

VICTORIA U. BALUYUT, MA. THERESA U. BALUYUT AND MA. FLORDELIZA U. BALUYUT, ALL MINORS, REPRESENTED BY THEIR MOTHER AND GUARDIAN AD LITEM, NORMA URBANO, PETITIONERS, VS. FELICIDA...

G.R. No. L-33659. June 14, 1990

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for certiorari filed by Victoria, Ma. Theresa and Ma. Flordeliza, all surnamed Baluyut, then minors, represented by their mother and guardian ad litem, Norma Urbano, which seeks the reversal of the decision of the Court of Appeals in CA?G.R. No. 38069-R entitled “Felicidad S. Baluyut, Administratrix-Appellant v. Victoria U. Baluyut, et al., Intervenors-Appellees.” The decision brought to this court for review reversed the decision of the Court of First Instance of Pampanga (now Regional Trial Court) and dismissed the petition for intervention filed by petitioners in the trial court.

In Special Proceedings No. 1835, entitled “Intestate Estate of Deceased Enrique Baluyut,” filed before the Court of First Instance of Pampanga, herein petitioners filed on April 29, 1965 a petition for intervention. The petition alleged that petitioners have a legal interest in the estate of the deceased Enrique M. Baluyut; that petitioners-minors are the illegitimate children of the deceased, begotten out of wedlock by said deceased and petitioners’ mother and guardian ad litem Norma Urbano; that petitioners were conceived and born at the time when Norma Urbano cohabited with the deceased while the latter was already married to Felicidad S. Baluyut; that they were in continuous possession and enjoyment of the status of children of the deceased during his lifetime by direct overt acts of said deceased having supported and maintained them. The petitioners also alleged that they were deliberately excluded from the estate of Enrique M. Baluyut (pp. 10-18, Record on Appeal).

Felicidad S. Baluyut, widow of Enrique and appointed administratrix of his estate, opposed the petition for intervention (p. 20, Record on Appeal). On May 8, 1965 (pp. 18-19, Record on Appeal), the trial court issued an order allowing the petitioners to intervene.

After trial, a decision (pp. 24-31, Record on Appeal) was rendered declaring the intervenors Victoria, Ma. Theresa and Ma. Flordeliza the forced heirs of deceased Enrique Baluyut and ordering administratrix Felicidad Vda. de Baluyut to pay P150.00 monthly support to Norma Urbano, guardian ad litem for the three minor children. The dispositive portion of the decision reads:

“WHEREFORE, the Court hereby orders:

“1) FELICIDAD VDA. DE BALUYUT, the administratrix to pay P150.00 as monthly support out of the Estate of Enrique Baluyut to Norma Urbano guardian ad litem for the three minor children, Victoria, Theresa and Flordeliza Baluyut.

“2) That under Art. 887, (5) New Civil Code said children are forced heirs of the late Enrique Baluyut.

“3) That they are entitled to their hereditary rights in said Estate of Enrique Baluyut under the provisions of the New Civil Code (pp. 29-30, Record on Appeal).”

On February 15, 1966, the administratrix filed a Notice of Appeal from the trial court’s decision. On February 22, 1966, the intervenors filed their Objection to Appeal and Motion for Execution. The latter motion was based on the pronouncement in *Salazar v. Salazar*, L-5823, April 29, 1953, that an order granting support pendente lite is final and executory.

On May 4, 1966, the trial court issued an order (p. 37, Record on Appeal) declaring that it considers intervenors’ motion for execution as a motion for reconsideration and amended the decision to the effect that it granted the minors Victoria, Theresa and Flordeliza monthly support pendente lite in the amount of P150.00 payable every first day of the month to their guardian ad litem Norma Urbano.

On April 22, 1971, the Court of Appeals rendered judgment (pp. 19-41, Rollo) reversing the decision of the trial court. The dispositive portion of the decision states:

“WHEREFORE, the appealed judgment is hereby reversed and the intervenors’ petition in intervention is hereby declared dismissed, without costs. The order granting alimony pendente lite to the intervenors is hereby set aside.” (p. 41, Rollo)

Petitioners’ motion for reconsideration of respondent Court of Appeals’ decision was denied on May 24, 1971 (p. 53, Rollo). Hence, the instant petition for review on certiorari filed on June 19, 1971.

On June 23, 1971, We gave due course to the petition (p.57, Rollo). On July 1, 1971, We required the petitioners to file their brief (p.58, Rollo). Respondents, on the other hand, filed their brief on October 28, 1971 (p.85, Rollo). On December 17, 1971, the petition was considered submitted for decision (p. 87, Rollo).

On June 3, 1975, petitioners filed a “Motion and Manifestation” praying for the reinstatement of the order of the trial court to grant the petitioners monthly support during the pendency of the case. The said order for monthly support granted by the trial court in its decision of May 4, 1966 was terminated in the early part of 1971 (p. 90, Rollo). When asked to comment on the manifestation and motion of petitioners, respondents opposed said motion in view of respondent Court of Appeals’ finding that petitioners were not the recognized spurious children of deceased Baluyut (p. 113, Rollo).

On November 25, 1976, We granted petitioner’s motion for continuation of their monthly support pendente lite effective June 1975 until further orders (p. 141, Rollo). After an exchange of pleadings by the parties regarding the order of this court on the matter of the continuation of petitioners’ support pendente lite, and after a motion filed by petitioners to cite administratrix for contempt, private respondents filed a manifestation on January 6, 1978, informing this Court that: 1) the former administratrix Felicidad S. Baluyut was substituted by one of her daughters, Milagros B. Villar, as Special Administratrix; and that 2) they have complied with the September 13, 1977 resolution of the court requiring them to show cause why they should not be dealt with as in contempt for failing to obey the order to pay petitioners a monthly support pendente lite. Private respondents also manifested their compliance by depositing with the then Court of First Instance of Pampanga, Branch 1, a Philippine Commercial and Industrial Bank check in the amount of P4,350.00 representing the required support until October, 1977. Another PCIB check in the amount of P300.00 representing support pendente lite for November and December, 1977 was also deposited with the trial court (p. 335, Rollo).

On February 19, 1980, petitioners, assisted by their guardian ad litem and private respondent Administratrix Milagros B. Villar, both parties assisted by their respective counsel, filed a Joint Motion to Dismiss the petition in view of petitioners’ filing of a “Petition for Withdrawal of intervention” with the Court of First Instance of

Pampanga taking cognizance of the Intestate Estate of Enrique Baluyut. The petition for withdrawal was based on a waiver by petitioners of any right or interest they may have on the estate of the deceased in consideration of the financial assistance granted them by the administratrix of the estate (p. 371, Rollo). The petition for withdrawal of intervention was approved by the intestate court on February 14, 1980 (p. 369, Rollo), while the Joint Motion to Dismiss the instant petition was noted by this court on April 3, 1981 (p. 372, Rollo).

The withdrawal of intervention in consideration of the financial assistance extended to petitioners by the administratrix of the estate of the deceased Enrique M. Baluyut (p. 37, Rollo) is in the nature of a compromise settlement of the instant petition (p. 371, Rollo). Considering, however, that the issue involved in this case is whether or not petitioners, Victoria, Ma. Theresa and Ma. Flordeliza, all surnamed Baluyut are the acknowledged, spurious children of the deceased, Enrique M. Baluyut, the Joint Motion to Dismiss the instant petition cannot be granted, acknowledgment, affecting as it does the civil status of persons and of future support cannot be the subject of a compromise (pars. 1 and 4, Article 2035 of the Civil Code) (see *Advincula v. Advincula*, L-19065, January 31, 1964).

The trial court found that petitioners are the illegitimate children of the deceased Enrique M. Baluyut. This finding was shared by respondent Court of Appeals:

“x x x, the testimony of Norma Urbano, supported by that of Liberata Vasquez on the one hand as against that of the administratrix who declared that she and her late husband were always together and that of Cecilia Waters who testified that Norma had a suitor named Lieut. Alex on the other, leads us to give credence to the proof of the intervenors specifically the testimony of Norma that the intervenors are in fact her illegitimate children with the late Enrique M. Baluyut (p. 35, Rollo).

However, proof of filiation of the petitioners to the late Enrique M. Baluyut is not sufficient to confer upon them any hereditary right in the estate of the deceased. What is necessary to be established by an illegitimate not natural child in order that he may be entitled to successional rights under Article 887 of the New Civil Code, is not the fact of his bare filiation but a filiation acknowledged by the putative parent. This has been the consistent pronouncement of this Court since the reversal of the pronouncement in *Reyes, et al. v. Zuzuarregui, et al.*, 102 Phil. 346 by the pronouncement in the case of *Paulino v. Paulino*, 113 Phil. 697, 700, 701, 702. In the *Paulino* case, it was held:

“An illegitimate (spurious) child to be entitled to support and successional rights from his putative or presumed parents must prove his filiation to them. Filiation may be established by the voluntary or compulsory recognition of the illegitimate (spurious) child. Recognition is voluntary when “made in the record of birth, a will, a statement before a court of record, or in any authentic writing.” It is compulsory when by court action the child brings about his recognition. x x x”

“x x x.

