



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

FIRST DIVISION

JERIK B. ESTELLA,  
Petitioner,

G.R. No. 249250

Members:

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

- versus -

NIÑA MONRIA AVA M. PEREZ,  
Respondent,

Promulgated:

SEP 29 2021

REPUBLIC OF THE  
PHILIPPINES,  
Oppositor.

X-----X

DECISION

LAZARO-JAVIER, J.:

The Case

This Petition for Review on *Certiorari*<sup>1</sup> seeks to reverse and set aside the following dispositions of the Court of Appeals in CA-G.R. CV No. 06331:

- 1) Decision<sup>2</sup> dated October 12, 2018 which reversed the decision of the Regional Trial Court (RTC) – Branch 26, Argao, Cebu, granting the

<sup>1</sup> *Rollo*, pp. 16-47.

<sup>2</sup> Penned by Associate Justice Edward B. Contreras and concurred in by Associate Justices Gabriel T. Ingles and Dorothy P. Montejo-Gonzaga, all members of the Nineteenth Division, *id.* at 50-58.

petition for declaration of nullity of marriage of petitioner Jerik Estella with respondent Niña Monria Ava Perez; and

- 2) Resolution<sup>3</sup> dated August 13, 2019 which denied petitioner's motion for reconsideration.

### Antecedents

On July 19, 2011, petitioner Jerik Estella filed a petition for declaration of nullity of his marriage with Niña Monria Ava Perez based on Article 36<sup>4</sup> of the Family Code. The case was docketed as Civil Case No. AV-1618 and raffled to the RTC – Branch 26, Argao, Cebu.<sup>5</sup>

He essentially averred:

In 2006, he and Niña Monria Ava Perez met at eTelecare Global Solutions, I.T. Park, Lahug, Cebu City where they both worked as recruitment officers.<sup>6</sup> She confided to him problems about her family and her then boyfriend of eight (8) years. After some time, they became close and eventually became lovers even though she had not broken up yet with her boyfriend.<sup>7</sup>

Sometime in January 2008, Niña got assigned in Manila. He followed her and later learned that she was pregnant for two (2) months. He got excited about it but she wanted to abort the baby.<sup>8</sup> She even told him that he might not be the father of the child.<sup>9</sup> He got shocked that despite their intimate relationship, she continued having an intimate and physical affair with another man.<sup>10</sup> Nonetheless, he thought that the baby might, after all, be his. So he continued his relationship with her until they decided to live together in his parents' house. Eventually, on September 20, 2008, she gave birth to a baby boy.<sup>11</sup>

On October 10, 2010, they got married<sup>12</sup> at Cebu International Convention Center – North Reclamation Area, Mandaue City.<sup>13</sup> After a while, he noticed that she started showing signs of psychological incapacity in performing her marital obligations. She was irresponsible, irritable, and neglectful of their son.<sup>14</sup> She got jealous of his affection for the child. One

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<sup>3</sup> *Id.* at 7-8.

<sup>4</sup> 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.

<sup>5</sup> *Rollo*, p. 92.

<sup>6</sup> *Id.* at 79.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 80.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 51.

<sup>13</sup> *Id.* at 113.

<sup>14</sup> *Id.* at 51.

time, the child had fever and seizures but she just slept the whole night and did not bother to check the child's condition.<sup>15</sup> He asked her about her indifference toward their son. She replied that motherhood was not for her.<sup>16</sup>

On numerous occasions, she prioritized her friends more than their family. She would go out with them at night and only come home during the wee hours of the morning.<sup>17</sup> One time, she told him that she felt more comfortable being with Russel, her male friend.<sup>18</sup> He confronted her about her close relation with Russel but she got angry and left their house.<sup>19</sup> He tried to appease her by bringing flowers to her in the office. But each time, she rejected him by saying "*can't you understand? I don't love you.*"<sup>20</sup> Even so, he consistently persuaded her to come back until eventually, they reconciled.<sup>21</sup>

Not long after, however, she became colder and distant. She had the habit of picking fights with him even on trivial matters. And each time, she would leave the house. She told him she felt empty and unhappy.<sup>22</sup> For her, having a family did not give her happiness.<sup>23</sup> She said she did not really love him and she would never make any compromises for him.<sup>24</sup>

Feeling lost, he decided to talk to her mother-in-law. After the latter heard his story, she got embarrassed of her daughter's attitude. She felt sorry that her daughter did not care so much for their family.<sup>25</sup>

