

Philippine Supreme Court Re-evaluates Psychological Incapacity Standard in Annulment Cases

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/EINPresswire.com/ -- In a series of recent rulings, the Supreme Court of the Philippines has modified the legal definition and evidentiary standards for “psychological incapacity” as a ground for [annulment of marriage](#), signaling a significant shift in the interpretation of Article 36 of the Family Code. This is a significant shift in perspective as while spouses can file an annulment due to a spouse being [previously married](#) or [underage](#), the vast majority of annulments are based on Article 36 of the Family Code.



The high court – notably in a landmark en banc decision in 2021 – has departed from decades-old strict guidelines, so that annulment is more responsive to real marital issues. Legal experts note that these changes could profoundly affect thousands of Filipino families and the legal profession in the Philippines even as the judiciary balances the State’s policy of preserving marriage with the need to address untenable unions.

Landmark Rulings Redefine Article 36 Criteria

In *Tan-Andal v. Andal* (G.R. No. 196359, May 11, 2021), a unanimous Supreme Court en banc decision redefined “psychological incapacity” as a purely legal concept rather than a medical or clinical condition. The 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.

The ruling emphasized that such incapacity “need not be a mental or personality disorder” nor a “permanent and incurable” condition, overturning earlier jurisprudence which had required proof of the condition’s incurability. Expert opinion is “not mandatory in all cases,” the Court added, so long as the “totality of the evidence” demonstrates the spouse’s incapacity by clear and convincing evidence. Thus, there is no requirement for one to be personally examined by a psychologist because what is important is the presence of evidence that adequately establishes the party’s psychological incapacity. This marked a dramatic liberalization from the strict standards set in the 1990s, when the Court’s decisions in *Santos v. Court of Appeals* (1995) and *Republic v. Court of Appeals and Molina* (1997) established rigid criteria for psychological incapacity.

Under the Molina guidelines, petitioners had to show that the defect was grave, deeply rooted (juridically antecedent), and “medically or clinically permanent or incurable,” often requiring expert psychiatric evidence. Many petitions were denied under this framework, even in cases of evident deep-seated marital dysfunction.

Over time, however, the high court grew concerned that Molina’s strictures were being applied too rigidly. Notable decisions like *Marcos v. Marcos* (2000) and *Ngo Te v. Yu-Te* (2009) began relaxing the interpretation – for instance, clarifying that “incurability” need not mean absolute irreversibility, only that the condition is deeply ingrained.

These incremental changes set the stage for the Tan-Andal ruling, which removed the need for a clinical diagnosis and focused on a holistic view of a spouse’s inability to fulfill fundamental marital obligations. Additionally, the court held in this case that the Molina guidelines are not meant to straitjacket all petitions for declaration of nullity of marriage.

However, Tan-Andal also raised the evidentiary bar for nullity cases.

As held in the case, while a petition to declare a marriage null and void under Article 36 is considered a civil suit, the quantum of proof must not only be preponderance of evidence but instead, clear and convincing evidence, which is defined as “more than mere preponderance, but not to extent of such certainty as is required beyond reasonable doubt as in criminal cases.”

In a concurring opinion, Justice Mario V. Lopez cautioned against the new evidence threshold, writing that he saw “no reason for deviating from the preponderance standard” and warned that imposing a higher burden “would make it more burdensome for a party to be released from a marriage void ab initio.” This internal Supreme Court dialogue highlights the fine balance the justices sought between making annulments accessible and preventing abuse of this remedy.

Supreme Court Justices on the New Definition

Senior Associate Justice Marvic M.V.F. Leonen, who authored the Tan-Andal decision, underscored the departure from a clinical approach. The Tan-Andal ruling explicitly states that psychological incapacity “is not a mental disorder recognized by the scientific community

but is a purely legal concept” in our marriage law. In practical terms, this means a spouse’s inability to perform marital duties can be proven by lay witnesses and life history rather than by a medical diagnosis. Family members, friends, or even the spouses themselves can to behavior showing an incapacity to undertake essential obligations – such as mutual love, respect, support, cohabitation, and fidelity – even if no specific clinical illness is identified. As Justice Leonen and his colleagues noted, the totality of such testimony and evidence, if “clear and convincing,” can suffice to nullify a marriage.

However, defining what is clear and convincing to a judge can be challenging.