“It is true that by their motion to dismiss the appellees are deemed to have admitted that the appellant is the illegitimate spurious, not natural child of the deceased Marcos Paulino. Such an admission, however, does not entitle her to inherit from her alleged putative father. It is necessary to allege that her putative father had acknowledged and recognized her as such. Such acknowledgment is essential and is the basis of her right to inherit. There being no allegation of such acknowledgment the action becomes one to compel recognition which cannot be brought after the death of the putative father.”

This was reiterated in the case of *Republic v. Workmen’s Compensation Commission*, 121 Phil. 261, where this Court held that:

“x x x the illegitimate (spurious) child, to be entitled to support and successional rights from his parents, must

prove his filiation and this may be done by means of voluntary or compulsory recognition of the relationship. For this purpose, the provisions concerning natural children are held applicable. x x x.”

There are two modes of acknowledgment provided in the New Civil Code: one, by the voluntary recognition by the putative parent made in the record of birth, a statement before the court of record, or in any authentic writing (Art. 278, New Civil Code) and two, by compulsory recognition under Article 283 of the same law.

Were the petitioners voluntarily recognized by the late Enrique M. Baluyut as his illegitimate spurious children?

There is no evidence as required by Article 278 which proves that the petitioners were recognized by the deceased during his lifetime as his spurious children. The petitioners’ records of birth, although in the name of Enrique Baluyut, were not signed by the latter. There was no authentic writing presented nor any statement in a court of record which would prove that the petitioners were recognized by the deceased.

With regard to compulsory recognition, Article 283 enumerates the cases where the father is obliged to recognize the child as his, namely: a) in cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception; b) when the child is in continuous possession of the status of a child of the alleged father by the direct acts of the latter or his family; c) when the child was conceived during the time when the mother cohabited with the supposed father; d) when the child has in his favor any evidence or proof that the defendant is his father.

The grounds relied upon by petitioners for compelling the heirs of Baluyut to recognize them as the heirs of the deceased were the alleged possession by the petitioners of the status of recognized illegitimate spurious children and that they were conceived at the time when their mother cohabited with the deceased. Since the petitioners were still minors at the time of the death of Enrique M. Baluyut, the action for compulsory recognition was correctly filed by petitioners’ guardian ad litem and mother, Norma Urbano. However, as correctly pointed out by respondent appellate court, since the recognition sought in the case is compulsory, strictness in the application of the rules applies. We agree with respondent appellate court that the evidence presented by petitioners failed to satisfy the high standard of proof required for the success of their action for compulsory recognition. Respondent court held:

“The combined testimony of Norma Urbano and her witness Liberata Vasquez insofar as the issue of recognition is concerned tends to show that Norma was kept by the late Enrique M. Baluyut as his mistress first in the house of Liberata and then in a house supposedly rented from one Lacuna. But this Lacuna was not even presented to testify in support of the claim of Norma and Liberata that Baluyut rented his house for Norma. And, according to Norma and Liberata, Baluyut visited Norma some twice a week in the house where she kept her as his mistress; that Baluyut paid the hospital bills for the delivery of the two younger children of Norma. But, according to Liberata herself, it was not Baluyut who personally paid the hospital bills but he gave the money for the payment of the hospital bills to Liberata and he requested her to pay the money to the hospital. This only shows that Baluyut was hiding his identity as the father of the children of Norma, an act which is inconsistent with recognizing such children as his own.

“If Enrique did not want to hide being the father of the intervenors who were born at the Ortanez hospital, there was no need for him to ask Liberata to pay the hospital bill of Norma for the delivery of her youngest child as Baluyut could have easily done this himself. There is not even evidence showing that he visited Norma at the hospital when she delivered there. Coupled with the circumstance that Enrique tried to hide his being the father of the intervenors, there is absence of positive and convincing proof that Enrique treated the intervenors as his children in all relations in society and in life. Far from treating them in society as his children, he was hiding Norma and the intervenors from society and visited them only once in a while evidently only to satisfy his sexual urge with Norma but with no genuine desire to have and treat the intervenors so as to confer on them the continuous possession of the status of recognized illegitimate (not natural) children. There is not even any

proof that he had brought out these intervenors to show them publicly as his children. With the single exception of Liberata Vasquez, not a single neighbor of Norma in the rather populous area of Project 4, Quezon City, was produced to testify on any act of Enrique to show his genuine desire to treat the intervenors as his very own in his actual relations. The foregoing deficiencies in the intervenors' proof is fatal to their case.

