G.R. No. 196359 (*Rosanna L. Tan-Andal v. Mario Victor M. Andal*).

Promulgated:

May 11, 2021

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CONCURRING OPINION

LOPEZ, J., *J.*:

I concur in the result as astutely reached by the *ponencia.*

I also join the rest of my esteemed colleagues in their finding that the totality of evidence presented clearly points to the psychological incapacity of Mario to comply with his essential marital obligations. The marriage of the parties must necessarily be rendered null and void.

The State's efforts in zealously protecting marriage as an inviolable social institution and the foundation of the family[1] is a constitutional mandate that must be underscored. Marriage in this jurisdiction is not only a civil contract, but it is a new relation, an institution the maintenance of which, the public is deeply interested.[2] It is from this mandate that serves as the spring from which flows several provisions reflective of the State's desire to uphold and promote the sanctity of marriage. This pervasive view on marriage is an indelible part of culture and the human mindset. It has the peculiar capability to transcend borders and jurisdictions. As keenly observed by the United States Supreme Court in *Obergefell v. Hodges*:[3]

> From their beginning to their most recent age, the annals of human history reveal the transcendent importance of marriage. The lifelong union of a man and a woman always has promised nobility and dignity of all persons, without regard to their station in life. Marriage is sacred to those who life by their religions and offers unique fulfillment to those who find meaning in the secular realm. Its dynamic allows two people to find a life that could not be found alone, for a marriage becomes greater than just the two persons. Rising from the most basic human needs, marriage is essential to our most profound hopes and aspirations.

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1 1987 CONSTITUTION, Article XV, Section 2.
2 *Tilar v. Tilar,* 813 Phil. 734, 740 (2017).
3 576 U.S. 644 (2015).

> The centrality of marriage to the human condition makes it unsurprising that the institution has existed for millenia and across civilizations. x x x

This Court, in its interpretation of the laws, recognizes that the State has surrounded marriage with the necessary safeguards to maintain its purity, continuity, and permanence for the reason that the security and stability of the State are largely dependent on it.[4] Therefore, the institution of marriage, regardless of its religious and secular foundations, has never stood in isolation to the dynamic developments of the law. Its legal evolution is marked by the tension between continuity and change; it has managed to adapt to the generations' understanding of marriage while staying steadfast to the intent of the framers that it remains "legally inviolable," and must be protected from dissolution at the whim of the parties.

At the fore, among such safeguards is the controversial Article 36[5] of the Family Code, which declares a marriage void by reason of psychological incapacity. While this concept owes its underpinnings in Canon Law,[6] it has irrefragably evolved and is practically of legal creation. Justice Eduardo Caguioa, a member of the Civil Code Revision and Family Law Committee (*Joint Committee*) and one of the proponents for the incorporation of this concept in the Family Code, points out that the term psychological incapacity escapes specific definition and its determination is left solely to the courts:

> A code should not have so many definitions, because a definition straight-jackets the concept and, therefore, many cases that should go under it are excluded by the definition, That's why we leave it up to the court to determine the meaning of psychological incapacity.[7]

Justice Alicia Sempio-Diy, also a member of the Joint Committee, emphasized on the rationale behind the members' desire to adopt the provision with less specificity, in order to "allow some resiliency in its application,"[8] thus:

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4 *Jimenez v. Republic of the Philippines,* 109 Phil. 273, 276 (1960).

5 The provision states:

Article 36. A marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization. (n) (As amended by Executive Order Number 227 dated July 17, 1987).

6 *See* Decision, p. 22.

7 Congressional Hearing before the Senate Committee on Women and Family Relations, February 3, 1988, *as cited* in Sta. Maria, *Persons and Family Relations Law* (2004 ed.), p. 191

8 *Santos v. Court of Appeals,* 310 Phil. 21, 36 (1995).

