

Trailblazing Supreme Court Decision on Psychological Incapacity in Marriage

By Judge Eliza B. Yu, LL.M., DCL

Article 36 of the Family Code governs psychological incapacity as a ground for declaration of nullity of marriage. It provides that "a marriage contracted by any party who, at the time of the celebration, was psychologically incapacitated to comply with the essential marital obligations of marriage, shall likewise be void even if such incapacity becomes manifest only after its solemnization." In interpreting this provision, we have repeatedly stressed that psychological incapacity contemplates "downright incapacity or inability to take cognizance of and to assume the basic marital obligations"(Kalaw v. Fernandez, G.R. No. 166357, September 19, 2011). It is not merely the refusal, neglect or difficulty, much less ill will, on the part of the errant spouse(Agraviador v. Amparo-Agraviador, G.R. No. 170729, December 8, 2010, 637 SCRA 519, 538; Toring v. Toring, G.R. No. 165321, August 3, 2010, 626 SCRA 389, 405; Paz v. Paz, G.R. No. 166579, February 18, 2010, 613 SCRA 195, 205; Navales v. Navales, G.R. No. 167523, June 27, 2008, 556 SCRA 272, 288; Paras v. Paras, G.R. No. 147824, August 2, 2007, 529 SCRA 81, 106; Republic of the Phils. v. Iyoy, 507 Phil. 485, 502 (2005); and Rep. of the Phils. v. Court of Appeals, 335 Phil. 664, 678). The plaintiff bears the burden of proving the juridical antecedence (i.e., the existence at the time of the celebration of marriage), gravity and incurability of the condition of the errant spouse (Republic v. Galang, G.R. No. 168335, June 6, 2011, 650 SCRA 524, 544; Dimayuga-Laurena v. Court of Appeals, G.R. No. 159220, September 22, 2008, 566 SCRA 154, 161-162; Republic v. Cabantug-Baguio, G.R. No. 171042, June 30, 2008, 556 SCRA 711, 725; Hernandez v. Court of Appeals, 377 Phil. 919, 932).

In the landmark case of Santos v. Court of Appeals, 310 Phil. 21, 39 (1995), the Supreme Court observed that psychological incapacity must be characterized by (a) gravity, (b) juridical antecedence, and (c) incurability. The incapacity must be grave or serious such that the party would be incapable of carrying out the ordinary duties required in marriage; it must be rooted in the history of the party antedating the marriage, although the overt manifestations may emerge only after marriage; and it must be incurable or, even if it were otherwise, the cure would be beyond the means of the party involved.

Soon after, incorporating the three basic requirements of psychological incapacity as mandated in Santos, we laid down in Republic v. Court of Appeals and Molina 335 Phil. 664 (1997), the following guidelines in the interpretation and application of Article 36 of the Family Code:

1. The burden of proof to show the nullity of the marriage belongs to the plaintiff. Any doubt should be resolved in favor of the existence and continuation of the marriage and against its dissolution and nullity. This is rooted in the fact that both our Constitution and our laws cherish the validity of marriage and unity of the family. Thus, our Constitution devotes an entire Article on the Family,

recognizing it “as the foundation of the nation.” It decrees marriage as legally “inviolable,” thereby protecting it from dissolution at the whim of the parties. Both the family and marriage are to be “protected” by the state.