'In order to prove the continuous possession of the status of a natural child, the acts must be of such a nature that they reveal, not only the conviction of paternity, but also the apparent desire to have and treat the child as such in all relations in society and in life, not accidentally, but continuously' (Igar, et al. vs. Vda. de Balingkit, CA, 60 O.G. 7792; Oños, et al. vs. Vda. de Oños, CA-G.R. No. 24646-R, July 22, 1964).

"The birth certificates Exhibits 'A,' 'B' and 'C' of the intervenors do not help their case for these are not evidence of recognized filiation by the deceased Enrique Baluyut because, firstly, they were admitted in evidence by the lower court merely as part of the testimony of the witnesses who referred to them in the course of said witnesses' testimony and hence, they are not evidence of the facts stated in them. Secondly, they are merely evidence of the fact that gave rise to their execution, that is, the fact of birth and nothing else, much less of recognition as they are not signed by Enrique Baluyut.

'In an action for compulsory acknowledgment under paragraph 4, Article 283 of the Civil Code, a birth certificate which, on its face, was not signed by the supposed natural father is incompetent evidence on paternity, being in violation of section 5 of Act 3753 and Article 280 of the Civil Code' (Roces vs. Local Civil Registrar, 54 O.G. 4950; Crisolo vs. Macadaong, No. L-7017, April 19, 1954; Bernabe, etc. vs. Lacodin, CA, 59 O.G. 3178).

"If birth certificates, which are unsigned by the presumed father as required by section 5 of Act No. 3752 and Article 280 of the Civil Code, are incompetent evidence even to prove paternity alone, with more reason are birth certificates incompetent evidence to prove recognized filiation." (pp. 36-39, Rollo)

Petitioners would have Us relax Our rule on strictness of the application of law regarding compulsory recognition as first laid down in the *Javellana v. Monteclaro*, 74 Phil. 393. They opined that the said case was in fact the forerunner of the liberal view that has found its way into the present provisions of the New Civil Code governing paternity and recognition.

Petitioners failed to grasp the import of this Court's ruling in the *Javellana* case. That the case was the forerunner of the liberal view that has found its way into our statute books, is true. But, the rule of liberality enunciated therein applied only to cases involving voluntary recognition specifically in a public document and not to cases of compulsory recognition. Thus:

"Upon the second point, whether a voluntary acknowledgment may be done incidentally in a public document, a distinction must be made between the two kinds of acknowledgment: (1) voluntary, and (2) compulsory. In the former, recognition may be incidental, but in the latter, it must be direct and express.

"In actions to compel the alleged father to acknowledge his natural child, based upon recognition in an indubitable writing, article 135, par. 1, of the Civil Code, requires that the father must 'expressly recognize his paternity.' This provision has been strictly construed by Spanish and Philippine jurisprudence against the alleged natural child. Thus, in the Sentence of July 5, 1906, the Supreme Tribunal of Spain held in an action to compel acknowledgment under article 135, that a mere allusion, more or less clear, by the alleged father to his supposed child, if there is no express recognition of his paternity, is not sufficient. In the Sentence of April 8, 1915, that same Tribunal declared that there should be an indubitable documentary proof or uninterrupted possession of the status of a natural child, excluding deductions and conjectures. As to Philippine cases, the same rule has been adhered to in several decisions by this court. Thus, in *Benedicto vs. De la Rama*, 4 Phil., 746, an action was filed to compel recognition of a natural child, based in part on a letter of defendant telling the mother of his affection toward her and asking her to take care of the child. This court held that the letter did

not expressly recognize the child, under article 135. In *Buenaventura vs. Urbano*, 5 Phil. 1, the alleged father wrote the child a letter advising him how to conduct himself. This court held that the letter did not contain an express recognition under article 135.

“But while in actions to compel recognition the foregoing principle is true with respect to indubitable writing according to article 135, par. 1 of the Civil Code, however, in cases of voluntary acknowledgment in a public document under article 131, the law is more liberal and permits an incidental recognition. x x x.” (*Javellana, et al. v. Monteclaro, et al.*, 74 Phils. 393)

ACCORDINGLY, the decision appealed from is AFFIRMED. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, and Gancayco, JJ., concur.

Griño-Aquino, J., on leave.

* Note: The family name Baluyut appears as Baluyot in some pleadings.

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