

Title: Grace M. Grande v. Patricio T. Antonio

Facts: Grace Grande (petitioner) and Patricio Antonio (respondent) cohabited as husband and wife despite Antonio being already married. They had two sons, Andre and Jerard. Paternity was not recognized in their birth records. Eventually, Grande moved to the United States with the children. Antonio then filed for recognition of the children, custody, and change of their surname. The Regional Trial Court (RTC) approved paternal recognition, custody arrangement, and surname change to Antonio. Grande appealed to the Court of Appeals (CA), which upheld the parental recognition but granted Grande full custody of the children, maintaining their surname as “Grande” and imposed support obligations. Grande partially sought reconsideration regarding the surname issue, which was denied by the CA, leading her to file a petition to the Supreme Court.

Issues: The central issue is whether a father can compel the use of his surname by his illegitimate children upon recognition of paternity, in light of Article 176 of the Family Code as amended by Republic Act No. 9255.

Court’s Decision: The Supreme Court held that the use of the father’s surname by illegitimate children is discretionary and not mandatory. Article 176, as amended, confers upon illegitimate children the choice to use their father’s surname, signaled by the use of the term “may.” Hence, Antonio cannot compel the use of his surname by the children. The Court partially granted the petition, modifying the CA’s decision by upholding Grande’s full custody and determining that children shall bear the surname chosen by themselves. It also remanded the case to the RTC to establish the chosen surname by the children.

Doctrine: The Supreme Court in this case upheld the discretionary use of the father’s surname for illegitimate children under Article 176 of the Family Code as amended by RA 9255. It emphasized the children’s autonomy in choosing whose surname to use and declared the implementing rules that mandated the use of the father’s surname as null and void.

Class Notes:

- Article 176 of the Family Code (as amended by RA 9255): Illegitimate children shall use the surname of their mother unless they choose to use their father’s surname upon paternity acknowledgment.
- “May” in statutes: Indicates discretion, not compulsion.
- Parental Authority: Given to the mother in the case of illegitimate children, pursuant to

Article 176.

- Custody: Generally awarded to the mother of illegitimate children unless unfit.
- Administrative Rules vs Statute: Implementing rules cannot amend or expand the legal provisions they are designed to implement.

Historical Background:

The case reflects a period of evolving social norms and legal interpretations about parental authority, paternity recognition, and the rights of children born out of wedlock in the Philippines. The amendment of Article 176 by RA 9255 represents a shift towards acknowledging the rights of illegitimate children and their ability to establish a legal connection with their biological father, while still preserving their choice in the use of surnames. The case reaffirmed these principles by interpreting “may” as permissive, highlighting the child’s autonomy and best interests in deciding surname usage.