2. The Family Code echoes this constitutional edict on marriage and the family and emphasizes their permanence, inviolability and solidarity.
3. The root cause of the psychological incapacity must be (a) medically or clinically identified, (b) alleged in the complaint, (c) sufficiently proven by experts and (d) clearly explained in the decision. Article 36 of the Family Code requires that the incapacity must be psychological – not physical, although its manifestations and/or symptoms may be physical. The evidence must convince the court that the parties, or one of them, was mentally or physically ill to such an extent that the person could not have known the obligations he was assuming, or knowing them, could not have given valid assumption thereof. Although no example of such incapacity need be given here so as not to limit the application of the provision under the principle of ejusdem generis, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature fully explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.
4. The incapacity must be proven to be existing at “the time of the celebration” of the marriage. The evidence must show that the illness was existing when the parties exchanged their “I do’s.” The manifestation of the illness need not be perceivable at such time, but the illness itself must have attached at such moment, or prior thereto.
5. Such incapacity must also be shown to be medically or clinically permanent or incurable. Such incurability may be absolute or even relative only in regard to the other spouse, not necessarily absolutely against everyone of the same sex. Furthermore, such incapacity must be relevant to the assumption of marriage obligations, not necessarily to those not related to marriage, like the exercise of a profession or employment in a job. Hence, a pediatrician may be effective in diagnosing illnesses of children and prescribing medicine to cure them but may not be psychologically capacitated to procreate, bear and raise his/her own children as an essential obligation of marriage.
6. Such illness must be grave enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, “mild character peculiarities, mood changes, occasional emotional outburst” cannot be accepted as root causes. The illness must be shown as downright incapacity or inability, not a refusal, neglect or difficulty, much less ill will. In other words, there is a natal or supervening disabling factor in the person, an adverse integral element in the personality structure that effectively incapacitates the person from really accepting and thereby complying with the obligations essential to marriage.

7. The essential marital obligations must be those embraced by Article 68 up to 71 of the Family Code as regards the husband and wife as well as Articles 220, 221 and 225 of the same Code in regard to parents and their children. Such non-complied marital obligation(s) must also be stated in the petition, proven by evidence and included in the text of the decision.

Interpretations given by the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, while not controlling or decisive, should be given great respect by our courts. It is clear that Article 36 was taken by the Family Code Revision Committee from Canon 1095 of the New Code of Canon Law, which became effective in 1983 and which provides:

1. "The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature."
2. Since the purpose of including such provision in our Family Code is to harmonize our civil laws with the religious faith of our people, it stands to reason that to achieve such harmonization, great persuasive weight should be given to decisions of such appellate tribunal. Ideally – subject to our law on evidence – what is decreed as canonically invalid should also be decreed civilly void.
3. This is one instance where, in view of the evident source and purpose of the Family Code provision, contemporaneous religious interpretation is to be given persuasive effect. Here, the State and the Church – while remaining independent, separate and apart from each other – shall walk together in synodal cadence towards the same goal of protecting and cherishing marriage and the family as the inviolable base of the nation.
4. The trial court must order the prosecuting attorney or fiscal and the Solicitor General to appear as counsel for the state. No decision shall be handed down unless the Solicitor General issues a certification, which will be quoted in the decision, briefly stating therein his reasons for his agreement or opposition, as the case may be, to the petition. The Solicitor General, along with the prosecuting attorney, shall submit to the court such certification within fifteen (15) days from the date the case is deemed submitted for resolution of the court. The Solicitor General shall discharge the equivalent function of the defensor vinculi contemplated under Canon 1095.

In *Marcos v. Marcos*, 397 Phil. 840, 850 (2000), the Supreme Court previously held that the foregoing guidelines do not require that a physician examine the person to be declared psychologically incapacitated. In fact, the root cause may be "medically or clinically identified." What is important is the presence of evidence that can adequately establish the party's psychological condition. For,

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.

It is also established in jurisprudence that from these requirements arise the concept that Article 36 of the Family Code does not really dissolve a marriage; it simply recognizes that there never was any marriage in the first place because the affliction – already then existing – was so grave and permanent as to deprive the afflicted party of awareness of the duties and responsibilities of the matrimonial bond he or she was to assume or had assumed (*Toring v. Toring*, G.R. No. 165321, August 3, 2010).

A little over a decade since the promulgation of the Molina guidelines, we made a critical assessment of the same in *Ngo Te v. Yu-Te*, G.R. No. 161793, February 13, 2009, to wit:

In hindsight, it may have been inappropriate for the Court to impose a rigid set of rules, as the one in Molina, in resolving all cases of psychological incapacity. Understandably, the Court was then alarmed by the deluge of petitions for the dissolution of marital bonds, and was sensitive to the OSG's exaggeration of Article 36 as the "most liberal divorce procedure in the world." The unintended consequences of Molina, however, has taken its toll on people who have to live with deviant behavior, moral insanity and sociopathic personality anomaly, which, like termites, consume little by little the very foundation of their families, our basic social institutions. Far from what was intended by the Court, Molina has become a strait-jacket, forcing all sizes to fit into and be bound by it. Wittingly or unwittingly, the Court, in conveniently applying Molina, has allowed diagnosed sociopaths, schizophrenics, nymphomaniacs, narcissists and the like, to continuously debase and pervert the sanctity of marriage. Ironically, the Roman Rota has annulled marriages on account of the personality disorders of the said individuals.

