



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

ROMMEL M. ESPIRITU,
Petitioner,

G.R. No. 247583

Members:

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

-versus-

SHIRLEY* ANN BOAC-
ESPIRITU,
Respondent.

Promulgated:

OCT 06 2021

[Signature]

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DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*¹ seeks to reverse and set aside the Decision² dated April 26, 2019 of the Court of Appeals in CA-G.R. CV No. 110892 which affirmed the Decision of the Regional Trial Court (RTC) – Branch 88, Sto. Domingo, Nueva Ecija, denying the petition for declaration of nullity of marriage of petitioner Rommel Espiritu with respondent Shirley Ann Boac-Espiritu.

* Also spelled “Shierly” in the Regional Trial Court Decision and Court of Appeals Decision.

¹ *Rollo*, pp. 9-19.

² *Id.* at 92-102.

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Antecedents

On July 28, 2010, Rommel Espiritu filed a petition for declaration of nullity of his marriage with Shirley Ann Boac-Espiritu based on Article 36³ of the Family Code. The case was docketed as Civil Case No. SD (10) - 786 and raffled to the RTC - Branch 88, Sto. Domingo, Nueva Ecija.⁴

He essentially averred:

In August 1998, a common friend introduced them to each other.⁵ He courted respondent for a month and eventually became lovers. On July 18, 2000, they got married in Municipal Hall, Talavera, Nueva Ecija officiated by then Mayor Manolito Fausto. They were blessed with three (3) children.⁶ They resided in the house owned by respondent's parents in Calipahan, Talavera, Nueva Ecija.⁷

After a while, he noticed that respondent started showing signs of alleged "*psychological incapacity*" in performing her marital obligations. She refused to have sex with him for no reason. She told him to look for another woman to satisfy his sexual urges.⁸ Also, she did not want to sleep on the same bed with him and demanded to be alone.⁹

As a police officer, he got assigned to different places so he could only go home once a week. Whenever he was home, however, respondent had the habit of picking fights with him on trivial matters instead of being happy with his company. She was hot-tempered and a constant nagger. When they quarreled, she cursed at him and harshly called him a worthless husband.¹⁰ Since the house where they lived were owned by her parents, she would easily order him to leave. Despite this, he chose to understand her for the sake of their family.

Respondent, too, did not trust him. Each time he arrived from work, she smelled his clothes for a woman's scent. She regularly checked his cellphone to verify if he had extramarital affairs. She also looked into his wallet and ATM card to verify his withdrawals as she suspected he was spending money for different women.¹¹ She believed that he resembled her father, a soldier, who abandoned them for another family. She also thought that just like her father, he (petitioner), too, was a womanizer supporting another family.¹² Further, she got jealous whenever he talked to other women, among them, his

³ Article 36, Family Code provides:

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.

⁴ CA *rollo*, p. 163.

⁵ *Rollo*, p. 10.

⁶ *Id.* at 11.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Record, pp. 72-73.

¹² *Id.* at 18.

co-workers' wives.¹³ Whenever she got furious, she would drive him away, telling him to meet up with his so-called mistresses.¹⁴ He tried his best to disprove her accusations but it was all in vain. She never believed him. She had no room for compromise and never admitted her mistakes.¹⁵

On numerous occasions, she prioritized her friends more than their family. She would go out with them for days leaving their minor children starving.¹⁶ There were times when he was out for work, respondent's aunt¹⁷ would be the one looking after their kids while she spent hours or days with friends.

She eventually banished him from their home, blurting "*lumayas ka na dito hindi na kita kailangan, doon ka na lang sa mga babae mo!*"¹⁸ That forced him to move out and live in his friend's house.¹⁹ They separated in 2008.²⁰

Meantime, he consulted a clinical psychologist, Dr. Pacita Tudla (Dr. Tudla) who opined that their marriage should be nullified on ground of respondent's psychological incapacity. Dr. Tudla interviewed him, their driver Rolando David (David), and their neighbor Ricardo Maligaya (Maligaya). Both David and Maligaya confirmed the chaotic relationship between him and his wife especially her curses and expletives directed against her husband, mostly spewed within their neighbors' hearing distance, her outbursts on his unworthiness as a husband and several times she drove him away from their home.²¹

Dr. Tudla invited respondent for an interview but the latter ignored the invitation.²²

Based on her assessment, Dr. Tudla diagnosed respondent with "*Histrionic Personality Disorder and Paranoid Personality Disorder*"²³ characterized by the following personality traits:

For Histrionic Personality Disorder:

1. Pervasive pattern of excessive emotionality;
2. Attention-seeker;
3. Selfish;
4. Unreliable;
5. Wants immediate gratification;
6. Overreacts to minor provocations;

¹³ *Id.* at 79.

