



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
DEC 17 2019
BY: YSO
TIME: 9:16am

SPECIAL SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **16 October 2019** which reads as follows:

"G.R. No. 235035 – Neal Jose O. Gonzales, petitioner, versus Michelle Anne* R. Baluyut, respondent.

X-----X

The present *Motion for Reconsideration*¹ (motion) lacks merit. A scrutiny of the motion reveals that petitioner Neal Jose O. Gonzales (petitioner) failed to advance any substantial argument that would warrant a reversal of this Court's Resolution² dated June 6, 2018.

In the present motion, petitioner insists that the evidence on record not only shows that his psychological incapacity exists, but also shows that it is of such nature as to merit the nullification of his marriage with respondent. As basis, petitioner relies on the Court's ruling in *Kalaw v. Fernandez*³ (*Kalaw*), to the effect that the medical examination of the non-afflicted spouse is not necessary when the totality of the evidence presented shows that the psychological incapacity of the other in fact exists.⁴ Such reliance is misplaced.

In *Kalaw*, the Court declared the marriage of the parties' therein void based on: (i) the testimony of Catholic canon law expert, Fr. Gerard Healy; (ii) the testimony of court social worker Jocelyn V. Arre who conducted a case study on the parties and their minor children; (iii) the testimony of the parties' eldest child; and (iv) the testimony and report of psychologist Dr. Cristina Gates whose findings were based on interviews conducted not only with petitioner therein, his sister, and his youngest son.

Here, the only pieces of evidence on record are the testimonies of petitioner and his friend Virgilio Vizcarra (Virgilio), as well as that of Dr. Jay Madelon Castillo-Carcereny (Dr. Carcereny). It is apparent that the testimonies of petitioner and Virgilio cannot be taken to corroborate the findings of Dr. Carcereny who based his findings precisely on the former's statements. Hence, the circumstances attendant in this Petition cannot be likened to those in *Kalaw*. To be sure, the "totality of evidence" rule in *Kalaw* cannot be stretched to apply to cases where, as here, no other evidence on exists on record to corroborate the findings arising from the medical examination subject of the dispute.

* Also spelled as "Ann" in other parts of the *rollo*.

¹ *Rollo*, pp. 405-423.

² *Id.* at 403-404.

³ 750 Phil. 482 (2015).

⁴ See *id.* at 503.

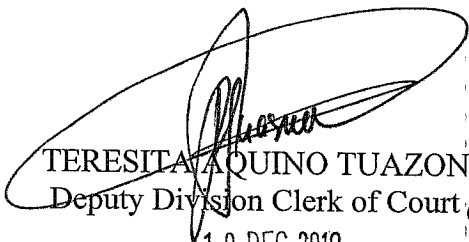
1/10/20

Considering that a review under Rule 45 is not a matter of right, but of sound judicial discretion, it was incumbent upon petitioner to show his entitlement thereto. Failing to do so, the present motion seeking reconsideration of the Court's Resolution denying the same must likewise be denied.

Let entry of judgment be issued immediately.

SO ORDERED. *Perlas-Bernabe, J., on official business.*"

Very truly yours,


 TERESITA AQUINO TUAZON
 Deputy Division Clerk of Court *Atty. 12/10*
 10 DEC 2019

DONATO & ZARATE (reg)
 (Formerly Donato Zarate & Rodriguez)
 Counsel for Petitioner
 7th Floor, Electra House
 115 Esteban corner V.A. Rufino Streets
 Legaspi Village, Makati City

ATTY. MARIE ELAINE C. ADORA (reg)
 Counsel for Respondent
 Unit 209, Señor Ivan de Palacio Building
 No. 139 Malakas Street, Diliman, Quezon City

ATTY. ARLENE G. LAPUZ-URETA (reg)
 Collaborating Counsel for Petitioner
 Unit 1-A, CC, McKinley Garden Villas,
 Phase 2, Taguig City

HON. PRESIDING JUDGE (reg)
 Regional Trial Court, Branch 260
 Parañaque City
 (Civil Case No. 10-0562)

OFFICE OF THE SOLICITOR GENERAL (reg)
 134 Amorsolo Street
 1229 Legaspi Village
 Makati City

JUDGMENT DIVISION (x)
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
 LIBRARY SERVICES (x)
 [For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
 OFFICE OF THE REPORTER (x)
 Supreme Court, Manila

COURT OF APPEALS (x)
 Ma. Orosa Street
 Ermita, 1000 Manila
 CA-G.R. CV No. 106802

Please notify the Court of any change in your address.
 GR235035. 10/16/2019(12)URES/ssc