He then realized that his efforts to win her back were all in vain as she never endeavored to make their marriage work.<sup>26</sup> He felt mentally and emotionally abused by his own wife.<sup>27</sup> In January 2011, she finally moved out of the house and never came back. They have since been separated.<sup>28</sup>

Meantime, he consulted a clinical psychologist, Dr. Maryjun Delgado who opined that their marriage should be nullified on ground of respondent's psychological incapacity. Dr. Delgado interviewed him, and then, his cousins Francis Malilong and Paula Estella. These two (2) corroborated the chaotic relationship between him and his wife.<sup>29</sup> Respondent refused to minimize her nightly escapades. She had the habit of leaving him and their son every time she got angry.<sup>30</sup> Respondent was not amenable to submit herself to psychological examination.<sup>31</sup>

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<sup>15</sup> *Id.* at 81.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 82.

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 82-83.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at 83.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 84.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 93.

<sup>27</sup> *Id.* at 84.

<sup>28</sup> *Id.* at 22.

<sup>29</sup> *Id.* at 121.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 94.

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Based on her assessment, Dr. Delgado diagnosed respondent with “*Borderline Personality Disorder and Narcissistic Personality Disorder*,”<sup>32</sup> characterized by the following personality traits:

1. Marked and persistent unstable sense of self;
2. Impulsivity;
3. High sense of abandonment;
4. A pattern of unstable and intense interpersonal relationships characterized by alternating between idealization and devaluation;
5. Affective instability due to reactivity of moods;
6. Inappropriate and intense anger, and inability to control it;
7. Chronic sense of emptiness;
8. Grandiose sense of self-importance;
9. High sense of entitlement;
10. Needs to feel special and admired always;
11. Lacks empathy and does not recognize the needs and feelings of others;
12. Interpersonally exploitative and manipulative; and
13. Highly arrogant.<sup>33</sup>

Respondent’s incapacity was rooted in her problematic childhood.<sup>34</sup> She grew up witnessing the constant fights between her parents, their financial struggles, as well as her mother’s illicit affair. She had been estranged from her mother after she caught her having sex with another man.<sup>35</sup> She left their house and worked as a promo girl to sustain herself.<sup>36</sup> The marital woes of her parents, the infidelity of her mother, and the hard life she went through caused her to lose her sense of self ever since she was a child.<sup>37</sup> This dysfunctional life affected her personality and behavioral pattern which eventually defined her as a person.<sup>38</sup> More, she did not find any maternal connection with her son because she herself lost connection with her mother long ago.<sup>39</sup> As a wife, she was neglectful, irresponsible, and uncaring. She only used petitioner as a source of attention and affection whenever she ran out of it from her friends and other men.<sup>40</sup> She continued to behave like a single woman.<sup>41</sup> **Due to her dysfunctional personality traits<sup>42</sup> embedded in her psyche**, 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.<sup>43</sup>

In her Answer, respondent denied she loved going out with her friends or that she neglected her family. It was petitioner who insisted she stay home and not go out with her workmates. She denied having an illicit affair with Russel. She admitted, though, she felt empty and unhappy because of

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<sup>32</sup> *Id.* at 132.

<sup>33</sup> *Id.* at 133.

<sup>34</sup> *Id.* at 130.

<sup>35</sup> *Id.* at 131.

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 127.

<sup>42</sup> *Id.* at 131.

<sup>43</sup> *Id.* at 133-134.

petitioner's irresponsibility. He was too dependent on his parents about every matter in his life.<sup>44</sup>

### The Ruling of the RTC

By Decision<sup>45</sup> dated September 7, 2015, the trial court granted the petition and declared *void ab initio* the marriage of petitioner and respondent, thus:

**WHEREFORE**, in view of the foregoing, the petition is hereby **GRANTED** and the marriage between petitioner Jerik B. Estella and respondent Niña Monria Ava M. Perez which was celebrated on October 10, 2010 is hereby declared **null and void** on the ground of psychological incapacity on the part of respondent under Article 36 of the Family Code and further granting the petition for a joint custody of minor xxx between petitioner and respondent.

Furnish copy of the Decision upon the Honorable Solicitor General, Hon. Joe Noel C. Lawas, Atty. Misty Leah C. Escolar Hupp, the petitioner and the respondent, for information, guidance and appropriate action.