In *Carullo-Padua vs. Padua* (G.R. No. 208258, April 27, 2022), the Court – through Justice Ramon Paul Hernando – reaffirmed that not every troubled marriage qualifies as psychologically incapacitated. The ruling held that common marital issues like “irreconcilable differences, conflicting personalities, emotional immaturity and irresponsibility, physical abuse, habitual alcoholism, sexual infidelity or perversion, and abandonment, by themselves, do not warrant a finding of psychological incapacity. An unsatisfactory marriage is not a null-and-void marriage. This statement, now part of the jurisprudence, serves as a caution that Article 36 is not a catch-all divorce provision for every unhappy union.

In the *Padua* case, the Court found the evidence lacking because no witness apart from the wife (and a psychiatrist who never even met the husband) could attest to the husband’s purported condition, and there was scant proof of a debilitating psychological issue rooted in his upbringing or personality “The couple’s irreconcilable sexual preferences [alone] cannot amount to psychological incapacity,” Justice Hernando wrote, adding that a truly incapacitating condition must be shown to be enduring and manifesting in a way that fundamentally undermines the marriage.

The Supreme Court also reiterated the State’s interest in preserving marriage even as it opens the door to nullity in meritorious cases. “Time and again, it has been held that the State takes a high stake in the preservation of marriage... Hence, any doubt should be resolved in favor of the existence and preservation of the marriage and against its dissolution and nullity,” the Court stressed.

Chief Justice Alexander G. Gesmundo and other justices have publicly noted that the judiciary’s role is to uphold the intent of the law – strengthening the family – even as they recognize that truly broken marriages should have a legal exit. The overall message from the bench is that the new, more flexible interpretation of psychological incapacity is not meant to trivialize the sanctity of marriage, but to ensure that irreparable unions have a remedy grounded in justice and compassion.

So, while on one hand the courts do realize that psychological incapacity is a legal rather than medical concept, the stress is on presenting clear and convincing evidence also sets a higher bar for evidence. In practical terms, often means that a lawyer may err on the side of caution and compile exhaustive evidence.

Annulment Cases by the Numbers

These judicial developments come amid a rising number of Filipinos seeking to nullify their marriages. Annulment is the only legal remedy for irreconcilable marriages in the Philippines, which notably has no absolute divorce law.

According to the Philippine Statistics Authority (PSA), 1.6 million Filipinos were recorded as separated or annulled as of 2020, a steep increase from 1.2 million five years earlier. This figure suggests that roughly one in five Filipino marriages ends in separation, reflecting a substantial segment of the population affected by marital breakdown.

In 2012 alone – prior to the recent jurisprudential shift – 10,528 petitions for annulment or nullity were filed in Philippine courts (about 28 cases per day). By comparison, only 4,520 cases were filed in 2001, indicating a sharp rise in the resort to annulment over the past two decades.

Legal authorities report that the vast majority of these cases cite “psychological incapacity” under Article 36 as the ground for dissolving the marriage, far outnumbering other grounds. Psychological incapacity has effectively become the “catch-all” provision for failed marriages – a fact acknowledged by courts and lawmakers alike.

The Office of the Solicitor General (OSG), which represents the State in nullity proceedings, has observed this trend and has raised concerns about potential misuse in the past. In a 2014 interview, a senior state prosecutor noted that annulment “is not as easy as signing a piece of paper” precisely because the State is duty-bound to ensure that only valid grounds – not mere mutual consent to separate – lead to dissolution. Every petition is scrutinized by public prosecutors to prevent collusion (i.e., spouses fabricating grounds). Despite the increasing numbers of filings, not all petitions succeed; a significant portion are dismissed or denied for failure to meet the stringent proof requirements. The Tan-Andal imposition of the clear and convincing evidence standard may further impact success rates, potentially making courts more confident in granting petitions that meet the higher bar while dismissing borderline cases that would have passed under a lower standard.

Implications for Families, Lawyers, and Access to Annulment

For Filipino families, the Supreme Court’s evolving stance offers a mixed impact. On one hand, spouses trapped in untenable marriages may find it easier to obtain legal relief now that the definition of psychological incapacity is more grounded in practical reality than in strict clinical terms. The removal of the requirement for a psychiatric diagnosis may lower the financial and logistical hurdles for many petitioners. (A psychological report and expert testimony used to be a *de facto* requirement, often costing around ₱60,000 or more in fees). As the Supreme Court Public Information Office noted, allowing family and friends’ testimonies as evidence “could result in shortening the process and minimizing costs” for annulment cases. This increases access to annulment for financially strained spouses who could not afford expert witnesses. It also aligns the law with lived experiences: for instance, a husband’s long-term desertion or a wife’s chronic refusal to communicate – if proven through credible testimony – can now be considered as manifestations of psychological incapacity, without requiring a doctor to label it a disorder.