> The Committee did not give any examples of psychological incapacity for fear that the giving of examples would limit the applicability of the provision under the principle of *ejusdem generis*. Rather, the Committee would like the judge to interpret the provision on a case-to-case basis, guided by experience, the findings of experts and researchers in psychological disciplines, and by decisions of church tribunals which, although not binding on the civil courts, may be given persuasive effect since the provision was taken from Canon Law.

At its inception, the provision held much promise; woefully, jurisprudential developments reveal that it has achieved an almost rigid and mechanical application, thus, allowing this Court to unwittingly allow loveless marriages to remain, to the detriment of all parties involved. In their intention to protect the institution of marriage, the members of the Committee did not contemplate this to mean that parties must be forced to remain in a relationship that diminishes one's dignity and personhood. In the words of the *ponencia* in his dissent in *Matudan v. Republic,*[9] "to force partners to stay in a loveless marriage, or a spouseless marriage... only erodes the foundation of the family."

Not one to abdicate from its role to stifle manifest injustice, the present case has timely answered the clarion call to re-examine and once again define the application of Article 36 *via* the pronouncements in *Republic v. Court of Appeals and Molina.*[10] While not wholly abandoning the guidelines laid down therein, having served as precedents in ensuring that marriages on the brink of breakdown, are not declared void by reason of *a priori* assumptions, predelictions, or generalizations, this "comprehensive and nuanced" interpretation serves to enlighten and re-introduce the Bench and the Bar the original intention of Art. 36, in the hope of preventing undue harm to the parties that they have fully sworn to protect.

In the resolution of this case, two pivotal developments emerge that deserve much emphasis and elaboration—*first,* the quantum of proof in challenging the validity of marriages due to psychological incapacity is now "clear and convincing evidence," and *second,* the implications of psychological incapacity as a legal and not a medical concept.

The quantum of proof in marriages challenged by reason of psychological incapacity is now "clear and convincing evidence"

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9 799 Phil. 449, 481 (2016).

10 335 Phil. 664 (1997).

Given the directive to protect the institution of marriage, the quantum of proof required in nullity cases must be established. As mentioned by the *ponencia,* the same is noticeably absent in the guidelines laid down in *Molina.*

In establishing the quantum of proof, one must begin with the principle of the presumption of the validity of marriage which carries with it certain evidentiary implications.

This presumption lends its foundation on the first *Molina* guideline which provides that "any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity."[11] The principle may have been derived from the old provisions of the Civil Code prior to its repeal by Executive Order No. 209, otherwise known as the *"Family Code of the Philippines," viz.:*

> **ART. 220. In case of doubt, all presumptions favor the solidarity of the family. Thus, every intendment of law or fact leans toward the validity of marriage,** the indissolubility of the marriage bonds, the legitimacy of children, the community of property during marriage, the authority of parents over their children, and the validity of defense for any member of the family in case of unlawful aggression. (Emphasis ours)

In *Republic v. Duyot,*[12] as echoed in the 1922 case of *Adong v. Cheong Seng Gee,*[13] this Court has clarified that when it speaks of a presumption of marriage, it is with reference to the *prima facie* presumption that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage. Simply, persons dwelling together in apparent matrimony are presumed, in the absence of any counter-presumption or evidence special to the case, to be in fact married. Aside from state policy to protect marriage, the rationale for the presumption is that if the parties were not what they thus hold themselves out as being, they would be living in the constant violation of decency and of law.[14]

In overturning a *prima facie* presumption, jurisprudence holds that the quantum of proof must be clear and convincing, and more than merely preponderant.[15] Evidence is clear and convincing if it produces in the mind of the trier of fact a firm belief or conviction as to allegations sought to be established. It is intermediate, being more than preponderance, but not to

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11 *Id.* at 676.
12 573 Phil. 553, 573 (2008).
13 43 Phil. 43, 56 (1922).
14 *Id.*
15 *Gatan, et al. v. Vinarao, et al.*, 820 Phil. 257, 271 (2017).

