infidelity were not serious cases of personality disorder/psychological illness. Lolita merely refused to comply with her marital obligations which she was capable of doing. The

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<sup>12</sup> *Id.* at 243-245.

<sup>13</sup> *Id.* at 245.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Supra* note 4.

<sup>18</sup> *Supra* note 2.

CA significantly observed that infidelity is only a ground for legal separation, not for the declaration of the nullity of a marriage.

Cesar sought reconsideration<sup>19</sup> of the CA's decision and, in due course, attained his objective. The CA set aside its original decision and entered another, which affirmed the RTC's decision. In its amended decision,<sup>20</sup> the CA found two circumstances indicative of Lolita's serious psychological incapacity that resulted in her gross infidelity: (1) Lolita's unwarranted refusal to perform her marital obligations to Cesar; and (2) Lolita's willful and deliberate act of abandoning the conjugal dwelling.

The OSG then filed the present petition.

### **The Petition**

The OSG argues that Dr. Flores' psychological evaluation report did not disclose that Lolita had been suffering from a psychological illness nor did it establish its juridical antecedence, gravity and incurability; infidelity and abandonment do not constitute psychological incapacity, but are merely grounds for legal separation.

### **The Case for the Respondent**

Cesar submits that Lolita's infidelity and refusal to perform her marital obligations established her grave and incurable psychological incapacity.

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<sup>19</sup> CA rollo, pp. 87-93.

<sup>20</sup> *Supra* note 2.

### **The Issue**

The case presents to us the legal issue of whether there exists sufficient basis to nullify Cesar's marriage to Lolita on the ground of psychological incapacity.

### **The Court's Ruling**

*We grant the petition. No sufficient basis exists to annul Cesar's marriage to Lolita on the ground of psychological incapacity.*

### **Applicable Law and Jurisprudence on Psychological Incapacity**

Article 36 of the Family Code governs psychological incapacity as a ground for declaration of nullity of marriage. It provides that "[a] marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization."

In interpreting this provision, we have repeatedly stressed that psychological incapacity contemplates "**downright incapacity or inability to take cognizance of and to assume the basic marital obligations**";<sup>21</sup> not merely the refusal, neglect or difficulty, much less ill will, on the part of the errant spouse.<sup>22</sup> The plaintiff bears the burden of proving the juridical

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<sup>21</sup> *Kalaw v. Fernandez*, G.R. No. 166357, September 19, 2011, 657 SCRA 822, 836-837.

<sup>22</sup> *Agraviador v. Amparo-Agraviador*, G.R. No. 170729, December 8, 2010, 637 SCRA 519, 538; *Toring v. Toring*, G.R. No. 165321, August 3, 2010, 626 SCRA 389, 405; *Paz v. Paz*, G.R. No. 166579, February 18, 2010, 613 SCRA 195, 205; *Navales v. Navales*, G.R. No. 167523, June 27, 2008, 556 SCRA 272, 288; *Paras v. Paras*, G.R. No. 147824, August 2, 2007, 529 SCRA 81, 106; *Republic of the Phils. v. Iyoy*, 507 Phil. 485, 502 (2005); and *Rep. of the Phils. v. Court of Appeals*, 335 Phil. 664, 678 (1997).

antecedence (*i.e.*, the existence at the time of the celebration of marriage), gravity and incurability of the condition of the errant spouse.<sup>23</sup>

**Cesar failed to prove Lolita’s psychological incapacity**

In this case, Cesar’s testimony failed to prove Lolita’s alleged psychological incapacity. Cesar testified on the dates when he learned of Lolita’s alleged affair and her subsequent abandonment of their home,<sup>24</sup> as well as his continued financial support to her and their children even after he learned of the affair,<sup>25</sup> but he merely mentioned in passing Lolita’s alleged affair with Alvin and her abandonment of the conjugal dwelling.

In any event, sexual infidelity and abandonment of the conjugal dwelling, even if true, do not necessarily constitute psychological incapacity; these are simply grounds for legal separation.<sup>26</sup> To constitute psychological incapacity, it must be shown that the unfaithfulness and abandonment are manifestations of a disordered personality that completely prevented the erring spouse from discharging the essential marital obligations.<sup>27</sup> No evidence on record exists to support Cesar’s allegation that Lolita’s infidelity and abandonment were manifestations of any psychological illness.