However, our critique did not mean that we had declared an abandonment of the Molina doctrine. On the contrary, we simply declared and, thus, clarified in the same *Te* case that there is a need to emphasize other perspectives as well which should govern the disposition of petitions for declaration of nullity under Article 36. Furthermore, we reiterated in the same case the principle that each case must be judged, not on the basis of a priori assumptions, predilections or generalizations but according to its own facts. And, to repeat for emphasis, courts should 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.

Recently, the Supreme Court, through its ponente, Justice Lucas Bersamin, relaxed the provision of Article 36 of the Family Code on pertaining to psychological incapacity, a

ground for nullity of marriage. It said that the strict, rigid or too literal implementation of the rule on psychological incapacity could allow diagnosed sociopaths, schizophrenics, narcissists, and others to stay married.

As a background, in September 2011 ruling, the Supreme Court sided with the Court of Appeals that upheld the marriage. In addition, it set some guidelines for the interpretation and application of Article 36 of the Family Code and declared among others that:

1. the burden of proof to show the nullity of the marriage belongs to the plaintiff;
2. the root cause of psychological incapacity must be medically or clinically identified;
3. the incapacity must be proven to be existing at the time of the marriage;
4. such incapacity must be shown to be incurable;
5. such incapacity must be grave enough to bring about disability of the party to fulfill essential obligations of marriage.

But in the latest ruling of the same case, the Supreme Court admitted these guidelines were too rigid, adding that the Family Code's provision on psychological incapacity should instead not be "so strictly and too literally" applied. Instead, every court should approach the issue of nullity not on the basis of a priori assumptions, predilections or generalizations, but according to its own fact in recognition of the verity that no case would be on 'all fours' with the next one in the field of psychological incapacity as a ground for the nullity of marriage; hence, every trial judge must take pains in examining the factual milieu and the appellate court must, as much as possible, avoid substituting its own judgment for that of the trial court. It pointed out that based on the deliberations of the members of the Family Code Revision Committee that drafted the law, they were not unanimous on the meaning of psychological incapacity and decided to adopt the provision "with less specificity than expected" in order to have the law "allow some resiliency in its application." It clarified that by relaxing the rules, it was not demolishing the foundation of families but is actually protecting the sanctity of marriage, because it refuses to allow a person afflicted with a psychological disorder, who cannot comply with or assume the essential marital obligations from remaining in that sacred bond. It declared that the courts may be flooded by petitions for nullity of marriage following its decision but stressed that there is no reason to be worried because of ample safeguards such as intervention of the government. While it is aware of the possible deluge of petitions for nullity of marriage due to its latest ruling, it said it would rather be more alarmed by the rising number of cases involving marital abuse, child abuse, domestic violence and incestuous rape.

The PNP data on the rising number on violence against women showed that there are marriages that should be annulled easily without much expenses on the part of the victim spouse. This trailblazing Supreme Court Decision will help the women in a bad marriage to exit from it by making it easier for them to obtain a nullity of marriage decree from the trial courts. It is illogical to hold on the principle of sanctity of marriage that is riddled with irreconcilable conflicts, extreme violence and psychological viciousness.

Article II of the 1987 Constitution provides:

Section 12. The State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution. It shall equally protect the life of the mother and the life of the unborn from conception. The natural and primary right and duty of parents in the rearing of the youth for civic efficiency and the development of moral character shall receive the support of the Government.

Article XV of the 1987 Constitution states:

Section 1. The State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development.

Section 2. Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State.

Section 3. The State shall defend:

1. The right of spouses to found a family in accordance with their religious convictions and the demands of responsible parenthood;
2. The right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development;
3. The right of the family to a family living wage and income; and
4. The right of families or family associations to participate in the planning and implementation of policies and programs that affect them.