the extent of such certainty as is required beyond reasonable doubt as in criminal cases.[16] Similar to the presumption of marriage, the *ponencia* lists several presumptions that require clear and convincing evidence: presumption of regularity in the issuance of public documents, regularity in the performance of duty, of good faith, or of sufficient consideration.[17]

Despite the existing rule on the presumption for the validity of marriage, it is disconcerting why the Courts have, in the past, used preponderance of evidence as the quantum of proof in nullity cases, for the myopic reason that such cases are undisputedly civil in nature.[18] In contrast to clear and convincing evidence, a preponderance of evidence means that the evidence as a whole adduced by one side is superior to that of the other. It refers to the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of evidence" or "greater weight of the credible evidence." It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[19]

While it may be true that nullity cases are civil in nature, to provide a higher standard of evidence in other cases that are not otherwise constitutionally protected, is to disregard the *sui generis* nature of marriages *vis-a-vis* other civil cases. Aside from the well-founded reasons fleshed out in the Decision, I would add that setting a higher threshold for evidence in nullity cases appears to be more in consonance with existing state policy to preserve the sanctity of marriage.

Such formulation is certainly consistent with American jurisprudence from where such standard is derived. In *Colorado v. Mexico,*[20] the United States Supreme Court established that the standard requires "an abiding conviction that the truth of the factual contentions" at issue are "highly probable." While the standard applies to civil cases, it is particularly reserved for special cases involving important interests that are "more substantial than mere loss of money" and those that affect human relations, such as involuntary civil commitment and petitions to terminate parental rights,[21] and where "moral wrongdoing is implied", such as in libel, fraud, and undue influence.[22]

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16 Riano, *Evidence, The Bar Lecture Series* (2013 ed.), p. 142, citing *Black's Law Dictionary*, 5th ed., p. 227.

17 *See* Decision, p. 28.

18 *Tan v. Hosana*, 780 Phil. 258, 266 (2016).

19 *BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistic Systems, Inc.*, 805 Phil. 244, 262 (2017).

20 467 U.S. 310, 316 (1984).

21 *See Addington v. Texas,* 441 U.S. 418, 432-433 (1979); *Santosky v. Kramer,* 445 U.S. 745, 747-48 (1982).

22 *See Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 331-32; *Woodby v. INS,* 385 U.S. 276, 285 (1966).

In fine, the heightened standard shall now require a party, in successfully declaring a marriage void, to proffer evidence with a "higher degree of believability" than that of an ordinary civil case.[23] Moreover, requiring a higher quantum of proof would aid the courts in its determination of whether nullity cases brought before it are truly deserving of consideration.

Psychological incapacity as a legal and not a medical concept

I, likewise, concur in the *ponencia's* declaration that psychological incapacity is a legal and not strictly a medical concept.

Prefatorily, such recognition as a legal concept inevitably bears certain repercussions, as reflected in the majority Decision. *First*, the second *Molina* guideline is clarified: psychological capacity is not only a mental incapacity nor only a personality disorder that must be proven through expert opinion. Now, proof of a person's inability to comprehend and carry out essential marital obligations need not only be given by an expert, which oftentimes, are psychologists or psychiatrists; now, 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. *Second,* the third *Molina* guideline is amended by pronouncing that psychological incapacity is "incurable" in a legal sense. Not only being an illness in a medical sense, psychological incapacity is not something to be healed and cured. Instead, incurability must be understood as an incapacity that 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."[24]

Drawing from the deliberations of the Joint Committee, it appears that psychological incapacity was never to be solely understood in a medical sense; in fact, it was meant to broadly "comprehend all such possible cases of psychoses."[25] Given that the concept was initially intended to be free from any precise definition as any psychological cause can be of an "infinite variety," the resolution in *Santos v. Court of Appeals* is perplexing as it runs in direct contravention to the true intention of the Committee, inextricably

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23 *Riguer v. Atty. Mateo*, 811 Phil. 538, 547 (2017).
24 *See* Decision, p. 34.
25 *Santos v. Court of Appeals, supra* note 8, at 39.

correlating psychological incapacity with the medical concept of personality disorders. *Santos* expounds, thus:

> x x x There is hardly any doubt that the intendment of the law has been **to confine the meaning of "psychological incapacity" to the most serious cases of personality disorders** clearly demonstrative of an utter intensitivity or inability to give meaning and significance to the marriage. This psychologic condition must exist at the time the marriage is celebrated. x x x.[26]

Considering that psychological incapacity was erroneously thrust into the medical realm, jurisprudence proves that this Court has inadvertently given much premium to the findings of psychologists and psychiatrists, elevating their report to almost a *sine qua non* requirement in proving the absolute nullity of marriages. After all, the requirement in *Molina* that the root cause of the psychological incapacity must be "medically or clinically identified" and "sufficiently proven by experts"[27] somehow presupposes the need for an in-depth assessment from such experts. As the *ponencia* has aptly concluded, this requirement has perpetuated a practice wherein parties are constrained to pathologize each other and create unnecessary stigma if only to escape the clutches of an irreconcilable marriage.

To illustrate, the early case of *Antonio v. Reyes,*[28] respondent was declared psychologically incapacitated to perform the essential obligations of marriage, as her propensity for telling lies about almost anything, coupled with her fantastic ability to invent and fabricate stories and personalities, was found to be abnormal and *pathological*, and amounts to psychological incapacity.

In the more recent ruling of *Republic v. Javier,*[29] the marriage was declared null and void based on the psychological findings that one of the parties was diagnosed with Narcissistic Personality Disorder with tendencies toward sadism, rooted in the traumatic experiences during his childhood, having grown up around a violent father who was abusive of his mother.

The Court, in *Republic v. Cruz,*[30] affirmed the findings of the CA, declaring the marriage void *ab initio* as one of the spouse's histrionic personality disorder was the cause of her inability to discharge her marital

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26 *Id.* at 40. (Emphasis ours.)
27 *Republic v. Court of Appeals, supra* note 10, at 677.
28 519 Phil. 337 (2006).
29 830 Phil. 213 (2018).
30 836 Phil. 1266 (2018).

obligations to love, respect and give concern, support and fidelity to her husband.

On the other hand, *Villalon v. Villalon*[31] demonstrates how parties, in their desire to have their marriage declared void, hinges their claim on the necessity of a personality disorder diagnosis. While the Court did not declare the marriage void, having parsed that petitioner simply lost his love for respondent and has consequently refused to stay married to her, petitioner anchored his claim of psychological incapacity to a supposed finding of Narcissistic Histrionic Personality Disorder with Casanova Complex.

The majority Decision was not on all fours with some of its earlier predecessors, deciding the case not solely on the expert report, but on the totality of evidence presented by petitioner. While the principle is not new, the *ponencia* serves to pivot the minds of the Bench and the Bar in deciding and in advocating future nullity cases by refocusing on already established rulings that have been overshadowed by a precarious fixation on purely expert medical evidence. In considering the credibility of other pieces of evidence, the distinction between psychological incapacity vis-à-vis personality disorders are made all the more manifest. Indeed, to be declared clinically or medically incurable is one thing; to refuse or be reluctant to perform one's duties is another.[32]

Thus, it is high time that the misplaced prominence given to the expert opinion by psychologists and psychiatrists be rectified.

In this regard, several cases are worth mentioning.

To hark back to this Court's ruling in *Castillo v. Republic,*[33] the presentation of any form of medical or psychological evidence to show the psychological incapacity does not mean that the same would have automatically ensured the granting of the petition for declaration of nullity of marriage. It is incumbent that trial courts, as in all the other cases they try, must always base their judgments not solely on the expert opinions presented by the parties but on the totality of evidence adduced in the course of their proceedings.

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31 512 Phil. 219 (2005).

32 *Republic of the Philippines v. De Gracia*, 726 Phil. 502, 513 (2014).

33 805 Phil. 209, 221 (2017).

As iterated by this Court in *Ngo Te v. Gutierrez Yu-Te*,[34] there is a need to highlight other perspectives as well which should govern the disposition of petitions for declaration of nullity under Art. 36. After all, a clinical psychologist's or psychiatrist's diagnoses that a person has a certain personality disorder does not exclude a finding that a marriage is valid and subsisting, and not beset by one of the parties' or both parties' psychological incapacity.[35]

The Court, in an almost contradictory manner, ruled in *Marcos v. Marcos*[36] that the guidelines laid down in *Molina* and *Santos* do not require that a physician examine the person to be declared psychologically incapacitated; instead, what appears to be more important is the presence of evidence that can adequately establish the party's psychological conditional indeed, if the *totality of evidence* presented is enough to sustain a finding of psychological incapacity, then actual medical examination of the person concerned *need not* be resorted to.

The Court further de-emphasized the need for expert opinions furnished by psychologists or psychiatrists in *Ting v. Velez-Ting*,[37] to wit:

> By the very nature of cases involving the application of Article 36, it is logical and understandable to give weight to the expert opinions furnished by psychologists regarding the psychological temperament of parties in order to determine the root cause, juridical antecedence, gravity and incurability of the psychological incapacity. However, **such opinions, while highly advisable, are not conditions sine qua non in granting petitions for declaration of nullity of marriage. At best, courts must treat such opinions as decisive but not indispensable evidence in determining the merits of a given case. In fact, if the totality of evidence presented is enough to sustain a finding of psychological incapacity, then actual medical or psychological examination of the person concerned need not be resorted to.** The trial court, as in any other given case presented before it, must always base its decision not solely on the expert opinions furnished by the parties but also on the totality of evidence adduced in the course of the proceedings.

Hence, the majority Decision adhered to assessing the totality of the evidence proffered, in ruling for the nullity of the marriage of the parties. Verily, the totality of evidence presented by Rosanna (*petitioner*), which consisted of her direct examination, the personal history handwritten by respondent while he was staying at the drug rehabilitation center, interviews

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34 598 Phil. 666, 699 (2009). (Citation omitted).
35 *Camacho-Reyes v. Reyes*, 624 Phil. 603 (2010).
36 397 Phil. 840, 850 (2000).
37 601 Phil. 676, 691 (2009) (Emphasis ours).

from family members, along with the findings of an expert witness, clearly and convincingly proved that Mario's (*respondent*) "persistent failure to have himself rehabilitated, even bringing his child into a room where he did drugs, indicates a level of dysfunctionality that shows utter disregard not only of his obligations to his wife but to his child."[38] To echo the principle elucidated in *Espina-Dan v. Dan*:[39]

> x x x **what is important is the presence of evidence that can adequately establish the party's psychological condition.** The complete facts should allege the physical manifestations, if any, as are indicative of psychological incapacity at the time of the celebration of the marriage such that if the totality of evidence presented is enough to sustain a finding of psychological incapacity, **then actual medical examination of the person concerned need not be resorted to."**

Such adherence likewise allows the law to apply within practical realities and public policy considerations. Reliance on the totality of evidence facilitates access to justice, as those without the capacity to afford the costly fees of procuring a psychologist or psychiatrist can still hope to prove their already eroded marital bond as null and void; moreover, this Court cannot close its eyes to the near impossibility of compelling the supposedly psychologically incapacitated person to undergo tests to diagnose the presence of a grave and permanent malady tantamount to the deprivation of his or her awareness of the marital duties and responsibilities. Moving forward, courts are forewarned to avoid haphazardly ruling that conclusions and generalizations on a spouse's psychological condition based on the information from only one side constitutes hearsay evidence.

