

**ESCAPING STRAITJACKETS:
THE RECONFIGURED CONCEPT OF PSYCHOLOGICAL
INCAPACITY UNDER *TAN-ANDAL V. ANDAL* AND
ITS IMPACT ON BATTERED WOMEN’S ACCESS TO JUSTICE
IN THE PHILIPPINES***

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ABSTRACT

Rooted in the inherited culture of patriarchy, violence against women and their children remains a pervasive social issue in the Philippines. Though strong thrusts to address this problem have been instituted in the legal system, the enduring lack of direct remedy for battered wives to completely sever ties with their abusive husbands poses as a significant gap in their access to justice. With the absence of absolute divorce in the Philippines in general, battered women are left to explore alternative legal remedies to address this problem, such as the filing a petition for declaration of absolute nullity of void marriage under Article 36 of the Family Code on psychological incapacity. However, since 1988 until 2021, there have only been 13 nullity cases granted by the Supreme Court on the ground of psychological incapacity.

Finally, in the 2021 case of *Tan-Andal v. Andal*, the Supreme Court reconfigured the concept of psychological incapacity from a medical concept to a purely legal one. This gave rise to a significant change in the trend of Supreme Court rulings. The survey of cases since *Tan-Andal* reveals that majority—63% of cases on nullity of marriage under Article 36—obtained favorable rulings. More importantly, 81% of the cases filed by battered women alleging domestic violence by their husbands as manifestation of the latter’s

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psychological incapacity have been granted by the Supreme Court. In effect, therefore, the new interpretation of Article 36 of the Family Code under *Tan-Andal*, in terms of number of cases granted, perceptibly improved the access to justice of battered women in the Philippines.

I. INTRODUCTION

On June 12, 1898, the Philippine flag was unfurled for the first time in the Aguinaldo Mansion in Kawit, Cavite.¹ This historic moment marked the Philippine independence from Spain. Yet, the 333 years of Spanish occupation in the Philippines left indelible imprints on Filipino culture, tradition, and worldview—a consequence the nation grapples with to this day. Particularly, the role of women in society took a polarizing change because of the patriarchal cultural values and practices that the Spanish religious conquest perpetuated.²

As esteemed spiritual leaders in the community that were independent from and equal to the *datu* (male head chief),³ the *babaylans* (women priests) were demonized by Spanish missionaries, who accused them of engaging in witchcraft, sorcery, and hoaxes, in order to veer the natives toward Catholicism.⁴ As Christian indoctrination in the Philippines progressed, women and men ceased to be equals. Women were ultimately relegated as the inferior sex, subordinate to men, and part of the latter's property, and hence, under their absolute control.⁵ This patriarchal culture, which remains prevalent in the Philippines today, is perceived as a significant cause of violence against women.⁶ Rooted in this culture is the traditional right of the

¹ *Declaration of Philippine Independence*, in THE LAWS OF THE FIRST PHILIPPINE REPUBLIC (THE LAWS OF MALOLOS) (Sulpicio Guevara, ed., 1972) 203, at <https://quod.lib.umich.edu/p/philamer/aab1246.0001.001/221>.

² See Noemi A. Medina et al., *The Culture of Patriarchy and its Effects on Human Rights of Girl-Children in Cagayan de Oro and Claveria, Misamis Oriental: Implications to Policy Formulation* (Phil. Inst. for Dev. Studies, Discussion Paper Series, No. 2015-44, 2015) 14, at https://www.econstor.eu/bitstream/10419/127058/1/pidsdps1544_rev.pdf.

³ Tracy Mae Ildefonso, *From Asog to Bakla: Genealogical Analysis of the Philippine History to Diagnose the Roots of Homophobia*, 5 (2) HUMAN. BULL. 213–38, 215 (2022), at <https://doras.dcu.ie/28009/2/Ildefonso%20Humanities%20Bulletin%205.2.pdf>

⁴ *Id* at 216; James Loreto C. Piscos, *Demonization and sanctification of indigenous feminine roles in the 16th century Philippines*, 8 BEDAN RES. J. 59–80 (2023), at <https://bedanjournal.org/index.php/berj/article/view/47>.

⁵ See also Medina, *supra* note 3.

⁶ See, generally Vera Lomazzi, *The Cultural Roots of Violence Against Women: Individual and Institutional Gender Norms in 12 Countries*, 12 (3) SOC. SCI. 117 (2023).

patriarch to use force against members of his family.⁷ Though legal systems have since renounced this right, gender-based violence remains an issue to this day.⁸

In the Philippines, the 2022 National Demographic and Health Survey of the Philippine Statistics Authority reported that 18% of Filipino women between the ages of 15 to 49 are victims of physical, sexual, and emotional violence inflicted by their intimate partners.⁹ Data from the Philippine Commission on Women showed that as of 2021, there were 8,399 reported cases of physical violence, 1,791 cases of rape, and 1,505 cases of acts of lasciviousness.¹⁰ Meanwhile, globally, it is estimated that almost one out of every three women has experienced violence.¹¹ Thus, it appears that the actual numbers of cases of violence against women are estimated to be higher, considering that most incidents of violence against women go unreported due to the victims' "culture of silence".¹²

Recognizing violence against women as a pervasive social issue, the Congress enacted Republic Act No. 9262,¹³ which penalizes all forms of violence against women and their children. Under the said law, violence may take the form of physical violence, sexual violence, psychological violence, and economic abuse, as defined as follows:¹⁴

- A. "Physical violence" refers to acts that include bodily or physical harm;

⁷ *Garcia v. Drilon*, G.R. No. 179267, 699 SCRA 352, 413, June 25, 2013. In ancient Rome, the concept of *patria potestas* "allowed the husband to beat, or even kill, his wife if she endangered his property right over her." English feudal law also reinforced patriarchal views, with limitations imposed on the husband's right to chastise their wives through the "rule of thumb" (i.e., husbands are "allowed to chastise their wives with a rod or stick no thicker than their thumb") only in the late 1500s.

⁸ See, generally, Reva B. Siegel, "The Rule of Love": *Wife Beating as Prerogative and Privacy*, 105 YALE L. J. 2117 (1995–1996).

⁹ PHIL. STAT. AUTH. (PSA), *Intimate Partner Violence by Background Characteristics*, in 2022 PHILIPPINE NATIONAL DEMOGRAPHIC AND HEALTH SURVEY (NDHS): KEY INDICATORS REPORT 1, 51 at <https://www.dhsprogram.com/pubs/pdf/PR146/PR146.pdf>.

¹⁰ Phil. Comm'n. on Women (PCW), *Violence Against Women*, PHILIPPINE COMMISSION ON WOMEN WEBSITE, at <https://pcw.gov.ph/violence-against-women/>.

¹¹ WORLD HEALTH ORG., VIOLENCE AGAINST WOMEN PREVALENCE ESTIMATES, 2018: EXECUTIVE SUMMARY, I–XII, IX (2018), at <https://iris.who.int/bitstream/handle/10665/341338/9789240026681-eng.pdf?sequence=1>.

¹² PCW, *supra* note 11.

¹³ Rep. Act No. 9262 (2004). Anti-Violence Against Women and their Children Act [hereinafter "Anti-VAWC Act"].

¹⁴ Anti-VAWC Act, § 3(a).

- B. “*Sexual violence*” refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:
- a) Rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;
 - b) Acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c) Prostituting the woman or child.
- C. “*Psychological violence*” refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and marital infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.
- D. “*Economic abuse*” refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:
- a) Withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
 - b) Deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
 - c) Destroying household property;

- d) Controlling the victims' own money or properties or solely controlling the conjugal money or properties.

Apart from filing a criminal action under the Anti-VAWC Act, a battered woman with an abusive husband may also pursue an action for legal separation under Article 55 of the Family Code on the ground of: (a) physical violence vis-à-vis paragraphs (1), (2), and (9); (b) sexual violence vis-à-vis paragraph (3); and (c) marital infidelity vis-à-vis paragraph (8).¹⁵ These remedies notwithstanding, women who are victims of violence still reckon with the reality that they remain bound to their abusers in these marriages. Legal separation—or separation by bed and board—does not sever marital ties but merely entitles the spouses to live separately.¹⁶ As a result, women who are trapped in these unhappy and abusive marriages lose their sense of self, the opportunity for a better life, peace of mind, and psychological well-being.¹⁷

It becomes apparent that, though Philippine laws attempt to address the pressing issue on violence against women through various legislations, the absence of a remedy under the current legal framework to dissolve marriages on the ground of violence alone deprives battered women¹⁸ of complete relief from their plight, clearly showing that their access to justice is impeded by this gap. As a result, women who are victims of domestic violence who wish to completely escape their abusive marriages seek alternative legal remedies to address such concern.

¹⁵ FAM. CODE, art. 55. A petition for legal separation may be filed on any of the following grounds:

- (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;
- (2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;
- (3) Attempt of respondent to corrupt or induct the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement

- (8) Sexual infidelity or perversion.
- (9) Attempt by the respondent against the life of the petitioner.

¹⁶ *Lapuz v. Eufemio*, G.R. No. L-30977, 43 SCRA 177, 181 (1972).

¹⁷ Alicia F. Estrellado & Jennifer Loh, *To Stay in or Leave an Abusive Relationship: Losses and Gains Experienced by Battered Filipino Women*, 34 (9) J. OF INTERPERSONAL VIOLENCE 1843–1863 (2019). doi: 10.1177/0886260516657912.

¹⁸ See Anti-VAWC Act, §3 (c). Battered Woman Syndrome refers to “a scientifically defined pattern of psychological and behavioral symptoms found in women living in battering relationships as a result of cumulative abuse.”

In this Article, the author explored how the declaration of absolute nullity of void marriage on the ground of psychological incapacity under Article 36 of the Family Code has served as an alternative possible remedy for women victims of violence in abusive marriages, especially in light of the radical interpretative change introduced by the 2021 case of *Tan-Andal v. Andal*.¹⁹ In *Tan-Andal*, the Supreme Court formally characterized psychological incapacity as a purely legal concept, thereby abandoning its previous definition thereof as a medical or clinical mental illness. Particularly, this Article analyzed cases after the promulgation of *Tan-Andal* to determine how the redefined concept of psychological incapacity impacted battered women's access to justice in terms of the number of cases granted by the Supreme Court wherein the wife instituted the action and alleged that her husband committed violence, as defined under the Anti-VAWC Act, against her and/or her children.

Interestingly, results of this analysis show that since *Tan-Andal*, more psychological incapacity cases have been granted by the Supreme Court. Of the total number of cases promulgated²⁰ as of December 2023, majority were filed by the wives on the ground of the psychological incapacity of the husbands, as manifested by, among others, the latter's repeated acts of physical, psychological, economic, and sexual violence against their wives and/or children.

II. WOMEN'S ACCESS TO JUSTICE IN THE PHILIPPINES

In its 2030 Agenda, the Philippines identified 17 Sustainable Development Goals (SDGs) which are integrated into the Philippine Development Plan 2023–2028,²¹ with gender equality placing fifth among these. According to the National Economic and Development Authority (NEDA), by 2030, the Philippines aims to “achieve gender equality and empower all women,” recognizing that gender bias undermines the social fabric and devalues everyone in society and that by denying women equal rights, half the population is denied a chance to live life at its fullest.²² To this

¹⁹ [Hereinafter “*Tan-Andal*”], G.R. No. 196359, 983 SCRA 28, May 11, 2021.

²⁰ This Article analyzed cases decided before and after the May 11, 2021 decision of *Tan-Andal* by examining those published in the Supreme Court's official website as of Dec. 31, 2023. These are detailed in this Article in Annexes B and C. The cases included are limited to full Decisions and unsigned Resolutions, excluding the Supreme Court's Minute Resolutions, which are not published.

²¹ National Economic and Development Authority (NEDA), *The Global Goals for Sustainable Development*, NEDA WEBSITE, at <https://sdg.neda.gov.ph/>.

²² *Id.*

end, some of the target outputs include eliminating all forms of violence against women in the public and private spheres and adopting and strengthening sound policies and enforceable legislation for the promotion of gender equality and women empowerment.²³

In jurisdictions where it is an available legal remedy, divorce has been associated with women empowerment, with studies showing that they feel more empowered after going through a divorce.²⁴ The availability of divorce has thus been shown to be a useful tool for women to escape gender inequality and power imbalance in abusive marriages.²⁵ It allows empowered women to freely leave marriages plagued with domestic violence without fearing that dissolving the marriage will render them economically vulnerable.²⁶

Part and parcel of women's rights and women empowerment is their access to justice. To measure access to justice, the availability of legal remedies and mechanisms alone are not enough, as these are affected by factors both within and outside the legal system.²⁷ For access to justice for women who are victims of violence to be effective and responsive to their needs and experiences, all of its elements, which includes the availability of adequate remedies working and responding to women's needs, must be present and situated in their context.²⁸

²³ *Id.*

²⁴ Jaime E. Mendoza, Maram Tolba, & Yasmine Saleh, *Strengthening marriages in Egypt: Impact of divorce on women*, 10 (1) BEHAV. SCI. 14 (2020), at <https://www.mdpi.com/2076-328X/10/1/14>. Note that Mendoza et al.'s article on women empowerment post-divorce is based on marriages in Egypt and the broader Arab world, in which early forced marriages are the norm and the "major risk factor" of divorces. Nonetheless, it is opined that the collectivist family ties and high stigma against divorce in Egypt and the broader Arab world are also comparable to that of the Philippines.