¹⁴ TSN dated September 6, 2011, p. 22.

¹⁵ Record, p. 73.

¹⁶ *Rollo*, p. 11.

¹⁷ TSN dated August 2, 2011, p. 18.

¹⁸ TSN dated September 6, 2011, p. 22

¹⁹ *Id.* at 11.

²⁰ TSN dated August 2, 2011, p. 16; TSN dated December 6, 2011, p. 28.

²¹ Record, p. 108; p. 112.

²² TSN dated September 4, 2012, p. 39.

²³ Record, pp. 78-79.

7. Suggestible; and
8. Lacks analytic ability.

For Paranoid Personality Disorder:

1. Pervasive pattern of suspiciousness and distrust on others;
2. Seeks to confirm expectation that others will take advantage of her;
3. Falsely accuses others;
4. Unreasonable jealousies; and
5. Resentful and moody.

Dr. Tudla concluded that respondent's incapacity was rooted in her problematic childhood. When she was in elementary, her father abandoned them for another family.²⁴ Her father never sent them any financial support. Her family's financial struggles forced her mother to work abroad as a domestic helper. She became detached from both of her parents.²⁵ She had poor upbringing because though she was left in the custody of her grandparents, the latter were lenient in her actions and tolerant of her wants. She never learned how to keep their dwelling tidy. Her grandparents always allowed her to go out with friends with whom she learned to live a carefree life.²⁶ The marital woes of her parents, the infidelity of her father, the lack of parental support, and a detached family life affected her personality and behavioral pattern. As a wife, she was uncaring, suspicious, and unsupportive. She falsely accused her husband, petitioner, as a womanizer for simply being a police officer. For no reason, she refused to have sex with him, and even suggested to satisfy his sexual urges with another woman. She was a constant nagger. She was incapable of understanding, let alone, compromise. She was also unreasonably jealous and distrustful of him. Each time he arrived from work, she smelled his clothes for any woman's scent. She also regularly checked his cellphone, wallet and ATM card to confirm if he was indeed engaged in extramarital affairs. She, too, was neglectful and irresponsible due to frequent escapades with her friends, leaving their minor children unattended.

Due to her personality traits,²⁷ she never found meaning in her marriage with petitioner. Thus, she could never commit herself into sharing mutual trust, respect, loyalty, support, and love with petitioner.²⁸

Despite notice and summons, respondent failed to respond to the petition.²⁹ Per Investigation Report dated April 5, 2011, the public prosecutor delegated by the Office of the Solicitor General (OSG) attested that no collusion existed between the parties.³⁰

²⁴ *Id.* at 74.

²⁵ *Id.*

²⁶ *Id.* at 80.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Rollo*, p. 12.

³⁰ *Record*, p. 164.

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The Ruling of the RTC

By Decision³¹ dated June 30, 2017, the trial court denied the petition, thus:

IN VIEW OF THE FOREGOING REASONS, the instant petition for declaration of nullity of marriage under Art. 36 of the Family Code of the Philippines is hereby DENIED.

Let a copy of this judgment be served upon the Office of the Solicitor General, Makati City, Office of the Provincial Prosecutor of Nueva Ecija, Local Civil Registrar of Talavera, Nueva Ecija, and the Office of the Civil Registrar General, National Statistics Office/Philippine Statistics Office (sic), Quezon City.