Section 4. The family has the duty to care for its elderly members but the State may also do so through just programs of social security.

The foregoing constitutional provisions are good principles that should not be invoked in marriages that should be nullified or annulled if only to preserve harmony in filial relationship that affects the society. For example, if in the marriage, the woman is a battered wife, the constitutional precepts on inviolability and sanctity of marriage should be subordinate with the needs of the battered wife who has also constitutional rights against the abusive husband, to quote Article II of the 1987 Constitution, "Section 11. The State values the dignity of every human person and guarantees full respect for human rights".

"Marriage is not merely a personal contract between husband and wife, it is a social institution which public policy cherishes and protects" is illusory, if not a hypocrisy when the State cannot provide adequate care and sufficient protection to women in violent

marriages. It is not the State that suffers in a wicked marriage where the wife is made as a punching bag by the husband who has all the vices and none of the virtues to obey the State's command of him in a social institution called marriage by legislators.

In *People v. Marivic Genosa*, G.R. No. 135981, January 15, 2004, the Supreme Court expounded on the "Battered Woman Syndrome". In claiming self-defense, appellant raises the novel theory of the battered woman syndrome. While new in Philippine jurisprudence, the concept has been recognized in foreign jurisdictions as a form of self-defense or, at the least, incomplete self-defense. By appreciating evidence that a victim or defendant is afflicted with the syndrome, foreign courts convey their "understanding of the justifiably fearful state of mind of a person who has been cyclically abused and controlled over a period of time." A battered woman has been defined as a woman "who is repeatedly subjected to any forceful physical or psychological behavior by a man in order to coerce her to do something he wants her to do without concern for her rights. Battered women include wives or women in any form of intimate relationship with men. Furthermore, in order to be classified as a battered woman, the couple must go through the battering cycle at least twice. Any woman may find herself in an abusive relationship with a man once. If it occurs a second time, and she remains in the situation, she is defined as a battered woman." Battered women exhibit common personality traits, such as low self-esteem, traditional beliefs about the home, the family and the female sex role; emotional dependence upon the dominant male; the tendency to accept responsibility for the batterer's actions; and false hopes that the relationship will improve. More graphically, the battered woman syndrome is characterized by the so-called "cycle of violence," which has three phases: (1) the tension-building phase; (2) the acute battering incident; and (3) the tranquil, loving (or, at least, nonviolent) phase. During the tension-building phase, minor battering occurs -- it could be verbal or slight physical abuse or another form of hostile behavior. The woman usually tries to pacify the batterer through a show of kind, nurturing behavior; or by simply staying out of his way. What actually happens is that she allows herself to be abused in ways that, to her, are comparatively minor. All she wants is to prevent the escalation of the violence exhibited by the batterer. This wish, however, proves to be double-edged, because her "placatory" and passive behavior legitimizes his belief that he has the right to abuse her in the first place. However, the techniques adopted by the woman in her effort to placate him are not usually successful, and the verbal and/or physical abuse worsens. Each partner senses the imminent loss of control and the growing tension and despair. Exhausted from the persistent stress, the battered woman soon withdraws emotionally. But the more she becomes emotionally unavailable, the more the batterer becomes angry, oppressive and abusive. Often, at some unpredictable point, the violence "spirals out of control" and leads to an acute battering incident. The acute battering incident is said to be characterized by brutality, destructiveness and, sometimes, death. The battered woman deems this incident as unpredictable, yet also inevitable. During this phase, she has no control; only the batterer may put an end to the violence. Its nature can be as unpredictable as the time of its explosion, and so are his reasons for ending it. The battered woman usually realizes that she cannot reason with him, and that resistance would only exacerbate her condition. At this stage, she has a sense of detachment from the attack and the terrible pain, although she may later