²⁵ Ishraw Hassan, *Empowering Women: Understanding Divorce, Equality, Competition between Genders*, 3 INTEG. J. FOR RES. IN ARTS AND HUMAN. 206–7, 207 (2023), at <https://www.ijrah.com/index.php/ijrah/article/view/320>.

²⁶ *Id.* at 206.

²⁷ Women's Legal and Human Rights Bureau, *Understanding Women's Access to Justice*, an excerpt from the research on *Mapping and Analysis of Domestic Legal Remedies to issues of Violence against Women (VAW)*, at <https://www.ohchr.org/sites/default/files/documents/HRBodies/CEDAW/AccessstoJustice/WomensLegalAndHumanRightsBureau.pdf>.

²⁸ *Id.* Elements of access to justice that were identified were: (1) adequate remedies, (2) women's critical engagement and participation, (3) legitimacy of the legal culture, and (4) cultural shifts in viewing violence against women.

In the Philippines, the most predominantly Catholic country in Asia,²⁹ absolute divorce is not allowed between Filipino citizens.³⁰ The Constitution, by decreeing marriage an inviolable social institution, protects it from dissolution at the whim of the parties.³¹ At the same time this constitutional policy indirectly, albeit unintentionally, contributes to the incidence of domestic violence against women and their children. Without a straightforward and adequate legal recourse to sever ties with their husbands, battered women remain bound to their abusers, and thus vulnerable to repeated incidents of abuse and violence.

III. PSYCHOLOGICAL INCAPACITY UNDER ARTICLE 36 VIS-À-VIS ABSOLUTE DIVORCE

Aside from the Vatican, the Philippines is the only country in the world where divorce is illegal; however, this has not always been the case³² During the Spanish colonization, absolute divorce was unrecognized, with the *Las Siete Partidas* only allowing relative divorce, or what is better known as legal separation.³³ However, this changed during the American occupation, when absolute divorce was allowed in the country under Act No. 2710,³⁴ which repealed *Las Siete Partidas* on March 11, 1917. Under Section 1 thereof, a petition for divorce may be filed on two grounds: *first*, adultery by the wife; and *second*, concubinage by the husband, as defined under the then Penal Code.

On March 25, 1943, amid the Japanese occupation, Act No. 2710 was temporarily repealed by Executive Order No. 141,³⁵ which provided 11 grounds for absolute divorce:

²⁹ Jove Jim S. Aguas, *Catholic Education in the Philippines*, in ENCYCLOPEDIA OF TEACHER EDUCATION 1–7 (Michael A. Peters, ed., 2020), at https://link.springer.com/referenceworkentry/10.1007/978-981-13-1179-6_147-1.

³⁰ [Hereinafter “*Racho*”], *Racho v. Tanaka*, G.R. No. 199515, 868 SCRA 25, June 25, 2010; *see also* *Corpuz v. Sto Tomas*, G.R. No. 186571, 628 SCRA 266, Aug. 11, 2010; and *Tenchavez v. Escaño*, G.R. No. L-19671, 15 SCRA 355, Nov. 29, 1965. However, note that Sharia-based divorce in the Philippines is allowed under Pres. Dec. No. 1083, or the Code of Muslim Personal Laws.

³¹ *Kalaw v. Fernandez*, G.R. No. 166357, 745 SCRA 512, Jan. 14, 2015.

³² Jeffrey B. Abalos, *Divorce and separation in the Philippines: Trends and correlates*, 36 DEMOGRAPHIC RES. 1515–48, 1516 (2017), at <https://www.jstor.org/stable/26332173>.

³³ *Anaban v. Anaban-Alfiler*, G.R. No. 249011, 976 SCRA 387, 389, Mar. 15, 2021.

³⁴ Act No. 2710 (1917). An Act to Establish Divorce.

³⁵ Exec. Order No. 141. New Divorce Law.

1. Adultery on the part of the wife and concubinage on the part of the husband committed under any of the forms described in the Revised Penal Code;
2. Attempt of one spouse against the life of the other;
3. A second or subsequent marriage contracted by either spouse before the former marriage has been legally dissolved;
4. Loathsome contagious diseases contracted by either spouse;
5. Incurable insanity which has reached such a stage that the intellectual community between the spouses has ceased;
6. Impotency on the part of either spouse;
7. Criminal conviction of either spouse of a crime in which the minimum penalty imposed is not less than six (6) years imprisonment;
8. Repeated bodily violence by one against the other to such an extent that the spouses cannot continue living together without endangering the lives of both or of either of them;
9. Intentional or unjustified desertion continuously for at least one year prior to the filing of the action;
10. Unexplained absence from the last conjugal abode continuously for three consecutive years prior to the filing of the action;
11. Slander by deed or gross insult by one spouse against the other to such an extent as to make further living together impracticable.³⁶

Upon the liberation of the Philippines from the Japanese occupation, General Douglas MacArthur issued a proclamation declaring as null and void all laws of government in the Philippines other than those of the Commonwealth of the Philippines, including Executive Order No. 141.³⁷ Act No. 2710 thus took effect again, reducing the then-11 grounds of divorce to only two, until it was completely repealed by the New Civil Code,³⁸ which again prohibited absolute divorce³⁹. In *Tenchavez v. Escañó*,⁴⁰ the Court discussed the legal regime's return to relative divorce, speaking through then-Associate Justice J.B.L. Reyes, explaining:

The Civil Code of the Philippines, now in force, does not admit absolute divorce, *quo ad vinculo matrimonii*; and in fact does not even use that term, to further emphasize its restrictive policy on the

³⁶ Exec. Order No. 141 (1943), Section 2, *Official Journal of Japanese Military Administration*, X, 41, as cited by Deogracias T. Reyes, *History of Divorce Legislation in the Philippines since 1900*, 1 PHIL. STUD. 42–53 (1953), at <https://www.jstor.org/stable/42718998>.

³⁷ ELMER RABUYA, PERSONS AND FAMILY LAW 263–4 (2021 ed.).

³⁸ Rep. Act No. 386 (1950). Civil Code of the Philippines.

³⁹ *Racho*, 868 SCRA 25, 46, June 25, 2010.

⁴⁰ G.R. No. 19671, 15 SCRA 355, Nov. 29, 1965.

matter, in contrast to the preceding legislation that admitted absolute divorce on grounds of adultery of the wife or concubinage of the husband. Instead of divorce, the present Civil Code only provides for *legal separation*, and, even in that case, it expressly prescribes that “the marriage bonds shall not be severed.”⁴¹

The abolition of divorce was carried over to the Family Code,⁴² which took effect on August 3, 1988. Interestingly, the Family Code included a unique and brand new ground to assail the validity of marriage under 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.⁴³

The ground of psychological incapacity under Article 36 was apparently lifted from the Catholic Church.⁴⁴ Canon 1095 of its New Code of Canon Law reads:⁴⁵

Canon 1095. The following are incapable of contracting marriage:

1. Those who lack the sufficient use of reason;
2. Those who suffer from a grave defect of discretion of judgment concerning the essential matrimonial rights and duties mutually to be handed over and accepted;
3. Those who are not able to assume the essential obligations of marriage for causes of psychic nature.

In a letter dated April 15, 1985 to former Batasang Pambansa Assemblywoman Mercedes Cojuangco-Teodoro, Judge Alicia V. Sempio-Diy, member of both the Family Law and Civil Code Revision Committee, recounted how Article 36 of the Family Code came to be.⁴⁶ She revealed that

⁴¹ *Id.* at 361–62. (Emphasis in the original; citations omitted.)

⁴² Exec. Ord. No. 209 (1988). The Family Code of the Philippines.

⁴³ FAM. CODE, art. 36. (Emphasis supplied.)

⁴⁴ *Tan-Andal*, 983 SCRA 28, 39, May 11, 2021 (Perlas-Bernabe, J., *concurring*).

⁴⁵ CODEX IURIS CANONICI (1983), c. 1095.

⁴⁶ [Hereinafter “*Santos*”], *Santos v. Ct. of Appeals*, G.R. No. 112019, 240 SCRA 20, 39–40, Jan. 4, 1995 (Romero, J., *concurring*), n. 1. Justice Romero noted that the Judge Sempio-Diy’s letter was written relative to the request of Assemblywoman Cojuangco-Teodoro for a comment on various marriage and divorce bills pending before the subcommittees related to the revision of the Civil Code.

the adoption of Canon 1095 of the New Code of Canon Law into the Family Code was borne out of various considerations, which included the strong opposition of the Catholic Church and the Catholic sector to absolute divorce;⁴⁷ the fact that marriages may already be dissolved on grounds provided under existing laws;⁴⁸ the dilemma on recognition of church annulments on grounds not provided by laws of the State;⁴⁹ and tribunal research showing that misogynistic tendencies by husbands (e.g., inflicting violence against their wives) stem from sociopathic personality anomalies:⁵⁰

With the above definition, and considering the Christian traditional concept of marriage of the Filipino people as a permanent, inviolable, indissoluble social institution upon which the family and society are founded, and also realizing the strong opposition that any provision on absolute divorce would encounter from the Catholic Church and the Catholic sector of our citizenry to whom the great majority of our people belong, the two Committees in their joint meetings did not pursue the idea of absolute divorce and instead opted for an action for judicial declaration of invalidity of marriage based on grounds available in the Canon Law.

It was thought that such an action would not only be an acceptable alternative to divorce but would also solve the nagging problem of church annulments of marriages on grounds not recognized by the civil law of the State.

Justice Reyes was thus requested to again prepare a draft of provisions on such action for celebration of invalidity of marriage. Still later, to avoid the overlapping of provisions on void marriages as found in the present Civil Code and those proposed by Justice Reyes on judicial declaration of invalidity of marriage on grounds similar to the Canon Law, the two Committees now working as Joint Committee in the preparation of a New Family Code decided to consolidate the present provisions on void marriages with the proposals of Justice Reyes.

The result was the inclusion of an additional kind of void marriage in the enumeration of void marriages in the present Civil Code, to wit:

⁴⁷ *Santos*, 240 SCRA 20.

⁴⁸ *Id.* at 41. "It is believed that many hopelessly broken marriages in our country today may already be dissolved or annulled on the grounds proposed by the Joint Committee on declaration of nullity as well as annulment of marriages, thus rendering an absolute divorce law unnecessary."

⁴⁹ *Id.* at 41.

⁵⁰ *Id.* at 41. It is noteworthy that this data, as well as that of the previous footnote, was based on a conference between the Joint Committee of Family Law and Revision of the Civil Code with then-Archbishop Oscar Cruz of the Archdiocese of Pampanga, who proffered the said information.

“(7) Those marriages contracted by any party who, at the time of the celebration, was wanting in the sufficient use of reason or judgment to understand the essential nature of marriage or was psychologically or mentally incapacitated to discharge the essential marital obligations, even if such lack of incapacity is made manifest after the celebration.”

It is believed that many hopelessly broken marriages in our country today may already [be] dissolved or annulled on the grounds proposed by the Joint Committee on declaration of nullity as well as annulment of marriages, thus rendering an absolute divorce law unnecessary. [...] Bishop Cruz also informed the Committee that they have found out in tribunal work that a lot of machismo among husbands are *manifestations of their sociopathic personality anomaly*, like inflicting physical violence upon their wives, constitutional indolence or laziness, drug dependence or addiction, and *psychological anomaly*.⁵¹

Since its availability, courts have been swamped with various petitions for declaration of absolute nullity of void marriage on the ground of psychological incapacity.⁵² However, of these numerous petitions, only a handful were ultimately granted by the Supreme Court—that is, until *Tan-Andal*.

IV. PSYCHOLOGICAL INCAPACITY: ITS EVOLUTION FROM *SANTOS*, *MOLINA*, AND *TAN-ANDAL*

A. Psychological Incapacity as Defined in *Santos v. Court of Appeals*

Albeit originally introduced in 1988, the concept of psychological incapacity was undefined for almost seven years, leaving litigants, counsels, and even judges in the dark as to its proper interpretation. It was only in 1995, through *Santos v. Court of Appeals*,⁵³ that the Supreme Court laid the matter to rest.