SO ORDERED.³²

The trial court held that the totality of evidence failed to prove respondent's psychological incapacity.³³ Dr. Tudla based her conclusions only from the information offered by petitioner and his collateral witnesses who knew nothing about her childhood or what she was going through as they were simply the family's neighbor and petitioner's driver.³⁴ Their testimonies were unreliable and even self-serving, hence, devoid of any evidentiary weight.³⁵

Petitioner, thereafter, filed a motion for new trial. He claimed that he chanced upon Marissa Pineda-De Fiesta (Pineda-De Fiesta), respondent's childhood friend. Pineda-De Fiesta signified her willingness to testify on respondent's family background.³⁶ Under Resolution dated July 26, 2017, the motion for new trial was denied.³⁷

The Ruling of the Court of Appeals

On appeal, petitioner faulted the trial court for denying the petition for nullity of marriage. He argued in the main that the totality of evidence proved respondent's psychological incapacity to comply with her marital obligations.³⁸ Respondent's personality disorders embedded in her psyche made her unable to discharge the obligation to live together, observe mutual love, respect, and support which caused their marriage to fall apart.³⁹

In its assailed Decision⁴⁰ dated April 26, 2019, the Court of Appeals affirmed. It did not give credence to the findings of the clinical psychologist, Dr. Tudla, pertaining to the alleged dysfunctional personality traits of

³¹ *Id.* at 163-172.

³² *Id.* at 171-172.

³³ *Id.* at 170.

³⁴ *Id.* at 170-171.

³⁵ *Id.* at 171.

³⁶ *Id.* at 76.

³⁷ *Id.* at 76-77.

³⁸ *CA rollo*, p. 18.

³⁹ *Id.* at 19.

⁴⁰ *Rollo*, p. 92-102.

respondent. It noted that **since Dr. Tudla relied solely on the information gathered from petitioner, their driver, and neighbor, her findings were actually one-sided and incompetent, therefore, on both grounds unreliable.**⁴¹ She had not personally examined respondent and **petitioner was unable to present independent witnesses to testify** on respondent's alleged incapacity.⁴²

The Present Petition

Petitioner now seeks affirmative relief from the Court *via* Rule 45 of the Rules of Court. He **erroneously** faults the Court of Appeals for **allegedly disregarding** the *expert findings of Dr. Tudla just because she did not get to personally examine and interview respondent*⁴³ – **erroneously** because this was **not** the Court of Appeals' only ground to reject the expert's findings.

For its part, the OSG maintains that petitioner failed to discharge the burden of proof to establish respondent's psychological incapacity.⁴⁴

Ruling

We **deny** the petition.

Article 36 of the Family Code, as amended, recognizes psychological incapacity as a ground to declare the nullity of marriage, *viz.* :

Art. 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization.

As expressed in Article 68⁴⁵ of the Family Code, the marital covenants include the mutual obligations of husband and wife to live together, observe love, respect and fidelity and to help and support each other.

In *Tan-Andal v. Andal*,⁴⁶ the Court *En Banc* revisited the concept of psychological incapacity and how through the years, it was invariably interpreted and applied as a mere medical condition which hinged on mental incapacity or personality disorder. The Court, voting as one, ultimately agreed on a reconfigured concept of psychological incapacity:

x x x Psychological incapacity is neither a mental incapacity nor a personality disorder that must be proven through expert opinion. There may now be proof of the durable aspects of a person's personality, called "personality structure," which manifests itself

⁴¹ *Id.* at 100-101.

⁴² *Id.*

⁴³ *Id.* at 17.

⁴⁴ *Id.* at 140.

⁴⁵ Article 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

⁴⁶ G.R. No. 196359, May 11, 2021.

through clear acts of dysfunctionality that undermines the family. The spouse's personality structure must make it impossible for him or her to understand and, more importantly, to comply with his or her essential marital obligations.

Proof of these aspects of personality need not be given by an expert. Ordinary witnesses who have been present in the life of the spouses before the latter contracted marriage may testify on behaviors that they have consistently observed from the supposedly incapacitated spouse. From there, the judge will decide if these behaviors are indicative of a true and serious incapacity to assume the essential marital obligations.

In this way, the Code Committee's intent to limit the incapacity to "psychic causes" is fulfilled. Furthermore, there will be no need to label a person as having a mental disorder just to obtain a decree of nullity. x x x

Difficult to prove as it may be, a party to a nullity case is **still required to prove juridical antecedence because it is an explicit requirement of the law.** x x x

x x x x

Furthermore, not being an illness in a medical sense, **psychological incapacity is not something to be cured. And even if it were a mental disorder, it cannot be described in terms of being curable or incurable.**

x x x x

Reading together the deliberations of the Code Committee and our rulings in *Santos* and *Molina*, **we hold that the psychological incapacity contemplated in Article 36 of the Family Code is incurable, not in the medical, but in the legal sense; hence, the third *Molina* guideline is amended accordingly.** This means that the incapacity is 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.** "An undeniable pattern of such persisting failure [to be a present, loving, faithful, respectful, and supportive spouse] must be established so as to demonstrate that there is indeed a psychological anomaly or incongruity in the spouse relative to the other."

With respect to gravity, the requirement is retained, not in the sense that the psychological incapacity must be shown to be a serious or dangerous illness. but that "mild characterological peculiarities, mood changes, occasional emotional outbursts" are excluded. x x x

x x x x

To summarize, psychological incapacity consists of **clear acts of dysfunctionality that show a lack of understanding and concomitant compliance with one's essential marital obligations due to psychic causes. It is not a medical illness that has to be medically or clinically identified; hence, expert opinion is not required.**

As an explicit requirement of the law, the psychological incapacity must be shown to have been in existence at the time of the celebration of

18

the marriage, and is **caused by a durable aspect of one's personality structure**, one that was formed before the parties married. x x x **To prove psychological incapacity, a party must present clear and convincing evidence of its existence.** (Emphases supplied; citations omitted)

x x x x

Notably, *Tan-Andal* correctly stated the threshold of evidence in psychological incapacity cases, *i.e.*, the spouse alleging psychological incapacity is required to prove his or her case with **clear and convincing evidence**. Clear and convincing evidence is the quantum of proof that requires more than preponderance of evidence but less than proof beyond reasonable doubt.⁴⁷

In the case of marriage, **the presumption strongly upholds its validity**. Trial courts hearing psychological incapacity cases that are **uncontested** must **invariably** bear in mind this **legal requirement** – a petitioner **bears the heavy burden** of proving by **clear and convincing evidence** the legal requisites of **psychological incapacity** in order to **rebut the presumptive validity of marriage** and **obtain the relief that they seek**, even if **neither the State nor the respondent presents any evidence in chief** and **depends only on the cross-examination of petitioner's witnesses and objections to the latter's other evidence**. To stress –

Semper praesumitur pro matrimonio. The presumption is always in favor of the validity of the marriage. Every intendment of the law or fact leans toward the validity of the marriage bonds. The Courts look upon this presumption with great favor. It is not to be lightly repelled; on the contrary, the presumption is of great weight.⁴⁸

To repeat, every case to nullify a marriage positions the petitioner as invariably standing against this presumption. Thus, the petitioner **must successfully discharge their**⁴⁹ **burden** of proving the contrary by **clear and convincing evidence** the essence of psychological incapacity in order to overcome the presumed validity of one's marriage.

To stress, psychological incapacity consists of clear acts of dysfunctionality that show lack of understanding and concomitant compliance with one's essential marital obligations.⁵⁰ But every case involving the alleged psychological incapacity of a spouse should be resolved based on its particular set of facts and Article 36 of the Family Code, applied on a case-to-case basis. *Tan-Andal* was not meant to strait-jacket lower courts, forcing them to apply the guidelines in nullity cases of all shapes and sizes.⁵¹

As ordained in *Tan-Andal*, psychological incapacity is not only a mental incapacity nor only a personality disorder that must be proven through

⁴⁷ *Id.*

⁴⁸ *Alcantara v. Alcantara*, 558 Phil. 192, 208 (2007).

⁴⁹ "Their" is used to indicate gender neutrality, non-affiliation or indeterminacy.

⁵⁰ *Supra* note 46.

⁵¹ See *Ngo Te v. Yu Te*, 598 Phil. 666, 696 (2009).

11

an expert opinion. “There may now be proof of the durable 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 this spouse to understand and, more importantly, to comply with his or her essential marital obligations.”

In the 2000 case of *Marcos v. Marcos*,⁵² the Court already decreed that there is no requirement that the person to be declared psychologically incapacitated be personally examined by an expert, be it a psychiatrist or a clinical psychologist. What is important is the presence of totality of evidence that adequately establishes the party’s psychological incapacity. *Tan-Andal*, too, cited *Marcos*, albeit it clarified that *Marcos* failed to categorically mention that expert opinion is no longer required in proving psychological incapacity, viz.:

It took time before this Court, in *Marcos v. Marcos*, declared that “a medical examination of the person concerned need not be resorted to.” Instead, as this Court said, “the totality of evidence presented is enough to sustain a finding of psychological incapacity.” **This pronouncement seemed to do away with the requirement of expert opinion on the root cause of the psychological incapacity, but this Court was not categorical with this.** It even said in *Marcos* that the “root cause may be ‘medically or clinically identified,’ — **implying that although medical opinion may be done away with, a clinical identification, which is still expert opinion, must nevertheless be presented.** (Emphasis supplied)

Keen attention to expert opinion, nonetheless, would not be harmful if only to enable the Court to reach an “intelligent and judicious” ruling.⁵³ Accordingly, though the Court in *Tan-Andal* maintained that expert opinion is no longer required, it still gave credence to the testimony and findings of Dr. Valentina Del Fonso Garcia who declared therein petitioner’s husband as psychologically incapacitated. The Court pronounced that the Court of Appeals erred in discrediting Dr. Garcia’s expert opinion just because no prior personal examination and interview of therein respondent was done, viz.:

x x x **Dr. Garcia recounted how Mario developed traits exhibiting chronic irresponsibility, impulsivity and lack of genuine remorse, lack of empathy and sense of entitlement, behaviors manifesting his inherent psychological incapacity to comply with his essential marital obligations.**

x x x x

It is true that Dr. Garcia gave the expert opinion — which, we reiterate, is no longer required but is considered here x x x the Court of Appeals erred in discounting wholesale Dr. Garcia’s expert opinion because her methodology was allegedly “unscientific and unreliable.”

x x x x

⁵² 397 Phil. 840, 842 (2000), as cited in *Republic v. Galang*, 665 Phil. 658, 675 (2011).

⁵³ See *Kalaw v. Fernandez*, 750 Phil. 482, 500 (2015).

On the principles and methodology Dr. Garcia applied in evaluating Rosanna and Mario, she conducted a psychiatric clinical interview and mental status examination of Rosanna. She likewise interviewed Ma. Samantha and Jocelyn Genevieve, Rosanna's sister. The psychiatric clinical interview and mental status examination remain to be the principal techniques in diagnosing psychiatric disorders. x x x

x x x x

At any rate, this Court said in *Marcos* that personal examination of the allegedly psychologically incapacitated spouse is "not [required] for a declaration of [nullity of marriage due to] psychological incapacity." So long as the totality of evidence, as in this case, sufficiently proves the psychological incapacity of one or both of the spouses, a decree of nullity of marriage may be issued.

x x x x

Therefore, the Court of Appeals erred in not giving credence to Dr. Garcia's expert opinion just because Mario did not appear for psychiatric evaluation. (Emphasis supplied)

Verily, *Tan-Andal* democratized the forms of evidence proving **psychological incapacity**. The Court allowed lay persons to prove psychological incapacity through evidence of a *personality structure* or *psychic causes* that *manifest itself through clear acts of dysfunctionality that undermine the family*.

Indeed, lay persons can testify about **dysfunctional acts** that **undermine the family**. The **types of evidence** that a **lay person may adduce** for this purpose are: (i) the **reputation** of the incapacitated spouse being psychologically incapacitated – that is, the viewpoint of reasonable members of the spouses' relevant communities, (ii) the **character** of the incapacitated spouse relevant to or indicative of such incapacity, (iii) the **everyday behavior, acts or conduct** of the incapacitated spouse, and (iv) the **offended spouse's own experience** of neglect, abandonment, unrequited love, and infliction of mental distress, among others.

These types of evidence may **establish circumstances probative of the dysfunctional acts** inimical to the family. The **relevant circumstances to be proven** would *include* (i) **instances of violence** against women and their children as defined in Republic Act No. 9262⁵⁴, (ii) **zero probability of reconciliation** between the spouses, and (iii) **failure of the spouse or the spouses to perform** his, her, or their marital duties and obligations in a manner **clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage**.

Notably, the third category of circumstances refers to the characterization, *i.e., clearly demonstrative of an utter insensitivity or*

⁵⁴ An Act Defining Violence Against Women and Their Children, Providing for Protective Measures for Victims, Prescribing Penalties Therefore, and for Other Purposes, signed on March 8, 2004.

8

inability to give meaning and significance to the marriage, that was once used to describe the *personality disorder* that gave rise to psychological incapacity.⁵⁵

Since *Tan-Andal* has **abandoned the focus** on personality disorders and expert opinions, this characterization may now be appropriated to capture the essence of the problematic personality structure or psychic causes that spawn psychological incapacity. Embraced in this **inclusive circumstance** are **such facts as: (i) forms of addiction** demonstrative of such insensitivity or inability, (ii) **abandonment** by one spouse of the other, or (iii) **instances of actual loss of trust, love, and respect for each other**. This is notwithstanding the reality of meaningless marriages which force either or both spouses into chronically unproductive and detached lives, thus, physically and psychologically endangering themselves in the process.

Applying *Tan-Andal* here, we find that petitioner was **NOT ABLE** to prove by **clear and convincing evidence** that, indeed, respondent is afflicted with psychological incapacity which hinders her from performing her marital duties to petitioner.

First. To be clear, we are not rejecting the factual premises of petitioner's testimony. Here, he testified that respondent had the habit of picking fights with him on **trivial matters**. She was hot-tempered and a constant nagger. She got jealous whenever he talked to other women, among them, the wives of his co-workers. Each time he arrived from work, she smelled his clothes for a woman's scent whatever that **stereotypical and discriminatory characterization** actually meant. She regularly checked his cellphone to verify whether he had extramarital affairs. She also looked into his wallet and bank account as she suspected he was spending money on different women. Whenever she got furious, she would drive him away, telling him to meet up with his so-called mistresses.

Meanwhile, their **driver**, David, and their **neighbor** Maligaya confirmed the chaotic relationship between him and his wife especially her outbursts on his husband and the several times she drove him away from their home.

Even if we believe these testimonies as gospel truth, however, petitioner still failed to provide a complete picture of respondent's supposed psychological incapacity. The Court is faced with more questions than answers on why respondent was acting the way she did: 1) what are those "trivial matters" that made her furious?; 2) why would she regularly sniff his clothes, check his cellphone and ATM card?; 3) what made her believe that he had extramarital affairs?; 4) why would she get jealous over his co-worker's wives?; 5) why did she ask him to move out from their home?; 6) did their driver and neighbor actually understand the root cause of their so called "chaotic relationship"? Clearly, petitioner only offered general statements of

⁵⁵ See e.g. *Republic v. Deang*, G.R. No. 236279, March 25, 2019.

respondent's supposed manifestations of psychological incapacity. This assumed knowledge pertaining to respondent's acts, *even if true*, is incomplete to establish petitioner's cause.

Thus, believing the testimonies of petitioner and his witnesses does **not** yield the conclusion that respondent is psychologically incapacitated. As uniformly held in the courts below, the totality of the factual circumstances **as testified by petitioner and his witnesses**, failed to sufficiently establish that respondent is psychologically incapacitated in assuming her marital obligations. Respondent's constant nagging, suspicion, jealousy, and anger do not equate to being truly incognitive in performing her basic marital duties. Indeed, respondent may be a difficult spouse to deal with⁵⁶ as petitioner claimed her to be. But mere difficulty is not the incapacity contemplated by law.⁵⁷ The Court cannot leave the impression that marriage may be easily entered into when it suits the needs of the parties, and just as easily nullified when stressful, difficult, or inconvenient.⁵⁸

Further, while respondent checked his clothes for scents and ATM card for withdrawals, had occasional outbursts, and wanted him out of their house, she, too, may have been already fed up with petitioner's philandering. For it is also probable that **petitioner was the one giving reasons for respondent to react the way she did**. Respondent's reaction was not of a psychologically incapacitated spouse but of a wife who *subjectively* or in her own experiences and mind has had enough of her husband's unfaithful ways.