<sup>23</sup> *Kalaw v. Fernandez*, *supra* note 21, at 823; *Republic v. Galang*, G.R. No. 168335, June 6, 2011, 650 SCRA 524, 544; *Dimayuga-Laurena v. Court of Appeals*, G.R. No. 159220, September 22, 2008, 566 SCRA 154, 161-162; *Republic v. Cabantug-Baguio*, G.R. No. 171042, June 30, 2008, 556 SCRA 711, 725; *Hernandez v. Court of Appeals*, 377 Phil. 919, 932 (1999); and *Rep. of the Phils. v. Court of Appeals*, *supra*, at 676.

<sup>24</sup> *Supra* note 10.

<sup>25</sup> *Supra* note 11.

<sup>26</sup> The Family Code, Art. 55. A petition for legal separation may be filed on any of the following grounds:

x x x x

(8) Sexual infidelity or perversion;

x x x x

(10) Abandonment of petitioner by respondent without justifiable cause for more than one year.

<sup>27</sup> *Toring v. Toring*, *supra* note 22, at 406.

Cesar mistakenly relied on Dr. Flores' psychological evaluation report on Lolita to prove her alleged psychological incapacity. The psychological evaluation, in fact, established that *Lolita did not suffer from any major psychiatric illness*.<sup>28</sup> Dr. Flores' observation on Lolita's interpersonal problems with co-workers,<sup>29</sup> to our mind, does not suffice as a consideration for the conclusion that she was – *at the time of her marriage* – psychologically incapacitated to enter into a marital union with Cesar. Aside from the time element involved, a wife's psychological fitness as a spouse cannot simply be equated with her professional/work relationship; workplace obligations and responsibilities are poles apart from their marital counterparts. While both spring from human relationship, their relatedness and relevance to one another should be fully established for them to be compared or to serve as measures of comparison with one another. To be sure, the evaluation report Dr. Flores prepared and submitted cannot serve this purpose. Dr. Flores' further belief that Lolita's refusal to go with Cesar abroad signified a reluctance to work out a good marital relationship<sup>30</sup> is a mere generalization *unsupported by facts* and is, in fact, a rash conclusion that this Court cannot support.

In sum, we find that Cesar failed to prove the existence of Lolita's psychological incapacity; thus, the CA committed a reversible error when it reconsidered its original decision.

Once again, we stress that marriage is an inviolable social institution<sup>31</sup> protected by the State. Any doubt should be resolved in favor of its existence

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<sup>28</sup> *Supra* note 13.

<sup>29</sup> *Supra* note 15.

<sup>30</sup> *Supra* note 16.

<sup>31</sup> *Bolos v. Bolos*, G.R. No. 186400, October 20, 2010, 634 SCRA 429, 439; and *Camacho-Reyes v. Reyes*, G.R. No. 185286, August 18, 2010, 628 SCRA 461, 464.

its existence and continuation and against its dissolution and nullity.<sup>32</sup> It cannot be dissolved at the whim of the parties nor by transgressions made by one party to the other during the marriage.


**WHEREFORE**, we **GRANT** the petition and **SET ASIDE** the October 7, 2005 amended decision of the Court of Appeals in CA-G.R. CV No. 75583. Accordingly, we **DISMISS** respondent Cesar Encelan's petition for declaration of nullity of his marriage to Lolita Castillo-Encelan.

Costs against the respondent.

**SO ORDERED.**


  
**ARTURO D. BRION**  
Associate Justice

**WE CONCUR:**

  
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson

  
**MARIANO C. DEL CASTILLO**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice

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<sup>32</sup> *Ochosa v. Alano*, G.R. No. 167459, January 26, 2011, 640 SCRA 517, 524; *Republic v. Cabantug-Baguio*, *supra* note 23, at 727; and *Rep. of the Phils. v. Court of Appeals*, *supra* note 23, at 676.



## 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.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice