

IN THE MATTER OF THE ADOPTION OF THE MINOR MARIETTA DURANG-PARANG. PRISCILA DURANG-PARANG JIMENEZ, PETITIONER AND APPELLEE, VS. REPUBLIC OF THE PHILIPPINES, OPPOSITOR AND APPELL...

G. R. No. L-9911. May 22, 1957

Ponente: ENDENCIA, J.

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ENDENCIA, J.:

On April 4, 1955, Priscilla Durang-Parang Jimenez filed with the Court of First Instance of Manila a petition for the adoption of her natural child Marietta Durang-Parang, a minor 11 years old. The petitioner has no legitimate, legitimated, acknowledged natural children or natural children by legal fiction, and the only child she has is the minor Marietta Durang-Parang who was reared and cared for by her since childhood. The petitioner is married and her husband gave his consent to the adoption of the minor.

On September 13, 1955, the Solicitor General intervened in the case and filed a motion to dismiss the petition "on the ground that the child sought to be adopted was enjoy ing the status of an acknowledged natural child as the petitioner so stated in paragraph 5 of the petition and her adoption would constitute a violation of paragraph 1 of Article 355 of the New Civil Code and is repugnant to the philosophy underlying the provisions of law on adoption. The petitioner opposed the motion to dismiss contending: (1) that petitioner's allegation in paragraph 5 of her petition to the effect that she has reared and cared for the aforementioned minor since she was begotten up to the present does not vest on the child the status of an acknowledged natural child; and (2) that Article 335, paragraph 1, contemplates a prohibition to those who already have children as therein mentioned from adopting another. No action was taken by the court on the motion to dismiss but the case Was later on heard on the merits and the petition was subsequently granted. Thereupon, the Solicitor General perfected his appeal and thus the case was brought to this Court.

The facts of the case are not disputed.

The appellant contends: (a.) that Article 335, paragraph X, provides that those who have legitimate, legitimated, acknowledged natural children er natural children by legal fiction can no longer adopt; (b) that "it does not provide for an exception where the adopting parent seeks to adopt his own acknowledged natural child and because paragraph 5 of the petition is a recognition by the petitioner of her minor child as her natural child, she cannot apply for the adoption of said minor"; (c) that "the natural child that can be adopted is one that has not been acknowledged by the parent desiring to adopt it, for where the child has been acknowledged, there is already established a natural relationship of paternity and filiation between the parent and the child, the child has successional rights, and adoption in such case is not only unnecessary but also untenable in the realm of theory and principle"; and (d) the minor in question cannot be adopted by the petitioner because she has already a natural child who is the minor whom she desires to adopt, and consequently the provisions of paragraph 1, Article 335,

cited above, should govern the case.

Carefully considered, the foregoing contentions are completely untenable. The petitioner herein has only one child, the one she wants to adopt; she has no legitimate, legitimated, acknowledged natural children or natural children by legal fiction; hence paragraph 1 of Article 335 of the New Civil Code would not apply, for it clearly refers to persons who have legitimate, legitimated, acknowledged natural children or natural children by legal fiction and yet desire to adopt another. On the other hand, paragraph 1 of Article 338, in an unmistakable language, clearly provides that the natural child may be adopted by the natural father or mother in order to allow the parents to make amends for the wrong done to the child and to raise the latter to the status of a legitimate child.

Anent appellant's contention that parents cannot adopt an acknowledged natural child because the latter has already successional rights, we find it squarely disposed of by the clear provisions of the aforesaid paragraph 1, Article 338 of the Civil Code and the underlying reasons which prompted its promulgation.

Wherefore, finding no error in the decision appealed from, the same is hereby affirmed without costs.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., and Felix, JJ., concur.

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