SO ORDERED.<sup>46</sup>

The trial court held that petitioner clearly and convincingly established respondent's psychological incapacity. His testimony had been substantially corroborated by his cousins and Dr. Delgado who testified on the basis of her psychological findings of respondent's incapacity to comply with her essential marital obligations.<sup>47</sup> Respondent failed to comply with her obligation to live with her husband. She never supported or loved him. She was too busy with her friends and conveniently left her family whenever she liked.<sup>48</sup> Her personality aberration had turned her into an emotional oppressor of her husband. This eventually caused their marriage to break down.<sup>49</sup> Although she submitted her Answer to the petition, she failed to substantiate her denial or disprove the evidence presented by petitioner.<sup>50</sup>

The Office of the Solicitor General (OSG) filed a motion for reconsideration which was denied under Order<sup>51</sup> dated November 24, 2016.

### The Proceedings before the Court of Appeals

On appeal, the OSG faulted the trial court for granting the petition for nullity of marriage. It argued in the main that the totality of evidence failed to prove respondent's psychological incapacity to comply with her

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<sup>44</sup> *Id.* at 52.

<sup>45</sup> Penned by Judge Maximo A. Perez, *id.* at 92-96.

<sup>46</sup> *Id.* at p. 96.

<sup>47</sup> *Id.*

<sup>48</sup> *Id.* at 95-96.

<sup>49</sup> *Id.* at 95.

<sup>50</sup> *Id.* at 94.

<sup>51</sup> *Id.* at 111.

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marital obligations.<sup>52</sup> For petitioner allegedly failed to show that respondent's imputed disorders are grave and incurable.<sup>53</sup>

### **The Ruling of the Court of Appeals**

In its assailed Decision<sup>54</sup> dated October 12, 2018, the Court of Appeals reversed.<sup>55</sup> It ruled that the totality of evidence on record failed to establish respondent's psychological incapacity to comply with her marital obligations.<sup>56</sup> Her acts of emotional immaturity and irresponsibility did not necessarily equate to psychological incapacity.<sup>57</sup> It did not give credence to the clinical findings of Dr. Delgado pertaining to the dysfunctional personality trait and behavioral aberration of respondent. It found that since Dr. Delgado relied solely on the information gathered from petitioner and his cousins, her findings were deemed one-sided.<sup>58</sup> Respondent had not been personally examined, and no other independent witnesses had been presented to testify on her alleged incapacity.<sup>59</sup>

Under Resolution<sup>60</sup> dated August 13, 2019, petitioner's motion for reconsideration was denied.

### **The Present Petition**

Petitioner now seeks affirmative relief from the Court against the assailed dispositions of the Court of Appeals. He faults the Court of Appeals for disregarding the expert findings of Dr. Delgado just because no prior personal examination and interview of respondent was done.<sup>61</sup>

For its part, the OSG reiterates that petitioner failed to discharge the burden of proof to establish respondent's psychological incapacity.<sup>62</sup>

### **Issue**

Did the Court of Appeals gravely err when it reversed the decision *a quo* declaring *void ab initio* petitioner's marriage with respondent?

### **Ruling**

The petition is meritorious.

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<sup>52</sup> *Id.* at 53.

<sup>53</sup> *Id.* at 157.

<sup>54</sup> *Id.* at 50-58.

<sup>55</sup> *Id.* at 58.

<sup>56</sup> *Id.* at 54.

<sup>57</sup> *Id.* at 54-55.

<sup>58</sup> *Id.* at 57.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.* at 7-8.

<sup>61</sup> *Id.* at 34-37.

<sup>62</sup> *Id.* at 161.

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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 68<sup>63</sup> 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 the very recent case of *Tan-Andal v. Andal*,<sup>64</sup> 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. Following a series of open, robust, and studious deliberations, 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 only 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 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

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

x x x x

<sup>63</sup> Art. 68. The husband and wife are obliged to live together, observe mutual love, respect and fidelity, and render mutual help and support.

<sup>64</sup> G.R. No. 196359, May 11, 2021.

Therefore, reading together the deliberations of the Joint 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 the marriage, and is **caused by a durable aspect of one's personality structure,** one that was formed before the parties married. **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.** This threshold is actually **not new** as it is just a **reiteration** of the legal doctrine that **presumptions established by law are refutable only by clear and convincing evidence.**<sup>65</sup> In the case of marriage, the **presumption strongly upholds the validity of marriage:**

*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.<sup>66</sup>

Every case to nullify a marriage positions the petitioner as invariably

<sup>65</sup> See *e.g.*, *Garrido v. Garrido*, 625 Phil. 347 (2010).

