

### Title:

**Gerardo B. Concepcion vs. Court of Appeals and Ma. Theresa Almonte (G.R. No. 124814)**

### Facts:

- Marriage and Birth**: Gerardo B. Concepcion married Ma. Theresa Almonte on December 29, 1989. They lived together with Almonte's parents in Fairview, Quezon City. On December 8, 1990, Almonte gave birth to a child named Jose Gerardo.
- Petition for Annulment**: On December 19, 1991, Concepcion filed for annulment of their marriage on the ground of bigamy, asserting that Almonte had previously married Mario Gopiao on December 10, 1980, a marriage that was never annulled.
- Trial Court Ruling**: The court declared the marriage between Concepcion and Almonte void for bigamy and declared Jose Gerardo illegitimate. Custody was awarded to Almonte, with visitation rights granted to Concepcion.
- Motion for Reconsideration**: Almonte challenged the visitation rights granted to Concepcion and sought to change Jose Gerardo's surname to her maiden name, claiming there was no legal basis for a putative father of an illegitimate child to have visitation rights.
- Trial Court's Denial of Motion**: The trial court denied Almonte's motion, emphasizing the "best interest of the child" and maintaining that Jose Gerardo should have a relationship with his father.
- Appeal to the Court of Appeals**: Almonte appealed the decision to the Court of Appeals, which initially upheld the trial court's decision, maintaining the best interest principle and legal procedures for changing a child's surname.
- Reconsideration by Court of Appeals**: Upon reconsideration, the appellate court reversed its earlier decision, stating that Jose Gerardo is the legitimate son of Mario Gopiao, given the undeniable legal marriage between Almonte and Gopiao when Jose Gerardo was born.
- Final Ruling by Court of Appeals**: Jose Gerardo must carry the surname of Gopiao as mandated by law, with Gerardo having no legal standing to claim custody or visitation rights over the child.
- Gerardo's Appeal to the Supreme Court**: Concepcion appealed to the Supreme Court,

challenging the appellate court's decision regarding the legitimacy and surname of Jose Gerardo.

**### Issues:**

1. Whether Jose Gerardo is the legitimate son of Mario Gopiao, given Almonte's legal marriage to Gopiao at the time of his birth.
2. Whether Concepcion, as the putative father, has visitation rights over Jose Gerardo.
3. Whether Gerardo can impose his surname on Jose Gerardo, despite his declared illegitimacy.
4. The applicability of the best interest of the child policy in determining visitation and surname usage.

**### Court's Decision:**

**\*\*Issue 1: Legitimacy of Jose Gerardo\*\***

- **\*\*Ruling\*\***: The Supreme Court upheld the appellate court's ruling that Jose Gerardo is the legitimate son of Mario Gopiao. Article 164 of the Family Code states, "A child who is conceived or born during the marriage of his parents is legitimate." The supposed marital status between Gerardo and Almonte is void from the start; hence, Gerardo cannot challenge the legitimacy of Jose Gerardo. Both Almonte and Mario resided in the same city, indicating reasonable presumption of personal access and legal legitimacy.

**\*\*Issue 2: Visitation Rights\*\***

- **\*\*Ruling\*\***: The Supreme Court ruled that Concepcion has no visitation rights over Jose Gerardo since he is not legally recognized as his father. The right to visitation flows from legal paternity, which exists between Mario and Jose Gerardo.

**\*\*Issue 3: Surname Imposition\*\***

- **\*\*Ruling\*\***: Concepcion has no legal claim to impose his surname upon Jose Gerardo. Since Jose Gerardo is legitimately Mario Gopiao's son, he should bear the surnames of his legitimate parents. Any correction or change in the civil registry regarding his surname should be addressed in a separate proceeding under Rule 103 of the Rules of Court.

**\*\*Issue 4: Best Interest of the Child\*\***

- **\*\*Ruling\*\***: The Supreme Court maintained that the best interest of the child does not override explicit legal provisions concerning legitimacy and parental rights. While the court acknowledges the principles of the Child and Youth Welfare Code and the UN Convention on the Rights of the Child, these do not provide a legal basis for altering the established

filiative rights and obligations dictated by the Family Code.

### ### Doctrine:

- **Presumption of Legitimacy**: A child conceived or born during the marriage of his parents is presumed legitimate. This presumption stands unless disproved by substantial evidence showing the impossibility of marital access.
- **Exclusive Right to Impugn Legitimacy**: Only the husband or, in exceptional circumstances, his heirs can contest the legitimacy of a child.
- **Best Interest Principle**: The best interest of the child is paramount in custody and visitation disputes but does not override statutory legitimacy and parental rights.

### ### Class Notes:

- **Article 164, Family Code**: "A child conceived or born during the marriage of his parents is legitimate."
- **Article 167, Family Code**: "The child shall be considered legitimate although the mother may have declared against its legitimacy."
- **Article 166, Family Code**: Grounds for impugning legitimacy.
- **Article 171, Family Code**: Circumstances permitting heirs to impugn legitimacy.
- **Rule 103, Rules of Court**: Procedures for changing the name in the civil registry.

### **Key Concepts**:

- Presumption of legitimacy.
- Exclusive right to impugn legitimacy.
- Doctrine of best interest in child welfare cases.
- Legal procedures for name and status changes in civil registries.

### ### Historical Background:

During the period pertinent to this case, the Family Code of the Philippines had been recently updated (1988), reflecting modern principles in family relations and child welfare. The social climate emphasized protection of children's rights and moral integrity within families, leading to a broader interpretation of statutes favoring child legitimacy and welfare. This case underscores the judiciary's role in balancing statutory mandates with emerging social norms concerning family and child welfare.