In *Santos*, the crux of the issue was the wife’s failure to return to the Philippines after working in the United States as a nurse for more than five

⁵¹ *Santos*, 240 SCRA 20, 40–41. This quoted portion has been split into multiple paragraphs from the original structure for clarity. (Emphasis supplied.)

⁵² [Hereinafter “*Molina*”], Republic v. Molina, G.R. No. 108763, 268 SCRA 198, Feb. 13, 1997.

⁵³ *Santos*, 240 SCRA 20.

years. Coupled with the wife's inability to communicate with the husband during this period, the husband sought to nullify their marriage on the ground of *psychological incapacity* under Article 36,⁵⁴ which led the Court to define the concept for the first time:

Thus correlated, "psychological incapacity" should refer to no less than a mental (not physical) incapacity that causes a party to be truly incognitive of the basic marital covenants that concomitantly must be assumed and discharged by the parties to the marriage which, as so expressed by Article 69 of the Family Code, include their mutual obligations to live together, observe love, respect and fidelity and render help and support.⁵⁵

Prefacing this definition, the Court acknowledged that the Family Code Revision Committee deliberately omitted providing a definition or some examples of psychological incapacity under Article 36 to allow for a broader and more flexible application of the concept:

It could well be that, in sum, the Family Code Revision Committee in ultimately deciding to adopt the provision with less specificity than expected, has in fact, so designed the law as to allow some resiliency in its application. Mme. Justice Alicia V. Sempio-Diy, a member of the Code Committee, has been quoted by Mr. Justice Josue N. Bellosillo in *Salita v. Hon. Magtolis* [...]; thus:

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.⁵⁶

Santos thus struck a balance between this intention behind Article 36 and the impelling need to provide some guidance for the bench and the bar. Without providing concrete examples, the Court framed *psychological incapacity* as a mental incapacity encompassing "the most serious cases of personality disorders clearly demonstrative of an utter insensitivity or inability to give meaning and significance to the marriage,"⁵⁷ which must have existed at the

⁵⁴ *Santos*, 240 SCRA 20, 24–25.

⁵⁵ *Id.* at 34.

⁵⁶ *Id.* at 31. (Citations omitted.)

⁵⁷ *Id.* at 34.

time the marriage was celebrated.⁵⁸ Even so, the Court categorically excluded from this concept certain forms of psychoses like extremely low intelligence and immaturity,⁵⁹ and those already covered by other provisions of the Family Code on the grounds for annulment and legal separation. Considering that Article 54 of the Family Code recognizes as legitimate those children conceived or born to marriages which were subsequently dissolved under Article 36, the inability to have sexual relations was also excluded from the concept of psychological incapacity.

Notwithstanding its definition of psychological incapacity, the Court in *Santos* still denied the petition to declare the parties' marriage void *ab initio* on such ground. According to the Court, the failure of petitioner's wife to return to her family after leaving for the United States "in no measure at all, can come close to the standards required to decree a nullity of marriage."⁶⁰

As it was, these high standards were only met two years later, through the highly peculiar circumstances attendant in *Chi Ming Tsoi v. Court of Appeals*.⁶¹ Since its promulgation, *Chi Ming Tsoi* has become the stock of any Persons and Family Law class syllabus, as it tells of a petition filed by a "distraught wife"⁶² against her husband whom she claimed was impotent and his continued refusal to engage in sexual relations with her as manifestation of his psychological incapacity. The Court agreed, ordaining:

If a spouse, although physically capable but simply refuses to perform his or her essential marriage obligations, and the refusal is senseless and constant, Catholic marriage tribunals attribute the causes to psychological incapacity than to stubborn refusal. *Senseless and protracted refusal is equivalent to psychological incapacity. Thus, the prolonged refusal of a spouse to have sexual intercourse with his or her spouse is considered a sign of psychological incapacity.*⁶³

⁵⁸ *Id.*

⁵⁹ *Id.* The Court here enumerated possible cases of "psychoses" to be "extremely low intelligence, immaturity, and like circumstances" by citing FR. ARTEMIO BALUMAD, VOID AND VOIDABLE MARRIAGES IN THE FAMILY CODE AND THEIR PARALLELS IN CANON LAW (1990), which thereafter cited the American Psychological Association's DIAGNOSTIC STATISTICAL MANUAL OF MENTAL DISORDERS (4th ed.) (DSM-IV). Note that the Court's usage of the term "psychos[is]" may be inaccurate and anachronistic today, given that both the World Health Organization and the DSM-V now define "psychosis" as an umbrella term for mental disorders related to hallucinations and delusions. *See, generally*, David B. Arciniegas, *Psychosis*, 21 (3) CONTINUUM 715–36.

⁶⁰ *Santos*, 240 SCRA 20, 36.

⁶¹ [Hereinafter "*Chi Ming Tsoi*?"], G.R. No. 119190, 266 SCRA 324, Jan. 16, 1997.

⁶² *Id.* at 326.

⁶³ *Id.* at 322–23. (Emphasis supplied.)

1. *The Guidelines for Psychological Incapacity Cases under Molina*

Two years after *Santos* and only a month after *Chi Ming Tsoi*, the Supreme Court lamented how, despite defining psychological incapacity, many judges and lawyers still found difficulty in applying Article 36 in specific cases. Driven by this concern, as well as the grievance expressed by the Office of the Solicitor General in calling Article 36 as the “most liberal divorce procedure in the world”,⁶⁴ the Court saw the need to institute specific guidelines in interpreting and applying Article 36 in the landmark case of *Republic v. Molina*.⁶⁵ The case established guidelines, which were eventually aptly referred to as the *Molina Guidelines*, that governed psychological incapacity cases in the Philippines for 24 years.

In crafting the eight-tiered *Molina* Guidelines, the Court did not confine its deliberations to the law, jurisprudence, and facts on hand; it invited two *amici curiae*—the Most Reverend Oscar V. Cruz, Vicar Judicial (Presiding Judge) of the National Appellate Matrimonial Tribunal of the Catholic Church in the Philippines, and former Minister of Justice Ricardo C. Puno. The *Molina* Guidelines state:

- (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.

The Family Code echoes this constitutional edict on marriage and the family and emphasizes their *permanence, inviolability* and *solidarity*.

- (2) 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

⁶⁴ *Molina*, 268 SCRA 198, 204.

⁶⁵ *Id.*

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 *eiusdem generis*, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.

- (3) 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.
- (4) 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.
- (5) Such illness must be *grave* enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, “mild characterological peculiarities, mood changes, occasional emotional outbursts” 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 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.
- (6) The essential marital obligations must be those embraced by Articles 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.

- (7) 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:

The following are incapable of contracting marriage: Those who are unable to assume the essential obligations of marriage due to causes of psychological nature.

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 decision of such appellate tribunal. Ideally – subject to our law on evidence – what is decreed as canonically invalid should also be decreed civilly void.

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.

- (8) 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 1095.⁶⁶

⁶⁶ *Molina*, 268 SCRA 198, 209–13. (Emphases supplied.)

Prescinding from *Santos*' definition of psychological incapacity as a mental illness of the "most serious cases of psychological disorders,"⁶⁷ *Molina* categorically framed the concept as a medical one: its root cause should be "medically or clinically identified"⁶⁸ and it must be shown to be "medically or clinically permanent or incurable."⁶⁹ However, more importantly, the *Molina* Guidelines still reiterated and applied the requirement laid down in *Santos*: psychological incapacity must be characterized by: (a) gravity; (b) juridical antecedence; and (c) incurability.⁷⁰

As in *Santos*, however, the Supreme Court also denied the petition for declaration of absolute nullity of void marriage in *Molina*. The causes of action in the case—alleged immaturity and irresponsibility of the petitioner's husband therein, manifested by his preference to spend time with peers than family, squandering of money, and abandonment of his family—to the Court were mere "difficulty", if not outright "refusal" or "neglect",⁷¹ to perform his marital obligations, and not incapacity arising from some psychological illness.

As if foreshadowing the fate of the cases at its wake, the *Molina* Guidelines, since its promulgation in 1997, heralded a trend of dismissal of petitions for declaration of absolute nullity of void marriage based on psychological incapacity. In fact, it was only more than a decade later in 2008 that the Supreme Court, for the first time, nullified a marriage based on Article 36, ordaining that the case sufficiently satisfied all the guidelines in *Molina*.

In *Antonio v. Reyes*,⁷² the petitioner alleged that his wife "persistently lied about herself, the people around her, her occupation, income, educational attainment, and other events or things."⁷³ He presented a psychiatrist and a clinical psychologist as his witnesses who testified that respondent's "persistent and constant lying [...] was abnormal and pathological,"⁷⁴ rendering her psychologically incapacitated to perform her essential marital obligations.

⁶⁷ *Santos*, 240 SCRA 20, 34.

⁶⁸ *Molina*, 268 SCRA 198, 210.

⁶⁹ *Id.* at 211.

⁷⁰ *See Molina*, 268 SCRA 198, 207–8.

⁷¹ *Molina*, 268 SCRA 198, 207.

⁷² G.R. No. 155800, 484 SCRA 353, Mar. 10, 2006.

⁷³ *Id.* at 358.

⁷⁴ *Id.* at 360.

A year after, the Court showed its awareness of *Molina's* rigidity. The remarkable dearth of cases that succeeded to satisfy the *Molina* Guidelines caused the Court to remark in *Ngo-Te v. Te*:⁷⁵

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 Rota⁷⁶ has annulled marriages on account of the personality disorders of the said individuals.

The Court need not worry about the possible abuse of the remedy provided by Article 36, for there are ample safeguards against this contingency, among which is the intervention by the State, through the public prosecutor, to guard against collusion between the parties and/or fabrication of evidence. *The Court should rather be alarmed by the rising number of cases involving marital abuse, child abuse, domestic violence and incestuous rape.*⁷⁷

Nonetheless, the Court clarified that it was by no means abandoning *Molina*.⁷⁸ Its statements were meant only to reiterate that each psychological incapacity case was not meant to strictly conform to *Molina* but must instead be judiciously decided on a case-by-case basis.⁷⁹ For the first time, the Court harmonized the constitutional policy on the inviolability of marriage as a social institution and psychological incapacity as a ground for nullification of marriage:

⁷⁵ [Hereinafter "*Ngo-Te*"], G.R. No. 161793, 579 SCRA 193, Feb. 13, 2009.

⁷⁶ *Ngo-Te*, 579 SCRA 193, 225. Roman Rota refers to Catholic canon law.

⁷⁷ *Id.* at 224–25. (Emphases supplied.)

⁷⁸ *Id.* at 228.

⁷⁹ *Id.* “[T]o 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.”

In dissolving marital bonds on account of either party's psychological incapacity, the Court is 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. [...] Let it be noted that in Article 36, there is no marriage to speak of in the first place, as the same is void from the very beginning. To indulge in imagery, the declaration of nullity under Article 36 will simply provide a decent burial to a stillborn marriage.⁸⁰

Since *Ngo-Te*, a gradual but definite paradigm shift became visible in the landscape of Article 36 jurisprudence. Aside from this case, the Court granted ten more cases before *Tan-Andal* came to fore in 2021, namely: (1) *Azcueta v. Republic*;⁸¹ (2) *Halili v. Santos-Halili*;⁸² (3) *Camacho-Reyes v. Reyes*;⁸³ (4) *Kalaw v. Fernandez*;⁸⁴ (5) *Tani-Dela Fuente v. Dela Fuente*;⁸⁵ (6) *Republic v. Javier*;⁸⁶ (7) *Republic v. Mola Cruz*;⁸⁷ (8) *Calma v. Santos-Calma*;⁸⁸ (9) *Santos-Gantan v. Gantan*;⁸⁹ and (10) *Republic v. Dr. Banzon*.⁹⁰

2. The reconfigured concept of psychological incapacity in *Tan-Andal*

The ripples created by *Ngo-Te* in 2009 soon culminated in the groundbreaking case of *Tan-Andal*,⁹¹ which turned the tides on Article 36 cases. Voting unanimously, the Court *En Banc* in *Tan-Andal* completely abandoned the *Santos* definition of psychological incapacity by framing it, not as a mental or medical illness, but as a purely legal concept contemplating “clear acts of dysfunctionality that show a lack of understanding and concomitant compliance with one’s essential marital obligations due to psychic causes.”⁹² The Court explained:

⁸⁰ *Id.* at 227.

⁸¹ G.R. No. 180668, 588 SCRA 196, May 26, 2009.

⁸² G.R. No. 165424, 551 SCRA 576, June 9, 2009.

⁸³ G.R. No. 185286, 628 SCRA 461, Aug. 18, 2010.

⁸⁴ G.R. No. 166357, 745 SCRA 512, Jan. 14, 2015.

⁸⁵ G.R. No. 188400, 819 SCRA 638, Mar. 8, 2017.

⁸⁶ G.R. No. 210518, 861 SCRA 682, Apr. 18, 2018.

⁸⁷ G.R. No. 236629, 874 SCRA 1, July 23, 2018.

⁸⁸ G.R. No. 242070, 946 SCRA 399, Aug. 24, 2020.

⁸⁹ G.R. No. 225193, 958 SCRA 630, Oct. 14, 2020.

⁹⁰ G.R. No. 238732 (Notice), Feb. 3, 2021.

⁹¹ 983 SCRA 28.

⁹² *Id.* at 130.

By equating psychological incapacity to a “mental incapacity” and to “personality disorders,” this Court went against the intent behind Article 36. The Code Committee was clear that psychological incapacity is not a mental incapacity. Among the earlier wordings of the provision on psychological incapacity included “mentally incapacitated,” and “mentally” is obviously absent in the present Article 36. This means that for the Code Committee, “mental” is not synonymous with “psychological.”

The reason for deleting “mental” was given by Justice Eduardo P. Caguioa, a member of the Code Committee, [since] “mental” would give the wrong impression of psychological incapacity being a vice of consent. If psychological incapacity was to be an acceptable alternative to divorce, as was intended by the Code Committee, it cannot be a mere vice of consent. Psychological incapacity must consist in a lack of understanding of the essential obligations of marriage, making the marriage void *ab initio*.

Psychological incapacity is also not a personality disorder, as explained by *amicus curiae* Dean Sylvia Estrada-Claudio [...]. Psychological incapacity cannot be found in the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (DSM-V), the authoritative listing of various mental, including personality, disorders recognized by the scientific community.⁹³

As part of its complete reconfiguration of the concept of psychological incapacity in *Tan-Andal*, the Court revisited each guideline in *Molina* and, when it saw fit, reconstructed the same to conform to the intent behind this originally innovative provision. For ease of comparison, Annex A lays down the *Molina* Guidelines vis-à-vis the revisions introduced by *Tan-Andal* in chronological order.

No longer anchored on “medically or clinically identified”⁹⁴ psychoses but on “personality structures manifest[ed] [...] by clear acts of dysfunctionality”⁹⁵ psychological incapacity as a ground to nullify a marriage became a more malleable concept that could accommodate all sorts of causes of marital troubles under its auspices. Relevantly, this now included domestic violence committed by a husband against his wife and/or children.

⁹³ *Id.* at 116–17.

⁹⁴ *Molina*, 268 SCRA 198, 211.

⁹⁵ *Tan-Andal*, 983 SCRA 28, 118.

In the wife's petition for declaration for nullity of marriage in *Tan-Andal*, her root cause in alleging psychological incapacity was domestic violence. Among other reasons, she claimed that he could not keep a gainful employment and was emotionally immature, irresponsible, irritable, paranoid, and financially irresponsible. In fact, he had even used illegal drugs and in one instance, locked himself inside a room with their child with the smoke of *marijuana* filling the room. When chased away from their home, the husband had harassed his wife, banging at the door, threatening that he will run away with their child, and loitered around the premises even after he was asked to leave. The husband's acts of harassment in *Tan-Andal* may constitute psychological violence under the Anti-VAWC Act.

In deciding the case, the Court, for instance, cited that "violence against one's spouse and children can be a manifestation of juridically antecedent psychological incapacity when it is shown that the violent spouse grew up with domestic violence or had a history of abusive romantic relationships before the marriage",⁹⁶ thereby admitting that domestic violence *may* lead to a declaration of absolute nullity of a void marriage on the basis of psychological incapacity.

The link between domestic violence as basis of psychological incapacity appeared to be proven by *Tan-Andal*. Weighing the totality of evidence presented, the Court pronounced the marriage between the parties void *ab initio* on the ground of the husband's psychological incapacity, effectively severing the ties that bound them together.

V. JURISPRUDENCE AFTER *TAN-ANDAL* AND ITS IMPACT ON BATTERED WOMEN'S ACCESS TO JUSTICE

With the paradigm shift introduced by *Tan-Andal*, significant developments in the landscape of Article 36 jurisprudence were reasonably anticipated. Appreciated in the wider historical context of Article 36, the case was the evident pinnacle of the Supreme Court's gradual but continual shift of the toward a more progressive stance—the remarkable moment it broke free of the straitjacket unintentionally placed by *Molina*.

Since *Tan-Andal*, there was an evident change in the treatment of nullity cases involving psychological incapacity by the Supreme Court. As of December 31, 2023, the Court has promulgated and published online⁹⁷ a total

⁹⁶ *Id.* at 120.

⁹⁷ *See supra* text accompanying note 20.

of 46 cases, including full decisions and unsigned resolutions, resolving on the merits⁹⁸ petitions for declaration of absolute nullity of void marriage grounded on Article 36 of the Family Code and applying the doctrines in *Tan-Andal*.

A. Methodology

In assessing *Tan-Andal*'s aftermath, empirical data was gathered from these 46 publicly available Supreme Court dispositions. Specifically, these cases were examined and categorized:

1. *First*, in terms of their *results* (i.e., was the subject marriage nullified or sustained) to determine whether there was indeed a difference in the treatment of psychological incapacity cases by the Supreme Court after *Tan-Andal*, and if so, by how much;
2. *Second*, as to *who* filed the petition for declaration of absolute nullity of void marriage (i.e., whether the husband or the wife) to determine which party in the marriage usually seeks and pursues the dissolution of the marriage, and hence, appears to be the party more in need of the remedy; and
3. *Third*, in terms of *incidence of violence* against the wife and/or her children committed by the husband (i.e., did the petition allege any incidence of abuse by the husband whether physical, psychological, sexual, or economic) to determine how many psychological incapacity cases are rooted on domestic violence.

The factual milieu of each case was examined and considered vis-à-vis each definition of violence under the Anti-VAWC Act, as expounded by jurisprudence, to determine whether the marriage is fraught with physical, psychological or sexual violence, or economic abuse by the husband against the wife and/or their children. If at least one form of abuse was committed, the psychological incapacity case is tagged as one containing an allegation of domestic abuse.

⁹⁸ There are other cases resolved by the Supreme Court involving psychological incapacity, but pertaining to procedural issues or other incidental matters, like dissolution, liquidation, and distribution of assets. These cases were removed by the author from the dataset.

From these primary data, further information correlating psychological incapacity cases and battered women's access to justice was generated. For example, the data on the number of cases filed by wives and on petitions alleging domestic violence by the husband were considered to determine how many cases were filed by battered women.

From this derived figure, it was possible to extrapolate how much, in terms of percentage, of the total number of psychological incapacity cases were filed by women who are victims of domestic violence. Additionally, by considering the cases granted by the Supreme Court, it was then determined how many of them resulted in the dissolution of marriage on the ground of psychological incapacity manifested by, *inter alia*, the husband's violence against the wife.

This straightforward methodology employs a purely objective lens. It relied only on quantitative and results-based analysis, without regard for any other factors that the Supreme Court may have considered in arriving at its decisions. In drawing out conclusions, the statistics arising from the 46 cases post-*Tan-Andal* were compared with similar statistics prior to *Tan-Andal*. For instance, a higher percentage of dissolved abusive marriages applying the doctrines in *Tan-Andal* elicits the hypothesis that *Tan-Andal* positively impacted battered women's access to justice, quantitatively speaking.

B. Analysis and Findings

1. More favorable rulings post-Tan-Andal

As anticipated, *Tan-Andal's* reconfigured concept of psychological incapacity marked a significant increase of positive outcomes for petitioners. Notably, among the 46 resolved cases since *Tan-Andal*, majority, or 29 cases (63%), were favorable rulings, wherein the Court nullifying the marriage *ab initio* due to the psychological incapacity of either or both spouses. This is an especially radical change from the total of 13 out of 103⁹⁹ (or 12.62%) cases previously granted since the effectivity of the Family Code in 1988 up to (but excluding) *Tan-Andal* in 2021. It appears that, within only two years after *Tan-Andal*, the total number of psychological incapacity cases granted by the Supreme Court increased by fivefold, from 12.62% to 63%. Annex C provides a summary of the cases published after *Tan-Andal* and their respective rulings.

⁹⁹ See Annex B on Summary of Psychological Incapacity Cases decided on the merits before *Tan-Andal*. See also *supra* text accompanying note 20.

Relevantly, the survey of cases reveals that majority of the petitions for declaration of absolute nullity of void marriage based on Article 36 of the Family Code were instituted by wives. Specifically, of the 46 total decided cases, 28 cases (61%) were filed by the wife, whereas only 18 or 39% were filed by the husband. This means that, at least, at the level of the Supreme Court, more women sought to have their marriages nullified than men by a ratio of 3:2.

What is more intriguing about the cases following *Tan-Andal* are the contents of the allegations of the parties therein, particularly with the cases involving narrations of domestic violence, as defined under the Anti-VAWC Act.

In *People v. Chua*¹⁰⁰ and *Bugarin v. People*,¹⁰¹ the Court found the accused-husbands guilty of physical violence under the Anti-VAWC Act for inflicting physical harm¹⁰² upon their respective wives by shoving and slapping them, respectively. Applying this ratiocination and the definition of physical violence under Section 3(a) of the Anti-VAWC Act,¹⁰³ *De Silva v. De Silva*¹⁰⁴ was tagged as a psychological incapacity case with claims of physical abuse. The wife in *De Silva* narrated how her husband would physically and verbally hurt her whenever she failed to hand him money for his gambling. One time, he threatened her, pointed at her with a knife, and punched her on the arm when she refused to provide money for gambling.

Meanwhile, a case is classified as one involving psychological violence if the husband harassed, stalked, damaged property, publicly humiliated, or repeatedly verbally abused his wife and/or children, as defined in Section

¹⁰⁰ G.R. No. 226740 (Notice), Feb. 20, 2019.

¹⁰¹ G.R. No. 212361 (Notice), Apr. 17, 2017.

¹⁰² Anti-VAWC Act, § 5(a). “The crime of violence against women and their children is committed through any of the following acts: (a) Causing physical harm to the woman or her child.”

¹⁰³ Anti-VAWC Act, § 3(a)(A). “‘Physical violence’ refers to acts that include bodily or physical harm.”

¹⁰⁴ [Hereinafter “*De Silva*”], G.R. No. 247985, slip op. at 2, Oct. 13, 2021.

3(a),¹⁰⁵ in relation to Section 5(i)¹⁰⁶ of the Anti-VAWC Act. Thus, *Cayabyab-Navarro v. Navarro*,¹⁰⁷ for instance, wherein the husband would verbally abuse his wife in front of his mother to humiliate her and told her he did not love her anymore after she tried to patch things up, was tagged as one involving psychological violence.

Notably, marital infidelity by the husband is also considered as a means to commit psychological violence under the Anti-VAWC Act. Thus, in *XXX v. People*¹⁰⁸ and *XXX v. People*,¹⁰⁹ the Supreme Court convicted the accused-husbands of psychological violence under Section 5(i) of the said law for maintaining illicit affairs with other women, causing their respective wives mental and emotional anguish. For the same reasons, *Halog v. Halog*¹¹⁰ was tagged as a psychological incapacity case burdened with psychological violence, because the husband therein apparently maintained an affair with another woman before the wedding, and thereafter repeatedly engaged in extramarital affairs until he eventually and ultimately cohabited with another woman.

There were also psychological incapacity cases after *Tan-Andal* marred by sexual violence, which Section 3(a)(B)¹¹¹ of the Anti-VAWC Act defines as

¹⁰⁵ Anti-VAWC Act, § 3(a)(C). “*Psychological violence*” refers to acts or omissions causing or likely to cause mental or emotional suffering of the victim such as but not limited to intimidation, harassment, stalking, damage to property, public ridicule or humiliation, repeated verbal abuse and mental infidelity. It includes causing or allowing the victim to witness the physical, sexual or psychological abuse of a member of the family to which the victim belongs, or to witness pornography in any form or to witness abusive injury to pets or to unlawful or unwanted deprivation of the right to custody and/or visitation of common children.”

¹⁰⁶ Anti-VAWC Act, § 5(i). “The crime of violence against women and their children is committed through any of the following acts: (i) Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children of access to the woman’s child/children.”

¹⁰⁷ G.R. No. 216655, slip op., Sept. 28, 2022.

¹⁰⁸ G.R. No. 250219, slip op., Mar. 1, 2023.

¹⁰⁹ G.R. No. 243049, 957 SCRA 160, Oct. 5, 2020.

¹¹⁰ [Hereinafter “*Halog*”], G.R. No. 231695, slip op., Oct. 6, 2021.

¹¹¹ Anti-VAWC Act, § 3(a)(B). “*Sexual violence*’ refers to an act which is sexual in nature, committed against a woman or her child. It includes, but is not limited to:

- a) Rape, sexual harassment, acts of lasciviousness, treating a woman or her child as a sex object, making demeaning and sexually suggestive remarks, physically attacking the sexual parts of the victim’s body, forcing her/him to watch obscene publications and indecent shows or forcing the woman or her child to do indecent acts and/or make films thereof, forcing the wife and mistress/lover to live in the conjugal home or sleep together in the same room with the abuser;

abusive acts that are sexual in nature, including allegations of rape,¹¹² sexual harassment, and acts of lasciviousness,¹¹³ among others. In *Baldovino-Torres v. Torres*,¹¹⁴ the husband would allegedly rape his wife whenever he got drunk. Meanwhile, in *Carullo-Padua v. Padua*,¹¹⁵ the husband exhibited excessive sexual desire and forced his wife to perform oral and anal sex with him. Both psychological incapacity cases were thus tagged as containing allegations of sexual violence.

Lastly, domestic abuse also includes economic abuse, which refers to the refusal to provide financial support to the woman and/or their children per Section 3(a)(D),¹¹⁶ in relation to Section 5(e)¹¹⁷ of Republic Act No. 9262.

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- b) Acts causing or attempting to cause the victim to engage in any sexual activity by force, threat of force, physical or other harm or threat of physical or other harm or coercion;
 - c) Prostituting the woman or child.

¹¹² REV. PEN. CODE, art. 266-A, as amended by Rep. Act No. 8353.

¹¹³ REV. PEN. CODE, art. 336.

¹¹⁴ G.R. No. 248675, slip op., July 20, 2022.

¹¹⁵ G.R. No. 208258, slip op., Apr. 27, 2022.

¹¹⁶ Anti-VAWC Act, § 3(a)(D). “*Economic abuse*’ refers to acts that make or attempt to make a woman financially dependent which includes, but is not limited to the following:

1. withdrawal of financial support or preventing the victim from engaging in any legitimate profession, occupation, business or activity, except in cases wherein the other spouse/partner objects on valid, serious and moral grounds as defined in Article 73 of the Family Code;
2. deprivation or threat of deprivation of financial resources and the right to the use and enjoyment of the conjugal, community or property owned in common;
3. destroying household property;
4. controlling the victims’ own money or properties or solely controlling the conjugal money or properties.”

¹¹⁷ Anti-VAWC Act, § 5(e). “The crime of violence against women and their children is committed through any of the following acts: (e) Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman’s or her child’s freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or child. This shall include, but not limited to, the following acts committed with the purpose or effect of controlling or restricting the woman’s or her child’s movement or conduct:

1. Threatening to deprive or actually depriving the woman or her child of custody to his/her family;
2. Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman’s children insufficient financial support;
3. Depriving or threatening to deprive the woman or her child of a legal right;
4. Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim’s own money or

Thus, *Georfo v. Republic*,¹¹⁸ for example, was marked as a psychological incapacity case with claims of economic abuse since the husband therein failed to provide financial support for his son.

To support the claim that the husband is psychologically incapacitated, 26 or 57% of the 46 total decided cases post-*Tan-Andal* contained narrations of physical, psychological, and sexual violence, as well as economic abuse committed by the husband against the wife and/or the children during the marriage.

These claims include: (1) repeated extramarital affairs;¹¹⁹ (2) aiming a gun¹²⁰ or poking a knife¹²¹ or breaking the jaw¹²² or otherwise physically hurting¹²³ the wife during quarrels or when drunk; (3) physically abusing the wife in front of the children¹²⁴ or when jealous;¹²⁵ (4) berating the wife whenever she commits mistakes¹²⁶ or otherwise verbally assaulting her or humiliating her in front of others;¹²⁷ (5) threatening to kill the wife and her

properties, or solely controlling the conjugal or common money, or properties.”

¹¹⁸ G.R. No. 246933, slip op., Mar. 6, 2023.

¹¹⁹ *See, e.g.*, *Puyat v. Puyat*, G.R. No. 181614, slip op., June 30, 2021; *Quilpan v. Quilpan*, G.R. No. 248254, slip op., July 14, 2021; *Datu v. Datu*, G.R. No. 209278, slip op., Sept. 15, 2021; *Halog*, G.R. No. 231695; *Republic v. Claur*, G.R. No. 246868, slip op., May 2, 2022; *Alberto v. Alberto*, G.R. No. 236827, slip op., Apr. 19, 2022; *Carullo-Padua v. Padua*, G.R. No. 208258, slip op., Apr. 27, 2022; *Baldovino-Torres v. Torres*, G.R. No. 248675, slip op., July 20, 2022; *Fopalan v. Fopalan*, G.R. No. 250287, slip op., July 20, 2022; *Dedicatoria v. Dedicatoria*, G.R. No. 250618, slip op., July 20, 2022; *Mutya-Sumilhig v. Sumilhig*, G.R., No. 230711, slip op., Aug. 22, 2022; *Quioge, Jr. v. Quioge*, G.R. No. 203992, slip op., Aug. 22, 2022; *Rivo v. Rivo*, G.R. No. 210780, slip op., Jan. 25, 2023; *Clavecilla v. Clavecilla*, G.R. No. 228127, slip op., Mar. 6, 2023; *Georfo v. Republic*, G.R. No. 246933; *Valenzuela v. Valenzuela*, G.R. No. 254357 (Notice), slip op., Apr. 12, 2023; *Presbitero v. Republic*, G.R. No. 252412 (Notice), slip op., Apr. 17, 2023; and *Candelario v. Candelario*, G.R. No. 222068, slip op., July 25, 2023.

¹²⁰ *See e.g.*, *Halog*, G.R. No. 231695; *Ang-Yu v. Yu*, G.R. No. 234852 (Notice), slip op., Aug. 31, 2022; and *Bousnit-Torralla v. Torralba*, G.R. No. 214293, slip op., Dec. 7, 2022.

¹²¹ *See e.g.*, *De Silva*, G.R. No. 247985.

¹²² *See e.g.*, *Republic v. Claur*, G.R. No. 246868.

¹²³ *See, e.g.*, *Republic v. Natividad-Bernardo*, G.R. No. 241114 (Notice), Mar. 9, 2022; *Cayabyab-Navarro v. Navarro*, G.R. No. 216655; *Mutya-Sumilhig v. Sumilhig*, G.R., No. 230711; *Quioge, Jr. v. Quioge*, G.R. No. 203992; *Javate-Asejo v. Asejo*, G.R. No. 247798, slip op., Jan. 18, 2023; *Georfo v. Republic*, G.R. No. 246933; and *Presbitero v. Republic*, G.R. No. 252412 (Notice).

¹²⁴ *See, e.g.*, *Halog*, G.R. No. 231695.

¹²⁵ *See, e.g.*, *Maristela-Cuan v. Cuan*, G.R. No. 248518, slip op., Dec. 7, 2021.

¹²⁶ *See, e.g.*, *Halog*, G.R. No. 231695.

¹²⁷ *See, e.g.*, *Santos-Macabata v. Macabata*, G.R. No. 237524, slip op., Apr. 6, 2022; *Cayabyab-Navarro v. Navarro*, G.R. No. 216655; *Carullo-Padua v. Padua*, G.R. No.

family if his demands are not satisfied¹²⁸ or during quarrels;¹²⁹ (6) stalking the wife;¹³⁰ (7) having sex with the paramour in front of the children;¹³¹ (8) physically abusing the children;¹³² (9) sexually assaulting the wife by forcing her to do sexual acts against her will¹³³ or raping her;¹³⁴ and (10) refusing to give financial support.¹³⁵

Of the 26 cases alleging some sort of violence committed by the husband against the wife and/or their children, 21 cases (81%) were filed by the wife. Conversely, there were five cases filed by the husband wherein he admitted having either physically, psychologically, or economically abused his wife. At any rate, the numbers show that out of the 28 decided psychological incapacity cases instituted by women, 75% contained allegations of abuse committed by their marital partners as manifestation of their psychological incapacity. Therefore, in every four petitions for declaration of absolute nullity of void marriage based on Article 36 elevated to the Supreme Court and decided after *Tan-Andal*, three were filed by battered women.

This statistic is notably consistent with the numerical findings arising from the 103 cases decided before *Tan-Andal*. Particularly, 63 cases (61.17%) out of the 103 total decided cases alleged some form of domestic violence committed by the husband against his wife and/or their children. Of these 63 psychological incapacity cases with manifestations of domestic violence, 33 cases (70.21%) were instituted by the wife. However, due to the unintended

208258; *Mutya-Sumilhig v. Sumilhig*, G.R., No. 230711; *Quioge, Jr. v. Quioge*, G.R. No. 203992; *Ang-Yu v. Yu*, G.R. No. 234852; *Bounsit-Torralba v. Torralba*, G.R. No. 214293; *Javate-Asejo v. Asejo*, G.R. No. 247798; and *Valenzuela v. Valenzuela*, G.R. No. 254357.

¹²⁸ *See, e.g., De Silva*, G.R. No. 247985 and *Republic v. Natividad-Bernardo*, G.R. No. 241114.

¹²⁹ *See, e.g., Carullo-Padua v. Padua*, G.R. No. 208258.

¹³⁰ *See, e.g., Tan-Andal*, 983 SCRA 28; and *Republic v. Natividad-Bernardo*, G.R. No. 241114.

¹³¹ *See, e.g., Alberto v. Alberto*, G.R. No. 236827.

¹³² *See, e.g., Alberto v. Alberto*, G.R. No. 236827; *Carullo-Padua v. Padua*, G.R. No. 208258; *Fopalan v. Fopalan*, G.R. No. 250287; *Mutya-Sumilhig v. Sumilhig*, G.R., No. 230711; and *Javate-Asejo v. Asejo*, G.R. No. 247798.

¹³³ *See, e.g., Carullo-Padua v. Padua*, G.R. No. 208258; and *Javate-Asejo v. Asejo*, G.R. No. 247798.

¹³⁴ *See, e.g., Baldovino-Torres v. Torres*, G.R. No. 248675; and *Presbitero v. Republic*, G.R. No. 252412 (Notice).

¹³⁵ *See, e.g., Halog*, G.R. No. 231695; *Carullo-Padua v. Padua*, G.R. No. 208258; and *Georfo v. Republic*, G.R. No. 246933.

straitjacket effect of *Molina*, only five¹³⁶ or 15.15% of the 63 cases alleging domestic violence were granted by the Supreme Court from 1988 until *Tan-Andal*.

Compared to Article 36 cases, there is a notable scarcity of cases resolved by the Supreme Court involving legal separation on the ground of violence committed against the wife and/or her children. Although this may be attributed to various reasons, such as that only a few cases on legal separation are appealed to the Supreme Court or that couples would rather separate *de facto* than go through rigorous court proceedings, the possibility that battered women prefer Article 36 as a remedy than legal separation to sever ties with their abusers may not be discounted.

Consistent with the Supreme Court's more liberal approach in dealing with psychological incapacity cases, an analysis of the jurisprudence after *Tan-Andal* reveals that the Court granted 17 of the petitions (81%) filed by women to nullify their marriages with their abusive husbands on the ground of psychological incapacity. This is a notably huge leap from the five meager cases granted from 1988 to 2021 before *Tan-Andal*, which only constituted 15.15% of the total number of Article 36 cases instituted by battered women containing allegations of domestic violence. In fine, statistically four out of five cases for nullity of marriage filed by women victims of domestic abuse are now granted by the Supreme Court, as compared to the previous one out of six, under the doctrines established by *Tan-Andal*. The table in Annex E provides the statistical overview of the Supreme Court's rulings involving psychological incapacity since *Tan-Andal* in 2021 until December 31, 2023.¹³⁷

VI. CONCLUSION

During a conference of the Council of Europe Gender Equality Commission on October 15–16, 2015, women's access to justice was described as "more than simply ensuring the efficiency of justice systems. It is about ensuring the sensitivity and responsiveness of such systems to the needs and realities of women, as well as empowering them throughout the

¹³⁶ See, e.g., *Azcueta v. Republic*, 588 SCRA 196; *Camacho-Reyes v. Reyes*, 628 SCRA 461; *Tani-Dela Fuente v. Dela Fuente*, 819 SCRA 638; *Santos-Gantan v. Gantan*, 958 SCRA 630; and *Republic v. Dr. Banzon*, G.R. No. 238732 (Notice).