clearly remember every detail. Her apparent passivity in the face of acute violence may be rationalized thus: the batterer is almost always much stronger physically, and she knows from her past painful experience that it is futile to fight back. Acute battering incidents are often very savage and out of control, such that innocent bystanders or intervenors are likely to get hurt. The final phase of the cycle of violence begins when the acute battering incident ends. During this tranquil period, the couple experience profound relief. On the one hand, the batterer may show a tender and nurturing behavior towards his partner. He knows that he has been viciously cruel and tries to make up for it, begging for her forgiveness and promising never to beat her again. On the other hand, the battered woman also tries to convince herself that the battery will never happen again; that her partner will change for the better; and that this "good, gentle and caring man" is the real person whom she loves. A battered woman usually believes that she is the sole anchor of the emotional stability of the batterer. Sensing his isolation and despair, she feels responsible for his well-being. The truth, though, is that the chances of his reforming, or seeking or receiving professional help, are very slim, especially if she remains with him. Generally, only after she leaves him does he seek professional help as a way of getting her back. Yet, it is in this phase of remorseful reconciliation that she is most thoroughly tormented psychologically. The illusion of absolute interdependency is well-entrenched in a battered woman's psyche. In this phase, she and her batterer are indeed emotionally dependent on each other -- she for his nurturant behavior, he for her forgiveness. Underneath this miserable cycle of "tension, violence and forgiveness," each partner may believe that it is better to die than to be separated. Neither one may really feel independent, capable of functioning without the other. Because of the recurring cycles of violence experienced by the abused woman, her state of mind metamorphoses. In determining her state of mind, we cannot rely merely on the judgment of an ordinary, reasonable person who is evaluating the events immediately surrounding the incident. A Canadian court has aptly pointed out that expert evidence on the psychological effect of battering on wives and common law partners are both relevant and necessary. "How can the mental state of the appellant be appreciated without it? The average member of the public may ask: Why would a woman put up with this kind of treatment? Why should she continue to live with such a man? How could she love a partner who beat her to the point of requiring hospitalization? We would expect the woman to pack her bags and go. Where is her self-respect? Why does she not cut loose and make a new life for herself? Such is the reaction of the average person confronted with the so-called 'battered wife syndrome.'" To understand the syndrome properly, however, one's viewpoint should not be drawn from that of an ordinary, reasonable person. What goes on in the mind of a person who has been subjected to repeated, severe beatings may not be consistent with -- nay, comprehensible to -- those who have not been through a similar experience. Expert opinion is essential to clarify and refute common myths and misconceptions about battered women. The theory of BWS formulated by Lenore Walker, as well as her research on domestic violence, has had a significant impact in the United States and the United Kingdom on the treatment and prosecution of cases, in which a battered woman is charged with the killing of her violent partner. The psychologist explains that the cyclical nature of the violence inflicted upon the battered woman immobilizes the latter's "ability to act decisively in her own interests, making her feel trapped in the

relationship with no means of escape.” In her years of research, Dr. Walker found that “the abuse often escalates at the point of separation and battered women are in greater danger of dying then.” Corroborating these research findings, Dra. Dayan said that “the battered woman usually has a very low opinion of herself. She has x x x self-defeating and self-sacrificing characteristics. x x x [W]hen the violence would happen, they usually think that they provoke[d] it, that they were the one[s] who precipitated the violence[; that] they provoke[d] their spouse to be physically, verbally and even sexually abusive to them.” According to Dra. Dayan, there are a lot of reasons why a battered woman does not readily leave an abusive partner -- poverty, self-blame and guilt arising from the latter’s belief that she provoked the violence, that she has an obligation to keep the family intact at all cost for the sake of their children, and that she is the only hope for her spouse to change. The testimony of another expert witness, Dr. Pajarillo, is also helpful. He had previously testified in suits involving violent family relations, having evaluated “probably ten to twenty thousand” violent family disputes within the Armed Forces of the Philippines, wherein such cases abounded. As a result of his experience with domestic violence cases, he became a consultant of the Battered Woman Office in Quezon City. As such, he got involved in about forty (40) cases of severe domestic violence, in which the physical abuse on the woman would sometimes even lead to her loss of consciousness. Dr. Pajarillo explained that “overwhelming brutality, trauma” could result in posttraumatic stress disorder, a form of “anxiety neurosis or neurologic anxiety.” After being repeatedly and severely abused, battered persons “may believe that they are essentially helpless, lacking power to change their situation. x x x [A]cute battering incidents can have the effect of stimulating the development of coping responses to the trauma at the expense of the victim’s ability to muster an active response to try to escape further trauma. Furthermore, x x x the victim ceases to believe that anything she can do will have a predictable positive effect.” A study conducted by Martin Seligman, a psychologist at the University of Pennsylvania, found that “even if a person has control over a situation, but believes that she does not, she will be more likely to respond to that situation with coping responses rather than trying to escape.” He said that it was the cognitive aspect -- the individual’s thoughts -- that proved all-important. He referred to this phenomenon as “learned helplessness.” “[T]he truth or facts of a situation turn out to be less important than the individual’s set of beliefs or perceptions concerning the situation. Battered women don’t attempt to leave the battering situation, even when it may seem to outsiders that escape is possible, because they cannot predict their own safety; they believe that nothing they or anyone else does will alter their terrible circumstances.” Thus, just as the battered woman believes that she is somehow responsible for the violent behavior of her partner, she also believes that he is capable of killing her, and that there is no escape. Battered women feel unsafe, suffer from pervasive anxiety, and usually fail to leave the relationship. Unless a shelter is available, she stays with her husband, not only because she typically lacks a means of self-support, but also because she fears that if she leaves she would be found and hurt even more. In the instant case, we meticulously scoured the records for specific evidence establishing that appellant, due to the repeated abuse she had suffered from her spouse over a long period of time, became afflicted with the battered woman syndrome. We, however, failed to find sufficient evidence that would support such a conclusion. More specifically, we failed to find