<sup>66</sup> *Alcantara v. Alcantara*, 558 Phil. 192, 208 (2007).



**standing against this presumption.** Regardless of the appearance or non-appearance of the respondent, regardless of the absence of any testimonial, documentary or object evidence of the State, the **presumption stands as an obstacle** to every petitioner's ultimate prayer. There is **no other way** of surmounting this **legal barrier** but by the petitioner successfully discharging their<sup>67</sup> burden of proving the contrary by **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.<sup>68</sup>

In **preponderance of evidence**, the parties' **opposing evidence** are **matched against each other**, and the standard is met if the evidence is able to prove that the proposition is **more likely to be true than not true** or **more probable than improbable**, and **more likely to be true** or **more probable than what the opposing pieces of evidence prove**, that is, the proof generated by the evidence is **any value greater than fifty percent chance** that the proposition is true as against what the opposing evidence sought to establish.<sup>69</sup>

On the other hand, **clear and convincing evidence** means that the evidence presented by a party during the trial must be **highly and substantially more probable to be true than not** and the trier of fact must have a **firm belief or conviction in its factuality.**<sup>70</sup> In this standard, under the **clear and convincing standard**, the evidence must be **substantially greater than a fifty percent (50%) likelihood of being true.**

To sum up, the evidence must show 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 due to psychic causes.<sup>71</sup> But each 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.<sup>72</sup>

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

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<sup>67</sup> I use "their" to indicate gender neutrality, non-affiliation or indeterminacy.

<sup>68</sup> *Supra* note 63.

<sup>69</sup> *Miller v. Minister of Pensions*, [1947] 2 All ER 372.

<sup>70</sup> *Colorado v. New Mexico*, 467 U.S. 310 (1984).

<sup>71</sup> *Id.*

<sup>72</sup> See *Ngo Te v. Yu Te*, 598 Phil. 666, 710 (2009).

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."

Meanwhile, even as early as the 2000 case of *Marcos v. Marcos*,<sup>73</sup> the Court already ruled that there is no requirement that the person to be declared psychologically incapacitated be personally examined by a physician. 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 the Court in *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," requiring instead that "the totality of evidence presented be enough to sustain a finding of psychological incapacity." **This seemed to do away with the requirement of expert opinion on the root cause of the psychological incapacity, but the Court was not categorical with this.** It even said in *Marcos* that the "root cause may be 'medically or clinically' identified," **implying that though medical opinion may be done away with, a clinical identification, which is still expert opinion, must nevertheless be presented.** (Emphases supplied)

*Kalaw v. Fernandez*<sup>74</sup> emphasized that keen attention to expert opinion would not be harmful if only to enable the Court to reach an "intelligent and judicious" ruling. 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 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.:

**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 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

On the principles and methodology utilized by Dr. Garcia in evaluating Rosanna and Mario, Dr. Garcia conducted a psychiatric clinical

<sup>73</sup> 397 Phil. 840, 842 (2000), as cited in *Republic v. Galang*, 665 Phil. 658, 675 (2011).

<sup>74</sup> See *Kalaw v. Fernandez*, 750 Phil. 482, 500 (2015).

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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

At any rate, this Court said in *Marcos v. 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. (Emphases supplied)**

Verily, *Tan-Andal* galvanized the teachings of the above-quoted case law by democratizing proof of psychological incapacity. It did so by reiterating the rule that expert opinion while helpful was in truth unnecessary, and then cementing this rule by rejecting the approach that put personality disorder as the centerpiece. Thus, *Tan-Andal* stressed:

X X X 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 place of the personality disorder-centric approach and the undue reliance upon psychological and/or psychiatric assessments and the expert opinions thereon, *Tan-Andal* 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** would include (i) instances of **violence against women and their children**

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as defined in Republic Act No. 9262, (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 that is clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage.

Of note, the third category of circumstances refers to the characterization, *i.e.*, *clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage*, that was once used to describe the *personality disorder* that gave rise to psychological incapacity.<sup>75</sup>

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 mutual actual loss of trust, love, and respect for each other. Distinctive of these and other instances is the harsh reality that spouses coerced together in a meaningless marital relationship would only physically or psychologically endanger either or both of them as they cannot both move on to more productive relationships but be forced to live double or secret lives.