Psychological incapacity with respect to a specific spouse

To further emphasize the characteristic of psychological incapacity as a legal concept, the *ponencia* introduced the concept of personality structure that makes it impossible for a spouse to understand, and more importantly, to comply with his or her essential marital obligations.[40] This serves as an additional yardstick in assessing the existence of psychological incapacity to declare a marriage void. Thus, courts would no longer need to look into the existence of personality disorders or any psychological report detailing the mental condition of either the spouses.

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38 *See* Decision, p. 48.

39 829 Phil. 605, 620-621 (2018). (Emphasis ours)

40 Decision, p. 32.

I concur with the introduction of this yardstick in determining the existence of psychological incapacity. Jurisprudence has characterized psychological incapacity with gravity, juridical antecedence, and incurability.[41] Of these three, it is the requirement of juridical antecedence that finds explicit legal mandate, which is found under Article 36 of the Family Code, requiring that psychological incapacity to comply with the essential marital obligations of marriage must exist at the time of the celebration of marriage, even if such incapacity becomes manifest only after its solemnization.

The difficulty in assessing the presence or absence of juridical antecedence lies in the fact that marital obligations arise only after the celebration of marriage. A spouse may be made aware of the marital obligations he or she must perform as he or she has observed in his or her own family and throughout the seminars that accompany preparations for marriage. However, once he or she gets a first-hand experience of living together with his or her spouse, several discoveries in marital life are brought to light. A person's ability or inability to comply with marital obligations becomes manifest only at such time when the spouses start living together. However, as a void marriage is not a divorce that cuts the marital bond at the time the grounds for divorce manifest themselves,[42] it is important to trace the existence of the psychological incapacity before or at the time of the celebration of the marriage. It is at this point that personality structure as pointed out by the *ponencia* becomes relevant.

Each individual, being unique and having their respective personality, brought about by the culture, upbringing, and influence of the environment surrounding them, when paired with another, does not always result in a utopian partnership. There are personalities that can easily adopt with each other and bring out the good in each of them, producing a healthy and harmonious relationship, while others become oppositely repulsive as they live together as husband and wife. Verily, it is only when the spouses live together under one roof that the personalities of each of the spouses are freely exposed and discovered. Consequently, their reaction towards this new discovery would manifest their respective personalities, which could either be good for the marriage or may serve as a trigger to reveal an inherent inability to perform marital obligations.

Being embedded in the individuality of every human being, the personality structure of a married person is continuously unearthed by the constant interaction with the marriage itself and with the personality of his

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41 *Santos v. Court of Appeals*, *supra* note 8, at 39.

42 *Del Rosario v. Del Rosario, et al.*, 805 Phil. 978, 993-994 (2017).

or her spouse. Throughout the interaction, when the personality structures of each of the spouses result in clashes, leading towards a grave incompatibility that is equivalent to the inability to perform the essential obligations of marriage, then it can be said that a defect in the marriage exists. The clashes in the personality structures must, however, be interrelated with behavioral patterns, experiences or actions taken by one of the spouses, which existed prior to the marriage. With this approach, the testimony of relatives, friends, and neighbors who had an encounter, or observed the spouse alleged to be psychologically incapacitated, will be given sufficient weight. The behaviors and actuations of a party to a petition for nullity of marriage may thus be examined without the need for an expert testimony.

It must, nevertheless, be emphasized that in order to qualify under Article 36, the psychological incapacity must refer to the inability to perform the ordinary duties required in a marriage,[43] and must not simply refer to difficulty, refusal, or neglect in the performance of marital obligations or ill will.[44] This means that the psychological incapacity must be characterized with gravity and must be measured by a repetitive behavior, not simply by occasional emotional outbursts, that ultimately result to insensitivity towards the marriage and the accompanying obligations thereto.