ample evidence that would confirm the presence of the essential characteristics of BWS. The defense fell short of proving all three phases of the “cycle of violence” supposedly characterizing the relationship of Ben and Marivic Genosa. No doubt there were acute battering incidents. In relating to the court a quo how the fatal incident that led to the death of Ben started, Marivic perfectly described the tension-building phase of the cycle. She was able to explain in adequate detail the typical characteristics of this stage. However, that single incident does not prove the existence of the syndrome. In other words, she failed to prove that in at least another battering episode in the past, she had gone through a similar pattern. How did the tension between the partners usually arise or build up prior to acute battering? How did Marivic normally respond to Ben’s relatively minor abuses? What means did she employ to try to prevent the situation from developing into the next (more violent) stage? Neither did appellant proffer sufficient evidence in regard to the third phase of the cycle. She simply mentioned that she would usually run away to her mother’s or father’s house; that Ben would seek her out, ask for her forgiveness and promise to change; and that believing his words, she would return to their common abode. Did she ever feel that she provoked the violent incidents between her and her spouse? Did she believe that she was the only hope for Ben to reform? And that she was the sole support of his emotional stability and well-being? Conversely, how dependent was she on him? Did she feel helpless and trapped in their relationship? Did both of them regard death as preferable to separation? In sum, the defense failed to elicit from appellant herself her factual experiences and thoughts that would clearly and fully demonstrate the essential characteristics of the syndrome. The Court appreciates the ratiocinations given by the expert witnesses for the defense. Indeed, they were able to explain fully, albeit merely theoretically and scientifically, how the personality of the battered woman usually evolved or deteriorated as a result of repeated and severe beatings inflicted upon her by her partner or spouse. They corroborated each other’s testimonies, which were culled from their numerous studies of hundreds of actual cases. However, they failed to present in court the factual experiences and thoughts that appellant had related to them -- if at all -- based on which they concluded that she had BWS. We emphasize that in criminal cases, all the elements of a modifying circumstance must be proven in order to be appreciated. To repeat, the records lack supporting evidence that would establish all the essentials of the battered woman syndrome as manifested specifically in the case of the Genosas. Being a novel concept in our jurisprudence, the battered woman syndrome was neither easy nor simple to analyze and recognize vis-à-vis the given set of facts in the present case. The Court agonized on how to apply the theory as a modern-day reality. It took great effort beyond the normal manner in which decisions are made -- on the basis of existing law and jurisprudence applicable to the proven facts. To give a just and proper resolution of the case, it endeavored to take a good look at studies conducted here and abroad in order to understand the intricacies of the syndrome and the distinct personality of the chronically abused person. Certainly, the Court has learned much. And definitely, the solicitor general and appellant’s counsel, Atty. Katrina Legarda, have helped it in such learning process. While our hearts empathize with recurrently battered persons, we can only work within the limits of law, jurisprudence and given facts. We cannot make or invent them. Neither can we amend the Revised Penal Code. Only Congress, in its wisdom, may do so. The Court,