By training, lawyers have the competence to assemble the evidence on these matters. They know how to present witnesses who would testify on everyday behavior, acts or conduct, or adduce reputation and character evidence. They know how to question the offended spouse about the latter's own experience of neglect, abandonment, unrequited love, and infliction of mental distress. Similarly, judges – especially family court judges – are already equipped to assess these pieces of evidence. These clarifications allow us to operationalize *Tan-Andal's* teaching to reconfigure psychological incapacity as a legal concept and for us to understand and apply this concept within legal parameters.

Applying *Tan-Andal* here, we find that petitioner was 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. Consider:

*First.* Dr. Delgado found respondent to be suffering from dysfunctional personality traits and behavioral aberration classified as *Borderline Personality Disorder and Narcissistic Personality Disorder*. As petitioner and the other resource persons observed, she exhibited impulsivity, high sense of abandonment, affective instability due to reactivity of moods, inappropriate and intense anger and inability to control it, chronic sense of emptiness, high sense of entitlement, and lack of empathy, among others.

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<sup>75</sup> See *e.g. Republic v. Deang*, G.R. No. 236279, March 25, 2019.

Petitioner testified on the specific indicators of respondent's dysfunctional personality traits and behavioral aberration which he experienced up close and personal. He recounted that respondent prioritized her friends more than their family. On many occasions, she would go out with them at night and return home in the wee hours of the morning. She had a penchant for picking fights with him on trivial things. She never compromised and had the habit of abandoning her family whenever she got angry. She countlessly ignored and rejected his need for love and affection. Instead of strengthening their bond as husband and wife, she even cultivated an illicit relation with another man. And even as a mother, she got jealous of his affection toward their own child. One time their child had fever and seizures but she just slept the whole night and did not bother to check on the child's condition. When asked why she was indifferent toward their son, she bluntly said she was not cut for motherhood.<sup>76</sup> Even respondent's mother was embarrassed by her daughter's attitude and felt sorry that she (respondent) did not care so much for their family.

The totality of these indicators clearly and convincingly established not merely respondent's indifference or unwillingness to assume her essential marital obligations but a total disregard of her marital duties. To be sure, no evidence can be more convincing, *nay*, credible, than the detailed account of petitioner himself who experienced, on numerous occasions, his wife's psychological incapacity up close and personal.

Applying *Tan-Andal*, the requirement of gravity is established here. There is no doubt that respondent's psychological incapacity is serious as it is fully engraved in her personality structure clearly reflecting her insensitivity and inability to give meaning and significance to the marriage.<sup>77</sup> As she herself unreservedly admitted in her Answer, she did not find life and meaning in her married life with petitioner. She, too, never denied that her family failed to bring her happiness. Surely, we cannot, by any means, consider respondent's condition a mild characterological peculiarity.

**Second.** As for the requirement of juridical antecedence, Dr. Delgado found that respondent's incapacity had been deeply rooted in her problematic childhood.<sup>78</sup> She grew up witnessing the constant fights between her parents, their financial struggles, as well as her mother's illicit affair.<sup>79</sup> She left their house at a young age and worked as a promo girl to sustain herself.<sup>80</sup> She totally disconnected herself from her own family. The marital woes of her parents, the infidelity of her mother, and the difficult life she went through caused her to lose her sense of self ever since she was a child.<sup>81</sup> This dysfunctional life affected her personality structure and behavioral pattern as a person. Sadly, she carried it over to her relationships, and eventually, to

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<sup>76</sup> *Rollo*, p. 81.

<sup>77</sup> *Supra* note 63.

<sup>78</sup> *Rollo*, p. 130.

<sup>79</sup> *Id.* at 131.

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

her married life with petitioner.

*Third.* Respondent's condition is also "incurable" in the legal sense since she consistently failed to commit to her relationship with petitioner. She never reciprocated petitioner's efforts to salvage their marriage. She abandoned him since January 2011. Nor did she send word indicating interest to reconcile with him. She, too, did not show any remorse for her lack of care and apathy for their marriage. In the end, petitioner felt mentally and emotionally abused by the person he used to love the most, his wife. In sum, respondent had persistently failed to be present and live with her husband, to love and remain faithful to him, and to support him. She was therefore nothing but consistent in her treatment of petitioner. Hence, her psychological incapacity in performing her marital obligations is enduring and persistent relative to petitioner.<sup>82</sup> The only result of their union was the inevitable breakdown of their marriage.