Concomitant to the concept of personality structure in marriage is its inter-relation, which entangles the personality structure of a person towards that of his or her spouse. Two personality structures are involved and carefully analyzed if the clashes between the two has indeed resulted in the inability of one of the spouses to perform the essential obligations of marriage. As a specific personality structure is examined based on how one interacts with another, this means that any inability of one of the spouses to perform marital obligations came to light because of the interaction of these specific personality structures. Any declaration that a person is psychologically incapacitated to perform marital obligations must thus be limited to his or her marriage with the specific spouse with whom he contracted the void marriage. It should not be considered as an innate inability on the part of the person determined to be psychologically incapacitated to enter into a marriage with another person with a different personality structure. The psychological incapacity under Art. 36 must not, therefore, be characterized with incurability, which is equated to be medically permanent.

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43 *Epina-Dan v. Dan, supra* note 38, at 623, citing *Santos v. Court of Appeals, supra* note 8, at 39.

44 *Singson v. Singson*, 823 Phil. 19, 38 (2018), citing *Republic v. Court of Appeals*, 698 Phil. 257, 265 (2012).

I hereto agree with the re-examination of the requirement of incurability. Personality structures that leads to clashes and marital defects triggered by these clashes should not be characterized with permanence that applies to all kinds of relationship. A finding of psychological incapacity should be limited to the specific spouse with whom the void marriage was contracted. Further, as pointed out by Associate Justice Mario Lopez, and adopted by the *ponencia*, characterizing psychological incapacity as incurable is antithetical because the law does not prohibit a person whose former marriage was nullified under Article 36 to remarry. If psychological incapacity is truly incurable, then remarriage should not be allowed as it would result in another void marriage.[45] The *ponencia* then declared that incapacity must be 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.[46] An undeniable pattern of such persisting failure [to be present, loving, faithful, respectful, 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.[47]

The obligations accompanying marriage, which are to live together, observe mutual love, respect and fidelity, and render mutual help and support,[48] are basic obligations that preserve the bond that has been united by marriage. These are essential not only to enjoy conjugal living but also to protect the sanctity of marriage. Absent an understanding of these obligations and a grave inability to comply therewith, which existed at the time of the celebration of the marriage, the outcome of a marriage once splendidly solemnized would be its irreparable breakdown, that can only be recognized to be null and void.

A final note

The *ponencia* seizes the opportunity to remind the public that the State has a high stake in the preservation of marriage.[49] Carrying out this mandate necessarily includes the proper classification of marriages contracted by a psychologically incapacitated person as a nullity. After all, in dissolving marital bonds under Article 36, the Court is not demolishing the foundation of families, but is actually protecting its sanctity, as it refuses

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45 Decision p. 34, citing J. Mario Lopez's Reflections.
46 Decision, p. 34.
47 Decision, p. 34, citing J. Perlas-Bernabe's Reflections.
48 Art. 68, Family Code.
49 *Carating-Siayngco v. Siayngco*, 484 Phil. 396, 411 (2004).

to allow a person who cannot assume marital obligations to remain in that sacred bond.[50]

In fine, the outcome of this case is a welcome clarification to the otherwise ambiguous rules in carrying out the State's policy towards marriage, especially in terms of laying down the threshold of evidence that is demonstrative of the degree of protection accorded to marriage, as well as the de-emphasis on the role of an assessment of a psychologist or psychiatrist, given that psychological incapacity is a legal, and not a medical, concept.

Ultimately, however, its significance lies in its apt reiteration that the *Molina* and *Santos* guidelines, given its nomenclature, are simply that: guidelines that are not set in stone and must be malleable enough to adjust to the factual milieu of every case it confronts.

Accordingly, I vote to **GRANT** the Petition for Review on *Certiorari*, to **REVERSE** and **SET ASIDE** the February 25, 2010 Decision of the Court of Appeals in CA-G.R. CV No. 90303, and to **REINSTATE** the May 9, 2007 Decision of the Regional Trial Court, Branch 260, Parañaque City in Civil Cases No. 01-0228 and 03-0384.

JHOSEP Y. LOPEZ
Associate Justice

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50 *See Kalaw v. Fernandez*, 750 Phil. 482, 514 (2015).