¹³⁷ A similar Statistical Overview of the Cases before *Tan-Andal* may be found in Annex D.

justice chain.”¹³⁸ In the Philippines, the absence of a direct remedy for women victims of domestic violence to escape abusive marriages is an evident gap in the access to justice of Filipino women. Although criminal action may be filed against husbands who inflict physical, psychological, sexual, or economic violence against their wives and/or children, the reality is that battered women remain married to their abusers and are unable to entirely remove them from their lives.

By reconfiguring the concept of psychological incapacity into a legal—instead of medical—concept, the Court seems to have been able to address this gap. Since psychological incapacity now contemplates clear acts of dysfunctionality arising because of psychic causes under *Tan-Andal* instead of purely grave and incurable mental illnesses under the original *Santos* definition, abusive behavior by the husband against the wife and/or their children may be considered by the Supreme Court as manifestations of the husband’s psychological incapacity, provided that the three criteria of gravity, incurability, and juridical antecedence are met.

A survey of the cases resolved by the Supreme Court since *Tan-Andal* reveals that more women than men seek to nullify their marriages under Article 36 by a ratio of 6:4. Interestingly, 75% of the psychological cases filed by wives contained allegations of violence by the husband, whether physical, psychological, sexual, or economic, against them and/or their children. It thus appears that battered women consider a petition for declaration of absolute nullity of void marriage under Article 36 as a possible alternative remedy to dissolve their marriages with their abusers.

Finally, and most importantly, the numbers showed that four out of five psychological incapacity cases instituted by battered women containing allegations of domestic abuse by the husband have been granted by the Supreme Court since *Tan-Andal*, a significantly huge leap from the previous statistic of one out six prior to *Tan-Andal*. In fine, in terms of quantity, it appears that battered women’s access to justice was improved by the new interpretation of Article 36 of the Family Code under *Tan-Andal*.

Tan-Andal, promulgated in 2021, auspiciously preceded the Supreme Court’s ongoing trailblazing blueprint of action, the Strategic Plan for Judicial

¹³⁸ Council of Europe, *Towards Guaranteeing Equal Access of Women to Justice*, COUNCIL OF EUROPE WEBSITE, at <https://www.coe.int/en/web/genderequality/towards-guaranteeing-equal-access-of-women-to-justice>.

Innovations 2022–2027 (SPJI), launched on October 14, 2022.¹³⁹ The SPJI is the Supreme Court’s long-term reform program that seeks to address institutional challenges in the Judiciary using four guiding principles. By 2027, it envisions that the Judiciary’s delivery of justice will be: (1) timely and fair; (2) transparent and accountable; (3) *equal and inclusive*; and (4) technology adaptive. Its targeted three major outcomes are: Efficiency, Innovation, and *Access*.¹⁴⁰

Though there is no means of ascertaining whether *Tan-Andal*’s impact on battered women’s access to justice was a calculated move by the Supreme Court, the *Tan-Andal*–inspired shift nonetheless appears to be a welcome development in the present progressive adjudicatory stance of the Supreme Court consistent with its envisioned equal and inclusive Judiciary under the SPJI. This, along with the groundwork laid by a majority of the cases resolved applying *Tan-Andal*, creates a strong precedent for future disposition of psychological incapacity cases favoring the dissolution of marriages involving domestic violence.

On the other hand, the apparent increased efficacy of a petition for declaration of absolute nullity of void marriage on the ground of psychological incapacity as an alternative means of dissolving marriages imbued with domestic abuse may add as additional deterrent to the enactment of the pending Divorce Bill,¹⁴¹ which notably includes domestic violence as a ground for absolute divorce.¹⁴² To be sure, this would not be the first instance that the availability of other means of dissolving marriages would justify the non-legalization of absolute divorce in the Philippines. The creation of Article 36 of the Family Code, after all, was inspired and born exactly out of this sentiment.¹⁴³

¹³⁹ See Supreme Court Public Information Office, *Supreme Court Launches the Strategic Plan for Judicial Innovations 2022–2027*, SUPREME COURT WEBSITE, at <https://sc.judiciary.gov.ph/supreme-court-launches-the-strategic-plan-for-judicial-innovations-2022-2027/>.

¹⁴⁰ *Id.*

¹⁴¹ H. No. 78, 19th Cong., 1st Sess. (2022). An Act Reinstating Absolute Divorce as an Alternative Mode for the Dissolution of Marriage [hereinafter “*Absolute Divorce Bill*”].

¹⁴² Absolute Divorce Bill, § 5.

¹⁴³ *Santos*, 240 SCRA 20, 39–40. “With the above definition, and considering the Christian traditional concept of marriage of the Filipino people as a permanent, inviolable, indissoluble social institution upon which the family and society are founded, and *also realizing the strong opposition that any provision on absolute divorce would encounter from the Catholic Church and the Catholic sector of our citizenry to whom the great majority of our people belong, the two Committees in their joint meetings did not pursue the idea of absolute divorce and instead opted for an action for judicial declaration of invalidity of marriage based on grounds available in the Canon Law.*”

ANNEX A

Comparison of *Molina* Guidelines and Court's Revisions in *Tan-Andal*

	<i>Molina</i> Guidelines	Changes under <i>Tan-Andal</i>
1	<p>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.</p> <p>The Family Code echoes this constitutional edict on marriage and the family and emphasizes their <i>permanence, inviolability and solidarity</i>.¹⁴⁴</p>	<p>The first <i>Molina</i> guideline reiterates the fundamental rule in evidence that one who asserts a claim must prove it. Specifically, in psychological incapacity cases, it is the plaintiff-spouse who proves the existence of psychological incapacity.</p> <p><i>Molina</i>, however, is silent on what quantum of proof is required in nullity cases. While there is opinion that a nullity case under Article 36 is like any civil case that requires preponderance of evidence, we now hold that the plaintiff-spouse must prove his or her case with <i>clear and convincing evidence</i>. This is a quantum of proof that requires more than preponderant evidence but less than proof beyond reasonable doubt.¹⁴⁵</p>

It was thought that such an action would not only be an acceptable alternative to divorce but would also solve the nagging problem of church annulments of marriages on grounds not recognized by the civil law of the State. [...] It is believed that many hopelessly broken marriages in our country today may already [be] dissolved or annulled on the grounds proposed by the Joint Committee on declaration of nullity as well as annulment of marriages, thus rendering an absolute divorce law unnecessary.” (Emphasis supplied; original paragraph divided into separate paragraphs.)

¹⁴⁴ *Molina*, 268 SCRA 198, 209–210.

¹⁴⁵ *Tan-Andal*, 983 SCRA 28, 111.

2	<p>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 <i>eiusdem generis</i>, nevertheless such root cause must be identified as a psychological illness and its incapacitating nature explained. Expert evidence may be given by qualified psychiatrists and clinical psychologists.¹⁴⁶</p>	<p>[T]his Court now categorically abandons the second <i>Molina</i> guideline. Psychological incapacity is <i>neither</i> a mental incapacity <i>nor</i> a personality disorder that must be proven through expert opinion. There must be proof, however, of the durable or enduring 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 important, to comply with his or her essential marital obligations.</p> <p>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.¹⁴⁷</p>
3	<p>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.¹⁴⁸</p>	<p>[A] party to a nullity case is still required to prove juridical antecedence because it is an explicit requirement of the law. Article 36 is clear that the psychological incapacity must be existing “at the time of the celebration” of the marriage, “even if such incapacity becomes manifest only after its solemnization.” This distinguishes psychological incapacity from divorce. Divorce severs a marital tie for causes, psychological or</p>

¹⁴⁶ *Molina*, 268 SCRA 198, 210–211.

¹⁴⁷ *Tan-Andal*, 983 SCRA 28, 118.

¹⁴⁸ *Id.* at 211.

		otherwise, that may have developed after the marriage celebration. ¹⁴⁹
4	Such incapacity must also be shown to be medically or clinically permanent or <i>incurable</i> . 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. ¹⁵⁰	Reading together the deliberations of the Code Committee and our rulings in <i>Santos</i> and <i>Molina</i> , we hold that the psychological incapacity contemplated in Article 36 of the Family Code is incurable, <i>not</i> in the medical, but in the legal sense; hence, the third <i>Molina</i> 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. "[A]n undeniable pattern of such persisting failure [to be 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." ¹⁵¹
5	Such illness must be <i>grave</i> enough to bring about the disability of the party to assume the essential obligations of marriage. Thus, "mild characterological peculiarities, mood changes, occasional emotional outbursts" cannot be accepted as <i>root</i> 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 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	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. The psychological incapacity cannot be mere "refusal, neglect[,] or difficulty, much less ill will." In other words, it must be shown that the incapacity is caused by a genuinely serious psychic cause. ¹⁵³

¹⁴⁹ *Tan-Andal*, 983 SCRA 28, 119.

¹⁵⁰ *Molina*, 268 SCRA 198, 211.

¹⁵¹ *Tan-Andal*, 983 SCRA 28, 120–21. (Citations omitted.)

¹⁵³ *Tan-Andal*, 983 SCRA 28, 121.

	thereby complying with the obligations essential to marriage. ¹⁵²	
6	The essential marital obligations must be those embraced by Articles 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. ¹⁵⁴	Retained as is.
7	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. ¹⁵⁵	The persuasive effect of the decisions of the National Appellate Matrimonial Tribunal of the Catholic Church of the Philippines on nullity cases pending before secular courts is retained. [...] Canonical decisions are to only serve as evidence of the nullity of the secular marriage, but ultimately, the elements of declaration of nullity under Article 36 must still be weighed by the judge. ¹⁵⁶
8	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	Retained as is.

¹⁵² *Molina*, 268 SCRA 198, 211–12.

¹⁵⁴ *Molina*, 268 SCRA 198, 212.

¹⁵⁵ *Molina*, 268 SCRA 198, 212.

¹⁵⁶ *Tan-Andal*, 983 SCRA 28, 130.

the <i>defensor vinculi</i> contemplated under Canon 1095. ¹⁵⁷	
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ANNEX B

Summary of Psychological Incapacity Cases Decided Before *Tan-Andal*

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psyc ^h ¹⁶⁰	Econ ¹⁶¹	Inf ^l ¹⁶²	Sex ¹⁶³
1	Salita v. Magtolis ¹⁶⁴	H	Denied					
2	Santos v. Court of Appeals ¹⁶⁵	H	Denied					
3	Tuason v. Court of Appeals ¹⁶⁶	W	Denied	✓			✓	✓
4	Chi Ming Tsoi v. Court of Appeals ¹⁶⁷	W	Granted					
5	Republic v. Molina ¹⁶⁸	W	Denied					
6	Hernandez v. Court of Appeals ¹⁶⁹	W	Denied					
7	Marcos v. Marcos ¹⁷⁰	W	Denied	✓				✓
8	Republic v. Dagdag ¹⁷¹	W	Denied	✓				✓
9	Malcampo-Sin v. Sin ¹⁷²	W	Denied					
10	Pesca v. Pesca ¹⁷³	W	Denied	✓	✓			

¹⁵⁷ *Molina*, 268 SCRA 198, 213.

¹⁵⁸ “H” denotes the “husband” and “W” denotes the “wife”.

¹⁵⁹ Refers to “Physical Violence” defined by the Anti-VAWC Act, § 3(a)(A).

¹⁶⁰ Refers to “Psychological Violence” defined by the Anti-VAWC Act, § 3(a)(C).

¹⁶¹ Refers to “Economic Abuse” defined by the Anti-VAWC Act, § 3(a)(D).

¹⁶² Refers to Marital Infidelity.

¹⁶³ Refers to “Sexual Violence” defined by the Anti-VAWC Act, § 3(a)(B).

¹⁶⁴ G.R. No. 106429, 233 SCRA 100, June 13, 1994.

¹⁶⁵ *Santos*, 240 SCRA 20.

¹⁶⁶ G.R. No. 116607, 256 SCRA 158, Apr. 10, 1996.

¹⁶⁷ *Chi Ming Tsoi*, 266 SCRA 324.

¹⁶⁸ *Molina*, 268 SCRA 198.

¹⁶⁹ G.R. No. 126010, 320 SCRA 76, Dec. 8, 1999.

¹⁷⁰ G.R. No. 136490, 343 SCRA 755, Oct. 19, 2000.

¹⁷¹ G.R. No. 109975, 351 SCRA 425, Feb. 9, 2001.

¹⁷² G.R. No. 137590, 355 SCRA 285, Mar. 26, 2001.