Thus, the clear and convincing evidence has sufficiently established here that respondent was already psychologically incapacitated at the time she got married to petitioner and has continued to be so, thereafter and during their marriage. She is truly non-cognitive of the basic marital covenants such as the mutual obligation to live together, observe love, respect and fidelity, and render help and support to each other.

As held in *Castro v. Castro*,<sup>83</sup> when a person who entered into the special contract of marital union is psychologically impaired to perform marital obligations, the law perceives the impossibility of achieving the marriage's purpose. *Tan-Andal* emphasized that choosing one's spouse is an inherent part of human dignity. Those who choose marriage deserve more care, compassion, kindness as part of the relationship. Else, there is no kind of marriage than an ill-equipped one:

In any case, in as much as the Constitution regards marriage as an inviolable social institution and the foundation of the family, **courts must not hesitate to void marriages that are patently ill-equipped due to psychic causes inherent in the person of the spouses.**

x x x x

The right to choose our intimate partners is part of our right to autonomy and liberty, an inherent part of human dignity. **Ultimately, should the State interfere with these choices, it should do so only when public interest is imperiled.** (Emphasis supplied)

*Antonio v. Reyes*<sup>84</sup> further elucidates, viz.:

Indeed, **Article 36 of the Family Code**, in classifying marriages contracted by a psychologically incapacitated person as a nullity, **should be deemed as an implement of this constitutional protection of marriage.**

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<sup>82</sup> Supra note 63.

<sup>83</sup> *Castro v. Castro*, G.R. No. 210548, March 2, 2020.

<sup>84</sup> 519 Phil. 337, 355 (2006).

Given the avowed State interest in promoting marriage as the foundation of the family, which in turn serves as the foundation of the nation, there is a corresponding interest for the State to defend against marriages ill-equipped to promote family life. ***Void ab initio* marriages under Article 36 do not further the initiatives of the State concerning marriage and family, as they promote wedlock among persons who, for reasons independent of their will, are not capacitated to understand or comply with the essential obligations of marriage.** (Emphases and underscoring supplied)

In *Santos-Gantan v. Gantan*,<sup>85</sup> the Court underscored that in dissolving marital bonds on ground of psychological incapacity of either spouse, the Court is not demolishing the foundation of families. By preventing a person incapable of complying with the essential marital obligations from remaining in that sacred bond, the Court is **actually protecting the sanctity of marriage**. In the first place, there is no marriage to speak of since it is void from the very beginning. *Tan-Andal* recollected “in the past, marriages have been upheld solely for the sake of their permanence when, paradoxically, doing so destroys the sanctity afforded to the institution.”

Here, the parties had long parted ways ten (10) years ago since 2011. There is no showing that things have changed between them for the better. Surely, no court of law can compel them to remain in a marriage that never existed in the first place.


**ACCORDINGLY**, the Petition is **GRANTED**. The marriage of Jerik B. Estella and Niña Monria Ava M. Perez is declared **VOID AB INITIO**. The Decision dated October 12, 2018 and Resolution dated August 13, 2019 of the Court of Appeals in CA-G.R. CV No. 06331 are **REVERSED** and **SET ASIDE**. The Decision dated September 7, 2015 of the Regional Trial Court – Branch 26, Argao, Cebu in Civil Case No. AV-1618, declaring the marriage between Jerik B. Estella and Niña Monria Ava M. Perez as *void ab initio* is **REINSTATED**.


**SO ORDERED.**

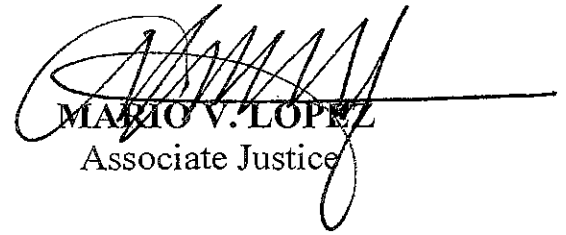
  
**AMY C. LAZARO-JAVIER**  
Associate Justice

<sup>85</sup> G.R. No. 225193, October 14, 2020.

**WE CONCUR:**

  
**ALEXANDER G. GESMUNDO**  
Chief Justice

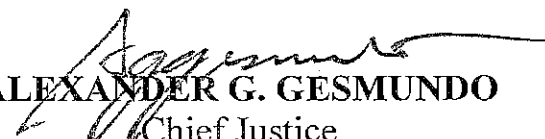
  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

  
**MARIO V. LOPEZ**  
Associate Justice

  
**JHOSEP V. 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  
Chairperson, First Division