however, is not discounting the possibility of self-defense arising from the battered woman syndrome. We now sum up our main points. First, each of the phases of the cycle of violence must be proven to have characterized at least two battering episodes between the appellant and her intimate partner. Second, the final acute battering episode preceding the killing of the batterer must have produced in the battered person's mind an actual fear of an imminent harm from her batterer and an honest belief that she needed to use force in order to save her life. Third, at the time of the killing, the batterer must have posed probable -- not necessarily immediate and actual -- grave harm to the accused, based on the history of violence perpetrated by the former against the latter. Taken altogether, these circumstances could satisfy the requisites of self-defense. Under the existing facts of the present case, however, not all of these elements were duly established. The Supreme Court affirmed conviction of Appellant Marivic Genosa for parricide is hereby. However, there being two (2) mitigating circumstances and no aggravating circumstance attending her commission of the offense, her penalty is reduced to six (6) years and one (1) day of prison mayor as minimum; to 14 years, 8 months and 1 day of reclusion temporal as maximum. Inasmuch as appellant has been detained for more than the minimum penalty hereby imposed upon her, the director of the Bureau of Corrections may immediately release her from custody upon due determination that she is eligible for parole, unless she is being held for some other lawful cause. Costs de officio.

If only the convicted appellant Marivic Genosa, a battered wife, has the means and resources to seek declaration of nullity of marriage or annulment of marriage that is very costly, burdensome and difficult to obtain in the country, she will not be found guilty of parricide and suffer the penalty of incarceration. If only the Supreme Court relaxed the very rigid rules on the ground of psychological incapacity for nullity of marriage before, many battered women have been freed from abusive and cruel marriages that are far different of the ideal marriages stated in the 1987 Philippine Constitution. If only our country has a Divorce, there will be a big decrease of battered women.

The Philippines is the only country in the world, aside from Vatican City, which lacks divorce laws. FP reporters wrote, " For its part, the global church has been steadily losing ground in the fight against divorce. The first big blow came in 1970 when Italy legalized divorce, despite the ferocious opposition of the Vatican. An attempt to repeal the Italian divorce law was soundly rejected in a 1974 referendum. Next came Brazil, which legalized divorce in 1977, followed by Spain (1981), Argentina (1987), Ireland (1997), and Chile (2004). That left only the Philippines and the tiny Mediterranean island nation of Malta (and, of course, the independent but mostly celibate Vatican city-state). In 2011, Malta held a referendum on divorce. The church pulled out all stops in a particularly nasty campaign against legalization, but came up short. Soon after the referendum, the archbishop of Malta issued a rare apology for the church's harsh attacks on pro-divorce activists."

On October 6, 2014, CNN reported the Divorce bill filed by Gabriela. The Catholic Church, a strong lobbyist against certain legislative measures in a pre – dominantly Roman Catholic country, has come out forcefully against the bill. Efforts to legalize divorce, including a bill that is currently before the legislature, have faced vehement opposition by the Catholic Church, which continues to wield considerable influence in the country where more than 80% of Filipinos are Catholic. The Catholic bishops oppose divorce, but are proposing new ways to annul marriages that the Church considers invalid. A bishop spoke out, "We are opposed to legislation which would enable the state to break the marriage bond so that the couple can each remarry. As for cases where there is spousal abuse, then that man is free to marry another woman and continue the abuse. Instead, she can just legally separate". He said the church fears allowing divorce will make marriage a more fragile institution and encourage people to divorce unnecessarily. There is also damage to the children, the studies have shown in general that they fare worst in life, in their studies and relationships.

As Foreign Policy magazine put it: The Philippines... is the last holdout among a group of staunchly Catholic countries where the church has fought hard to enforce its views on the sanctity of marriage.

On January 19, 2015, Pope Francis urged the bishops to take a more forgiving stance toward divorced Catholics, but this is a moot point in the Philippines: There is no such thing as a divorced Catholic.