¹⁷³ G.R. No. 136921, 356 SCRA 588, Apr. 17, 2001.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
11	Choa v. Choa ¹⁷⁴	H	Denied					
12	Dedel v. Court of Appeals ¹⁷⁵	H	Denied					
13	Republic v. Quintero-Hamano ¹⁷⁶	W	Denied			✓		
14	Carating-Siyngco v. Siayngco ¹⁷⁷	H	Denied					
15	Republic v. Iyoy ¹⁷⁸	H	Denied				✓	
16	Villalon v. Villalon ¹⁷⁹	H	Denied				✓	
17	Antonio v. Reyes ¹⁸⁰	H	Granted					
18	Republic v. Cuison-Melgar ¹⁸¹	W	Denied	✓	✓			
19	Perez-Ferraris v. Ferraris ¹⁸²	W	Denied				✓	
20	Zamora v. Court of Appeals ¹⁸³	H	Denied					
21	Republic v. Tanyag-San Jose ¹⁸⁴	W	Denied					
22	Navarro v. Cecilio-Navarro ¹⁸⁵	H	Denied				✓	
23	Paras v. Paras ¹⁸⁶	W	Denied			✓	✓	
24	Tongol v. Tongol ¹⁸⁷	H	Denied					
25	Castro v. Castro ¹⁸⁸	H	Denied					
26	Bier v. Bier ¹⁸⁹	H	Denied					

¹⁷⁴ G.R. No. 143376, 392 SCRA 641, Nov. 26, 2002.

¹⁷⁵ G.R. No. 151867, 421 SCRA 461, Jan. 29, 2004.

¹⁷⁶ G.R. No. 149498, 428 SCRA 735, May 20, 2004.

¹⁷⁷ G.R. No. 158896, 441 SCRA 422, Oct. 27, 2004.

¹⁷⁸ G.R. No. 152577, 441 SCRA 422, Oct. 27, 2004.

¹⁷⁹ G.R. No. 167206, 475 SCRA, 572, Nov. 18, 2005.

¹⁸⁰ G.R. No. 155800, 484 SCRA 353, Mar. 10, 2006.

¹⁸¹ G.R. No. 139676, 486 SCRA 177, Mar. 31, 2006.

¹⁸² G.R. No. 162368, 495 SCRA 396, July 17, 2006.

¹⁸³ G.R. No. 141917, 515 SCRA 19, Feb. 7, 2007.

¹⁸⁴ G.R. No. 168328, 517 SCRA 123, Feb. 28, 2007.

¹⁸⁵ G.R. No. 162049, 521 SCRA 121, Apr. 13, 2007.

¹⁸⁶ G.R. No. 147824, 529 SCRA 81, Aug. 2, 2007.

¹⁸⁷ G.R. No. 157610, 537 SCRA 135, Oct. 19, 2007.

¹⁸⁸ G.R. No. 140484, 542 SCRA 379, Jan. 28, 2008.

¹⁸⁹ G.R. No. 173294, 547 SCRA 123, Feb. 27, 2008.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psyc ^h ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
27	Navales v. Navales ¹⁹⁰	H	Denied					
28	Republic v. Cabantug-Baguio ¹⁹¹	W	Denied					
29	Almelor v. Almelor ¹⁹²	W	Denied	✓		✓		
30	Dimayuga-Laurena v. Court of Appeals ¹⁹³	W	Denied	✓		✓	✓	
31	Ngo-Te v. Te ¹⁹⁴	H	Granted					
32	Ting v. Velez-Ting ¹⁹⁵	W	Denied	✓	✓	✓		✓
33	Azcueta v. Republic ¹⁹⁶	W	Granted	✓				
34	So v. Valera ¹⁹⁷	H	Denied					
35	Halili v. Santos-Halili ¹⁹⁸	H	Granted					
36	Najera v. Najera ¹⁹⁹	W	Denied	✓	✓			
37	Padilla-Rumbaua v. Rumbaua ²⁰⁰	W	Denied				✓	
38	Alcazar v. Alcazar ²⁰¹	W	Denied					
39	Aspillaga v. Aspillaga ²⁰²	H	Denied				✓	
40	Lim v. Sta. Cruz-Lim ²⁰³	H	Denied				✓	
41	Paz v. Paz ²⁰⁴	W	Denied	✓	✓	✓		

¹⁹⁰ G.R. No. 167523, 556 SCRA 272, June 27, 2008.

¹⁹¹ G.R. No. 171042, 556 SCRA 711, June 30, 2008.

¹⁹² G.R. No. 179620, 563 SCRA 447, Aug. 26, 2008.

¹⁹³ G.R. No. 159220, 566 SCRA 154, Sept. 22, 2008.

¹⁹⁴ *Ngo-Te*, 579 SCRA 193.

¹⁹⁵ G.R. No. 166562, 582 SCRA 694, Mar. 31, 2009.

¹⁹⁶ 588 SCRA 196.

¹⁹⁷ G.R. No. 150677, 588 SCRA 319, June 5, 2009.

¹⁹⁸ 551 SCRA 576.

¹⁹⁹ G.R. No. 164817, 591 SCRA 541, July 3, 2009.

²⁰⁰ G.R. No. 166738, 596 SCRA 157, Aug. 14, 2009.

²⁰¹ G.R. No. 174451, 603 SCRA 604, Oct. 13, 2009.

²⁰² G.R. No. 170925, 604 SCRA 444, Oct. 26, 2009.

²⁰³ G.R. No. 176464, 611 SCRA 569, Feb. 4, 2010.

²⁰⁴ G.R. No. 166579, 613 SCRA 195, Feb. 18, 2010.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
42	Suazo v. Suazo ²⁰⁵	W	Denied	✓			✓	
43	Ligerdale v. Patalinghug ²⁰⁶	H	Denied					
44	Toring v. Toring ²⁰⁷	H	Denied					
45	Camacho-Reyes v. Reyes ²⁰⁸	W	Granted			✓	✓	
46	Baccay v. Baccay ²⁰⁹	H	Denied					
47	Agraviador v. Amparo-Agraviador ²¹⁰	H	Denied					
48	Marable v. Marable ²¹¹	H	Denied	✓	✓		✓	
49	Yambao v. Republic ²¹²	W	Denied	✓	✓			
50	Ochosa v. Alano ²¹³	H	Denied					
51	Republic v. Galang ²¹⁴	H	Denied					
52	Mendoza v. Republic ²¹⁵	W	Denied		✓		✓	
53	Republic v. De Quintos ²¹⁶	H	Denied					
54	Republic v. Encelan ²¹⁷	H	Denied					
55	Republic v. De Gracia ²¹⁸	H	Denied					
56	Kalaw v. Fernandez ²¹⁹	H	Granted					

²⁰⁵ G.R. No. 164493, 615 SCRA 154, Mar. 12, 2010.

²⁰⁶ G.R. No. 168796, 618 SCRA 315, Apr. 15, 2010.

²⁰⁷ G.R. No. 165321, 640 Phil. 434, Aug. 3, 2010.

²⁰⁸ 628 SCRA 461.

²⁰⁹ G.R. No. 173138, 636 SCRA 350, Dec. 1, 2010.

²¹⁰ G.R. No. 170729, 637 SCRA 519, Dec. 8, 2010.

²¹¹ G.R. No. 178741, 639 SCRA 557, Jan. 17, 2011.

²¹² G.R. No. 184063, 640 SCRA 355, Jan. 24, 2011.

²¹³ G.R. 167459, 640 SCRA 517, Jan. 26, 2011.

²¹⁴ G.R. No. 168335, 650 SCRA 524, June 6, 2011.

²¹⁵ G.R. No. 157649, 685 SCRA 16, Nov. 12, 2012.

²¹⁶ G.R. No. 159594, 685 SCRA 33, Nov. 12, 2012.

²¹⁷ G.R. No. 170022, 688 SCRA 215, Jan. 9, 2013.

²¹⁸ G.R. No. 171557, 716 SCRA 8, Feb. 12, 2014.

²¹⁹ 657 SCRA 822.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
57	Viñas v. Parel-Viñas ²²⁰	H	Denied					
58	Mallilin v. Jamesolamin ²²¹	H	Denied					
59	Sarmiento v. Devera-Sarmiento ²²²	H	Denied					
60	Abiva-Sazon v. Sazon ²²³	W	Denied					
61	Republic v. Romero ²²⁴	H	Denied	✓				
62	Republic v. Pangasinan ²²⁵	H	Denied		✓			
63	Matudan v. Republic ²²⁶	H	Denied					
64	Castillo v. Republic ²²⁷	W	Denied			✓	✓	
65	Del Rosario v. Del Rosario ²²⁸	W	Denied	✓	✓		✓	
66	Tani-Dela Fuente v. Dela Fuente ²²⁹	W	Granted	✓	✓			✓
67	Juco v. Juco ²³⁰	H	Denied				✓	
68	Garlet v. Garlet ²³¹	W	Denied	✓			✓	
69	Bakunawa v. Bakunawa ²³²	H	Denied	✓			✓	
70	Lontoc-Cruz v. Cruz ²³³	W	Denied	✓			✓	

²²⁰ G.R. No. 208790, 747 SCRA 508, Jan. 21, 2015.

²²¹ G.R. No. 192718, 751 SCRA 1, Feb. 18, 2015.

²²² G.R. 218053 (Notice), Aug. 10, 2015.

²²³ G.R. No. 215550 (Notice), Aug. 24, 2015.

²²⁴ G.R. No. 209180, 785 SCRA 164, Feb. 24, 2016.

²²⁵ G.R. No. 214077, 800 SCRA 184, Aug. 10, 2016.

²²⁶ G.R. No. 203284, 808 SCRA 480, Nov. 14, 2016.

²²⁷ G.R. No. 214064, 816 SCRA 595, Feb. 6, 2017.

²²⁸ G.R. No. 222541, 818 SCRA 83, Feb. 15, 2017.

²²⁹ 819 SCRA 638.

²³⁰ G.R. No. 228115 (Notice), Mar. 29, 2017.

²³¹ G.R. No. 193544, 834 SCRA 120, Aug. 2, 2017.

²³² G.R. No. 217993, 837 SCRA 1, Aug. 9, 2017.

²³³ G.R. No. 201988, 842 SCRA 401, Oct. 11, 2017.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
71	Gementiza v. Republic ²³⁴	H	Denied					
72	Singson v. Singson ²³⁵	W	Denied					
73	Republic v. Tabora-Tionglico ²³⁶	W	Denied					
74	Saldana v. Saldana ²³⁷	H	Denied					
75	Espina-Dan v. Dan ²³⁸	W	Denied	✓	✓			
76	Republic v. Javier ²³⁹	H	Granted	✓				✓
77	Republic v. Mola Cruz ²⁴⁰	H	Granted					
78	Cruz v. Chua ²⁴¹	W	Denied					
79	Republic v. Tecag ²⁴²	W	Denied	✓			✓	
80	Campos v. Camua-Campos ²⁴³	H	Denied					
81	Sumbillo v. Sumbillo ²⁴⁴	H	Denied					
82	Meneses v. Lee-Meneses ²⁴⁵	H	Denied					
83	Republic v. Deang ²⁴⁶	W	Denied	✓			✓	
84	Ballos v. Gonzales ²⁴⁷	W	Denied	✓	✓		✓	
85	Go-Yu v. Yu ²⁴⁸	W	Denied					
86	Cortez v. Cortez ²⁴⁹	H	Denied					

²³⁴ G.R. No. 232981 (Notice), Nov. 20, 2017.

²³⁵ G.R. No. 210766, 850 SCRA 20, Jan. 8, 2018.

²³⁶ G.R. No. 218630, 851 SCRA 107, Jan. 11, 2018.

²³⁷ G.R. No. 234118 (Notice), Jan. 24, 2018.

²³⁸ G.R. No. 209031, 861 SCRA 218, Apr. 16, 2018.

²³⁹ G.R. No. 210518, 861 SCRA 682, Apr. 18, 2018.

²⁴⁰ G.R. No. 236629, 874 SCRA 1, July 23, 2018.

²⁴¹ G.R. No. 232550 (Notice), Nov. 14, 2018.

²⁴² G.R. No. 229272, 886 SCRA 94, Nov. 19, 2018.

²⁴³ G.R. No. 241977 (Notice), Dec. 3, 2018.

²⁴⁴ G.R. No. 242572 (Notice), Dec. 5, 2018.

²⁴⁵ G.R. No. 200182, 896 SCRA 582, Mar. 13, 2019.

²⁴⁶ G.R. No. 236279, 898 SCRA 353, Mar. 25, 2019.

²⁴⁷ G.R. No. 232784 (Notice), Apr. 1, 2019.

²⁴⁸ G.R. No. 230443, 900 SCRA 173, Apr. 3, 2019.