On the other hand, the higher evidentiary threshold of clear and convincing evidence may mean that truly weak or dubious cases will not prosper, reinforcing that annulment is not equivalent to no-fault divorce. Families seeking a quick exit from marriage purely for convenience will find that the courts still demand concrete proof of an enduring inability to comply with marital obligations. The Catholic Church, which remains influential in the Philippines, has cautiously welcomed the Court's clarification that Article 36 is not meant to cover simply "emotionally distant or unfaithful" spouses unless a genuine psychological condition is present. Church law (Canon Law) tribunals have long had a concept of nullity for psychological incapacity, and Article 36 was originally inspired by this notion. The civil Supreme Court's nuanced approach might bring civil annulments closer to the spirit of Church annulments, focusing on the incapacity to undertake marital duties from the start.

For the legal profession, these developments require adjustments in strategy and advocacy. Family lawyers handling annulments must now prepare for a totality-of-evidence approach: gathering not just expert evaluations, but also lay testimonies, character affidavits, and documentation of behavior over time. The absence of a mandatory psychological report in every case means attorneys may sometimes proceed with cases based solely on narrative evidence from those who know the spouses best. This can reduce costs for clients and potentially shorten trial time (as the process of scheduling and qualifying expert witnesses is bypassed). However, lawyers also face the challenge of meeting a higher quantum of proof. They must ensure that evidence presented is abundant, consistent, and compelling enough to meet the clear and convincing standard – a mid-point between the usual civil preponderance and the criminal beyond reasonable doubt. Law firms are training practitioners in crafting stronger evidence presentation, including the use of contemporary forms of proof (e.g., digital communications, social media postings, etc.) to demonstrate a spouse's long-term incapacity. Judges, for their part, are receiving updated guidance through the Office of the Court Administrator (OCA) and the Philippine Judicial Academy on how to evaluate psychological incapacity cases post-Tan-Andal. A recent OCA advisory reminded trial courts to focus on the substance of incapacity rather than terminologies, and to consider testimonies of those who observed the marriage up close, in line with the new Supreme Court standards.

Broader Impact and Future Outlook

The Supreme Court's re-evaluation of psychological incapacity as grounds for annulment is resonating beyond individual cases, potentially influencing policy debates. Legislators have pointed to the Tan-Andal doctrine in renewed discussions of a divorce bill, arguing that the judiciary has already taken a step toward a more pragmatic resolution of failed marriages. As of this writing, eight bills in the House of Representatives and multiple bills in the Senate are pending that introduce absolute divorce or expand the grounds for dissolution of marriage. While the Court's rulings do not legalize divorce, they may lessen pressure on lawmakers by showing that the existing law can be interpreted in a humane and flexible manner to address marital breakdowns. In the meantime, thousands of couples are expected to reassess their options in light of the new jurisprudence. Court data and anecdotal reports suggest an uptick in

petitions citing the Tan-Andal standard in the past two years, as lawyers refile previously denied cases with stronger evidence and as spouses who delayed action (due to lack of resources for expert testimony) now come forward.

Ultimately, the unfolding judicial policy on Article 36 seeks to strike a delicate equilibrium: protecting the integrity of marriage while affording a remedy for marriages beyond repair. As the Supreme Court stated, psychological incapacity must be understood in the context of a specific marriage – it is about a “personal condition” that truly undermines the marriage’s obligations. The formal recognition of this principle, coupled with measured safeguards, represents a progressive shift in Philippine family law. Court officials and observers believe that, in practice, this will translate to a slightly higher success rate for deserving annulment cases and a more straightforward courtroom process, without opening any floodgates. For many Filipino families living through the anguish of a broken marriage, these developments offer a ray of hope – a chance to start anew – while reinforcing that the legal system remains committed to upholding the foundational values of marriage. As the nation awaits further guidance, the consensus in legal circles is that the Supreme Court has charted a more compassionate path forward, one that respects both the enduring importance of family and the realities that sometimes frustrate it.

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