

Re-examining the Concept of Psychological Incapacity: Towards a More Accurate Reflection of Legislative Intent

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In Philippine law, marriage, being an inviolable social institution, is protected from whimsical dissolution by the exclusive grounds for its annulment or declaration of nullity. With the passing of the Family Code of the Philippines, the proverbial “eye of the needle” was widened because of the liberal ground for declaration of nullity under Article 36, due to the definition of psychological incapacity.

The definition of psychological incapacity in law becomes problematic since it is grounded in psychological and behavioral science bases. As a result, judicial discretion in the declaration of psychological incapacity in a given case may almost be unbridled. Thus, it becomes imperative to question the intent of the framers of the Family Code, and to determine whether Article 36 is serving the purpose for which it was drafted. But present indications, such as the opinions of commentators and judicial decisions, show that psychological incapacity is still a complicated subject matter privy to differing interpretations, both practically and theoretically.

The Molina decision is the latest of Supreme Court decisions interpreting Article 36 of the Family Code. These interpretations, however, in the absence of definitive legislation clarifying the issue, would leave the courts deciding whether to allow a liberal interpretation of Article 36 or a conservative view which would set the bar for psychological incapacity higher.