²⁴⁹ G.R. No. 224638, 901 SCRA 370, Apr. 10, 2019.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
87	Bautista Jr. v. Soriano ²⁵⁰	H	Denied					
88	Sagales v. Republic ²⁵¹	W	Denied					
89	Bernal v. Magsajo-Bernal ²⁵²	H	Denied					
90	Cahapisan-Santiago v. Santiago ²⁵³	H	Denied					
91	Eliscupidez v. Eliscupidez ²⁵⁴	H	Denied					
92	Simundac-Keppel v. Keppel ²⁵⁵	W	Denied	✓			✓	
93	Gonzales v. Baluyut ²⁵⁶	H	Denied					
94	Republic v. Dimarucot ²⁵⁷	H	Denied					
95	Castro v. Castro ²⁵⁸	W	Denied	✓	✓			
96	Republic v. Calingo ²⁵⁹	H	Denied					
97	Calma v. Santos-Calma ²⁶⁰	H	Granted					
98	Bayani-Magay v. Magay ²⁶¹	W	Denied					
99	Santos-Gantan v. Gantan ²⁶²	W	Granted	✓	✓		✓	

²⁵⁰ G.R. No. 243899 (Notice), June 10, 2019.

²⁵¹ G.R. No. 246016 (Notice), June 17, 2019.

²⁵² G.R. No. 244073 (Notice), June 19, 2019.

²⁵³ G.R. No. 241144, 906 SCRA 531, June 26, 2019.

²⁵⁴ G.R. No. 226907, 909 SCRA 607, July 22, 2019.

²⁵⁵ G.R. No. 202039, 913 SCRA 203, Aug. 14, 2019.

²⁵⁶ G.R. No. 235035 (Notice), Oct. 16, 2019.

²⁵⁷ G.R. No. 202069, 857 SCRA 614, Mar. 7, 2018.

²⁵⁸ G.R. No. 210548, 872 Phil. 54, Mar. 2, 2020.

²⁵⁹ G.R. No. 212717, 935 SCRA 392, Mar. 11, 2020.

²⁶⁰ 946 SCRA 399.

²⁶¹ G.R. No. 227279 (Notice), Sept. 22, 2020.

²⁶² 958 SCRA 630.

	Case Title	Filed by ¹⁵⁸	Ruling	Violence Against Women and/or their Children				
				Phys ¹⁵⁹	Psych ¹⁶⁰	Econ ¹⁶¹	Inf ¹⁶²	Sex ¹⁶³
100	Cestona v. Cestona ²⁶³	H	Denied					
101	Dytiangquin v. Dytiangquin ²⁶⁴	W	Denied	✓			✓	
102	Yanoria v. Republic ²⁶⁵	H	Denied					
103	Republic v. Dr. Banzon ²⁶⁶	W	Granted		✓		✓	

ANNEX C

Summary of Psychological Incapacity Cases Decided After *Tan-Andal*

	Case Title	Filed by	Ruling	Violence Against Women and/or Their Children				
				Phys ²⁶⁷	Psy ²⁶⁸	Eco ⁿ²⁶⁹	Inf ²⁷⁰	Sex ²⁷¹
1	Tan-Andal v. Andal ²⁷²	W	Granted		✓			
2	Ambrose v. Suque-Ambrose ²⁷³	H	Remand					
3	Puyat v. Puyat ²⁷⁴	H	Granted	✓	✓	✓	✓	
4	Quilpan v. Quilpan ²⁷⁵	W	Granted		✓		✓	
5	Datu v. Datu ²⁷⁶	H	Granted		✓		✓	
6	Divina v. Takahashi ²⁷⁷	H	Denied					
7	Estella v. Perez ²⁷⁸	H	Granted					

²⁶³ G.R. No. 214285 (Notice), Nov. 18, 2020.

²⁶⁴ G.R. No. 234462, 965 SCRA 475, Dec. 7, 2020.

²⁶⁵ G.R. No. 252964 (Notice), Jan. 12, 2021.

²⁶⁶ G.R. No. 238732.

²⁶⁷ Refers to “Physical Violence” defined by the Anti-VAWC Act, § 3(a)(A)

²⁶⁸ Refers to “Psychological Violence” defined by the Anti-VAWC Act, § 3(a)(C).

²⁶⁹ Refers to “Economic Abuse” defined by the Anti-VAWC Act, § 3(a)(D).

²⁷⁰ Refers to Marital Infidelity.

²⁷¹ Refers to “Sexual Violence” defined by the Anti-VAWC Act, § 3(a)(B).

²⁷² 983 SCRA 28.

²⁷³ G.R. No. 206761, 988 SCRA 482, June 23, 2021.

²⁷⁴ G.R. No. 181614.

²⁷⁵ G.R. No. 248254.

²⁷⁶ G.R. No. 209278.

²⁷⁷ G.R. No. 250197 (Notice), Sept. 29, 2021.

²⁷⁸ G.R. No. 249250, slip op., Sept. 29, 2021.

8	Motealto-Laylo v. Ymbang ²⁷⁹	W	Granted					
9	Halog v. Halog ²⁸⁰	W	Granted	✓	✓	✓	✓	
10	Espiritu v. Boac-Espiritu ²⁸¹	H	Denied					
11	De Silva v. De Silva ²⁸²	W	Granted	✓	✓		✓	
12	Republic v. Yeban ²⁸³	H	Granted					
13	Pancho v. Republic ²⁸⁴	W	Denied					
14	Austria-Carreon v. Carreon ²⁸⁵	W	Denied					
15	Maristela-Cuan v. Cuan ²⁸⁶	W	Granted	✓	✓			
16	Republic v. Claur ²⁸⁷	W	Granted	✓	✓		✓	
17	Republic v. Natividad-Bernardo ²⁸⁸	W	Granted	✓	✓			
18	Guinalon v. Guinalon ²⁸⁹	W	Denied					
19	Santos-Macabata v. Macabata ²⁹⁰	W	Denied		✓	✓	✓	
20	Alberto v. Alberto ²⁹¹	W	Granted	✓	✓	✓	✓	
21	Pugoy-Solidum v. Republic ²⁹²	W	Denied					
22	Cayabyab-Navarro v. Navarro ²⁹³	W	Granted	✓	✓			
23	Carullo-Padua v. Padua ²⁹⁴	W	Denied	✓	✓	✓		✓
24	Laroco v. Laroco ²⁹⁵	H	Granted					

²⁷⁹ G.R. No. 240802, slip op., Sept. 29, 2021.

²⁸⁰ *Halog*, G.R. No. 231695.

²⁸¹ G.R. No. 247583, slip op., Oct. 6, 2021.

²⁸² *De Silva*, G.R. No. 247985.

²⁸³ G.R. No. 219709, slip op., Nov. 17, 2021.

²⁸⁴ G.R. No. 236176 (Notice), Nov. 18, 2021.

²⁸⁵ G.R. No. 222908, slip op., June 23, 2022.

²⁸⁶ G.R. No. 248518.

²⁸⁷ G.R. No. 246868.

²⁸⁸ G.R. No. 241114.

²⁸⁹ UDK-17203 (Notice), slip op., Mar. 14, 2022.

²⁹⁰ G.R. No. 237524.

²⁹¹ G.R. No. 236827.

²⁹² G.R. No. 213954, slip op., Apr. 20, 2022.

²⁹³ G.R. No. 216655.

²⁹⁴ G.R. No. 208258.

²⁹⁵ G.R. No. 253342, slip op., June 22, 2022.

25	Egmalis-Ke-Eg v. Republic ²⁹⁶	W	Granted					
26	Baldovino-Torres v. Torres ²⁹⁷	W	Granted	✓			✓	✓
27	Fopalan v. Fopalan ²⁹⁸	W	Granted	✓	✓		✓	
28	Dedicatoria v. Dedicatoria ²⁹⁹	W	Granted					
29	Abaño-Bate v. Republic ³⁰⁰	W	Denied	✓			✓	
30	Mutya-Sumilhig v. Sumilhig ³⁰¹	W	Granted	✓	✓		✓	
31	Quioge, Jr. v. Quiogue ³⁰²	H	Granted	✓	✓		✓	
32	Ang-Yu v. Yu ³⁰³	W	Granted			✓	✓	✓
33	Mercado v. Nuke-Mercado ³⁰⁴	H	Remand					
34	Republic v. Calingo ³⁰⁵	H	Granted					
35	Republic v. Amata ³⁰⁶	H	Denied					
36	Republic v. Romero ³⁰⁷	H	Granted					
37	Bonsit-Torralba v. Torralba ³⁰⁸	W	Denied			✓		✓
38	Javate-Asejo v. Asejo ³⁰⁹	W	Granted	✓	✓			✓
39	Rivo v. Rivo ³¹⁰	H	Denied				✓	✓
40	Clavecilla v. Clavecilla ³¹¹	H	Denied				✓	✓
41	Georfo v. Republic ³¹²	W	Granted	✓			✓	✓

²⁹⁶ G.R. No. 249178, slip op., July 13, 2022.

²⁹⁷ G.R. No. 248675.

²⁹⁸ G.R. No. 250287.

²⁹⁹ G.R. No. 250618.

³⁰⁰ G.R. No. 253644 (Notice), Aug. 17, 2022.

³⁰¹ G.R., No. 230711.

³⁰² G.R. No. 203992.

³⁰³ G.R. No. 234852.

³⁰⁴ G.R. No. 254891 (Notice), slip op., Sept. 19, 2022.

³⁰⁵ G.R. No. 212717, slip op., Nov. 23, 2022.

³⁰⁶ G.R. No. 212971, slip op., Nov. 29, 2022.

³⁰⁷ G.R. No. 209180 (Notice), Dec. 6, 2022.

³⁰⁸ G.R. No. 214293.

³⁰⁹ G.R. No. 247798.

³¹⁰ G.R. No. 210780.

³¹¹ G.R. No. 228127.

³¹² G.R. No. 246933.

42	Canlas v. Lozada-Canlas ³¹³	H	Denied					
43	Republic v. Alcuizar ³¹⁴	H	Granted					
44	Valenzuela v. Valenzuela ³¹⁵	W	Granted		✓		✓	
45	Presbitero v. Republic ³¹⁶	W	Granted	✓	✓		✓	✓
46	Candelario v. Candelario ³¹⁷	H	Denied					

ANNEX D

Statistical Overview of Cases Before *Tan-Andal*

	No. of Cases	Percentage Equivalent	Denominator
Total No. of Published Resolved Cases before <i>Tan-Andal</i> (Total Decided Cases)	103	100%	Total Decided Cases
Cases filed by the wife	47	45.63%	Total Decided Cases
Cases granted by the Supreme Court	13	12.62%	Total Decided Cases
Cases filed by the wife that were granted	6	5.83%	Total Decided Cases
		12.77%	Cases filed by the wife
Cases where the husband was allegedly abusive	63	61.17%	Total Decided Cases
Cases granted by the Supreme Court where the husband was allegedly abusive	6	5.83%	Total Decided Cases
		9.52%	Cases where the husband was allegedly abusive
Cases filed by the wife where the husband was allegedly abusive	33	32.04%	Total Decided Cases
		70.21%	Cases filed by the wife
		52.38%	Cases where the husband was allegedly abusive
	5	4.85%	Total Decided Cases

³¹³ G.R. No. 250104 (Notice), slip op., Apr. 12, 2023.

³¹⁴ G.R. No. 234279 (Notice), Apr. 12, 2023.

³¹⁵ G.R. No. 254357.

³¹⁶ G.R. No. 252412.

³¹⁷ G.R. No. 222068.

Cases filed by the wife where the husband was allegedly abusive, granted by the Supreme Court		7.94%	Cases where the husband was allegedly abusive
		15.15%	Cases filed by the wife where the husband was allegedly abusive

ANNEX E

Statistical Overview of Cases After *Tan-Andal*

	No. of Cases	Percentage Equivalent	Denominator
Total No. of Published Resolved Cases after <i>Tan-Andal</i> (Total Decided Cases)	46	100%	Total Decided Cases
Cases filed by the wife	28	61%	Total Decided Cases
Cases granted by the Supreme Court	29	63%	Total Decided Cases
Cases filed by the wife that were granted	19	41%	Total Decided Cases
		68%	Cases filed by the wife
Cases where the husband was allegedly abusive	26	57%	Total Decided Cases
Cases granted by the Supreme Court where the husband was allegedly abusive	20	43%	Total Decided Cases
		77%	Cases where the husband was allegedly abusive
Cases filed by the wife where the husband was allegedly abusive	21	46%	Total Decided Cases
		75%	Cases filed by the wife
		81%	Cases where the husband was allegedly abusive
Cases filed by the husband where he was allegedly abusive	5	11%	Total Decided Cases
		19%	Cases where the husband was

			allegedly abusive
Cases filed by the wife where the husband was allegedly abusive, granted by the Supreme Court	17	37%	Total Decided Cases
		65%	Cases where the husband was allegedly abusive
		81%	Cases filed by the wife where the husband was allegedly abusive