Otherwise stated, petitioner failed to prove by clear and convincing evidence that respondent's actions rose to the level of psychological incapacity which could have nullified their marriage. On the contrary, respondent simply reacted normally to the situation she found herself in each time.

Second. Tan-Andal stressed that **"psychological incapacity is not a personality disorder; it is not a medical illness that has to be medically or clinically identified; hence expert opinion is not required."**

While Dr. Tudla opined that respondent had *Histrionic Personality Disorder and Paranoid Personality Disorder*, her findings **failed** to specifically show how respondent's personality traits characterized by excessive emotionality, constant nagging, jealousy, distrust, and resentment, among others, are indeed **clear acts of dysfunctionality** making it impossible for her to understand and comply with her essential marital obligations.⁵⁹ To be sure, Article 36 of the Family Code is not the antidote for failed expectations, habitual suspicions, constant fights, and persistent doubts. The institution of marriage **transcends** these.⁶⁰

⁵⁶ Record, p. 73.

⁵⁷ *Baccay v. Baccay*, 651 Phil. 68, 86 (2010).

⁵⁸ *Bayani-Magay v. Magay*, G.R. No. 227279 (Notice), September 22, 2020.

⁵⁹ *Supra* note 46.

⁶⁰ See *Lim v. Lim*, G.R. No. 241273 (Notice), June 19, 2019.

Third. For the same reasons given above assailing the probative value of petitioner's evidence, there is as well as clear and convincing evidence for the requisite **juridical antecedence, gravity, and incurability** of respondent's personality structure.

As to **juridical antecedence**, neither petitioner nor his driver and neighbor grew up with respondent. Admittedly, petitioner met respondent only in **August 1998**. They are therefore **incompetent** to prove this requisite.

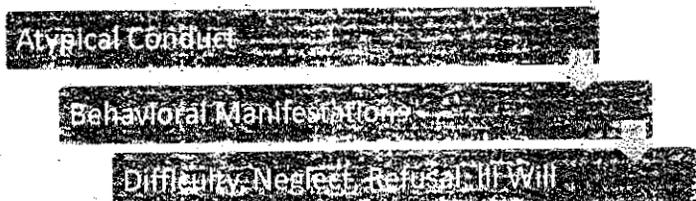
As to **gravity**, this requisite is **established** if the **personality structure** is the **proximate cause** of the **failure of the spouses** to perform their mutual obligations of love, care, loyalty and fidelity and the **manner of non-performance** must be "*clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.*"

The **proximate cause** of the **non-performance** may either be respondent's **personality structure** itself or what jurisprudence referred to as a spouse's or both spouses' **deliberate refusal or unwillingness** or even **negligence** to assume the essential obligations of marriage.

The **behavioral manifestations** of an **atypical or wild conduct** may **not** at all be connected to a personality structure but to **mere difficulty, neglect, refusal or ill will** to perform marital obligations. It would appear then that in every claim of **psychological incapacity**, there is the counterpart cause for the odd and obnoxious behavioral manifestations, which is either **mere difficulty, neglect, refusal or ill will to discharge marital or parental obligations**. To visualize this logic, the alternatives are either:



Or:



Hence, to prove **gravity**, it must be asked whether there is evidence of conduct, on respondent's part, **clearly and convincingly** that the **non-performance** is **not due to mere difficulty, neglect, refusal or ill will** to perform marital obligations, **but due to her personality structure**.

8

Here, there is **no clear and convincing evidence** of the requisite **gravity**. For one, the more likely inference is that respondent was already fed up with her distrust of petitioner. More, there is **no clear and convincing evidence** of the **nature and make-up** of respondent's **personality structure** and its **causative effect** upon her non-performance of the obligations of her part of the marriage. Petitioner's declarations that respondent "never believed him," "had no room for compromise," and "never admitted her mistakes"⁶¹ are insufficient to establish a true and serious incapacity as contemplated under Article 36 of the Family Code.⁶² For being skeptical and uncompromising on one's situation and on one's spouse, though unfortunate, are not signs of a genuinely serious psychic cause; more so, neither can falling out of love be so labeled.⁶³

With the **failure of petitioner** to prove **clearly and convincingly** juridical antecedence and gravity, it would **no longer matter** if the expert concluded respondent's personality structure to be **incurable**. While technically, this requisite of **incurability** is heavily dependent on expertise about cures and therapies, it would still not be *probable* to concede proof of this requisite given the lack of proof of respondent's true **personality structure**.

