

IN THE MATTER OF THE ADOPTION OF THE MINORS PABLO VASQUEZ. ERNESTO VASQUEZ, MARIA LOURDES VASQUEZ AND ELIZABETH PRASNIK. LEOPOLDO PRASNIK, PETITIONER AND APPELLEE, VS, REPUBLIC ...

G.R. No. L-8639. March 23, 1956

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Leopoldo Prasnik filed before the Court of First Instance of Rizal a petition seeking to adopt Pablo Vasquez, Ernesto Vasquez, Maria Lourdes Vasquez and Elizabeth Prasnik who are the minor children of Paz Vasquez; He claims that they are also his children but without the benefit of marriage and he desires to adopt them to promote their best interest and well-being. Since at the hearing of the petition petitioner, acknowledged that they are his natural children, the Solicitor General opposed the petition on the plea that he could not legally adopt them for the reason that Article 338 of the new Civil Code which allows a natural child to be adopted by his natural father refers only to a child who has not been acknowledged as natural child. At first the court upheld the opposition, but, on a motion for reconsideration, the court reconsidered its decision and granted the petition. Hence this appeal.

Leopoldo Prasnik was formerly married to one Catherine Prasnik but their marriage was dissolved by virtue of a decree of divorce issued on December 12, 1947 by the Circuit Court of Miami, Dade County, Florida, U.S.A. Thereafter, he and Paz Vasquez lived together as husband and wife without the benefit of marriage and out of this relation four children were born who are the minors -he is now seeking to adopt. He claims that it is his intention to marry Paz Vasquez as soon as he is granted Philippine citizenship for which he has already applied and in the meantime he wants to adopt them in order that no one of his relatives abroad could share in his inheritance. He averred that he had no child with his former wife and acknowledged said minors as his natural children.

Article 338 of the new Civil Code provides that a natural child may be adopted by his natural father or mother. The Solicitor General interprets this provision in the sense that in order that a natural child may be adopted by his natural father or mother there should not intervene between them an acknowledgment of the status of natural child by the father or mother as otherwise the adoption would be repugnant to Article 335 of the same Code which denies adoption to one who has an acknowledged natural child. And since petitioner has expressly admitted in open court that the minors subject of this proceeding are his natural children, he is therefore disqualified to adopt under the law.

We do not agree to this interpretation. Apparently, Article 338 above adverted to merely refers to the adoption of a natural child and not to one who has already been recognized, but there is nothing therein which would prohibit the adoption of an acknowledged natural child even if the law does not expressly say so. The reason for the silence of the law is obvious. That law evidently intends to allow adoption whether the child be recognized or not. If the intention were to allow adoption only to unrecognized children, as contended, then the provision of Article

338 would be of no useful purpose because such children could have been validly adopted even without it. And we say so because a natural child not recognized has no right whatever^[1] and being considered legally a total stranger to his parents, he may be adopted under Article 337. The same cannot be said with regard to an acknowledged natural child because, his filiation having already been established, his adoption cannot be made under the general principles governing adoption (2 Manresa 5th ed., 80). There is therefore need of an express provision allowing the adoption of an acknowledged natural child as an exception to the rule and that is what is contemplated in the article we are considering.

The Solicitor General, in his opposition to the petition, invokes Article 335, of the new Civil Code which provides that a person who has an acknowledged natural child cannot adopt and considering that petitioner has acknowledged the minors in question as his children, he contends that he is disqualified from adopting them under that article. We believe that the Solicitor General has not made a correct interpretation of that article for he is confusing the children of the person adopting', with the minors to be adopted. A cursory reading of said article would reveal that the prohibition merely refers to the adoption of a minor by a person who has already an acknowledged natural child and it does not refer to the adoption of his own children even if he has acknowledged them as his natural children.

It may be contended that the adoption of an acknowledged natural child is unnecessary because there already exists between the father and the child the relation of paternity and filiation which is precisely the purpose which adoption seeks to accomplish through legal fiction. But it should be borne in mind that the rights of an acknowledged natural child are much less than those of a legitimate child and it is indeed to the great advantage of the latter if he be given, even through legal fiction, a legitimate status. And this view is in keeping with the modern trend of adoption statutes which have been adopted precisely to encourage adoption (In re Havagord's Estate, 34 S. D. 181, 147 N. W. 378). Under this modern trend, adoption is deemed not merely an act to establish the relation of paternity and filiation but one which may give the child a legitimate status. It is in this sense that adoption is now defined as "a juridical act which creates between two persons a relationship similar to that which results from legitimate paternity and filiation" (4 Valverde, 473).

The cases cited by, the Solicitor General are not in point.^[2] In said cases the petitioners had legitimate children of their own and bo their petitions were denied. They are indeed disqualified from adopting under the law. In the present case however, petitioner does not have any legitimate children and his main desire is to give a legitimate status to his four natural children. This attitude, far from being opposed, should be encouraged. This is in keeping with , the modern trend of the law concerning adoption (In re Havagord's Estate, supra).

The decision appealed from is affirmed, without pronouncement as to costs.

Parás, C. J., Bengzon, Padilla, Reyes, A., Labrador, Concepcion, Reyes, J, B. L. and Endencia, JJ, concur.

[1] Buenaventura vs. Urbano, 5 Phil., 1.

[2] Ball vs. Republic of the Philippines, 94 Phil., 106; McGee vs. Republic of the Philippines, 94 Phil., and Santos vs. Republic of the Philippines, 95 Phil., 244.

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