We understand that the spouses Espiritu have long been separated — thirteen (13) years to be exact. **However**, we also have to **weigh the consequences** of petitioner's claims. It is **not fair** to call respondent *psychologically incapacitated* and *deficient in her role as a spouse and mother* when **probably**, as the *more or at least equally likely inference shows*, she may also have been a *victim* of this loveless and stressful marriage.

Depending on who the *survivor* is, and who holds economic power, the power imbalance that could arise from the nullification of the marriage could weigh heavily and adversely upon respondent. She was the **one left** with the children's upbringing, and more likely than not, had to sacrifice at least a portion of her own independent career for so many years for her children and the family.

This fact weighs heavily upon us in looking with favor to petitioner's prayers **despite the long separation between him and respondent**. We are not disposed to label respondent *psychologically incapacitated* and *incapable spouse and mother*, based on petitioner's allegations, and **grant freedom** to petitioner when there is a power imbalance against respondent that may probably ensue. These circumstances plus the **paucity of evidence** to establish clear and convincing evidence compel us to deny the instant petition. We are aware of **gender inequalities** that have plagued Philippine marital situations for a long time and we are **not about to add** to that *history of plight and inequality*.

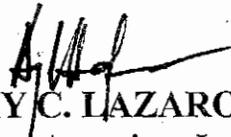
⁶¹ Record, p. 73.

⁶² See *Agraviador v. Amparo-Agraviador*, 652 Phil. 60, 65 (2010).

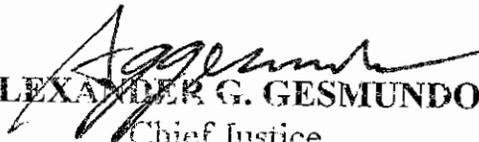
⁶³ See *Alcazar v. Alcazar*, 618 Phil. 616, 631 (2009).

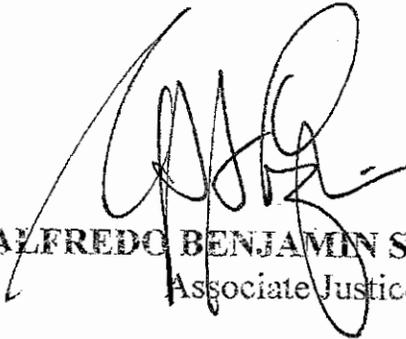
ACCORDINGLY, the petition is **DENIED**. The Decision dated April 26, 2019 of the Court of Appeals in CA-G.R. CV No. 110892 and the Decision dated June 30, 2017 of the Regional Trial Court – Branch 88, Sto. Domingo, Nueva Ecija in Civil Case No. SD (10) - 786 are **AFFIRMED**. The marriage between Rommel M. Espiritu and Shirley Ann Boac-Espiritu **remains valid**.

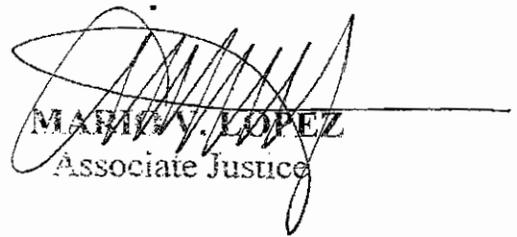
SO ORDERED.


AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
 Chief Justice
 Chairperson

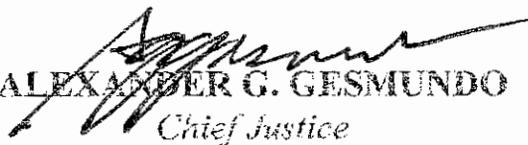

ALFREDO BENJAMIN S. CAGUICA
 Associate Justice


MARIVIC LOPEZ
 Associate Justice


JHOSEP LOPEZ
 Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
 Chief Justice

