

[WITH RESOLUTION OF JANUARY 28, 1961]*G.R. No. L-12894. September 30, 1960*

Ponente: GUTIERREZ DAVID, J.

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On September 1, 1955, Lilia Juana Barles, Maria Estrella Barles and Remedios Barles, all of legal age, filed with the Court of First Instance of Manila a "peticion para el reconocimiento de filiacion paternal con dano moral" alleging in substance, among other things, that they are illegitimate issues of the defendant Alfonso Ponce Enrile and Genoveva Barles, their natural mother, with whom said defendant cohabited at the time they were conceived and born.

Instead of answering, the defendant filed a motion to dismiss the complaint on the grounds that it did not state a cause of action and that even if it did, the same had already prescribed. Action on the motion, however, was deferred until after the trial, the court being of the opinion that the grounds alleged therein did not appear indubitable. Thereafter, the defendant filed his answer. While the case was being heard, the Juvenile and Domestic Relations Court was organized under Republic Act No. 1401 and pursuant thereto the case was transferred to said court where the trial was continued.

On June 1, 1957, the Juvenile and Domestic Relations Court, without going into the merits of the case, rendered a decision dismissing the complaint, holding that while the complaint on the basis of the evidence submitted may be considered as stating a valid and sufficient cause of action, still plaintiffs' action had already prescribed. Reconsideration of this decision having been denied, plaintiffs. appealed directly to this Court.

We find the appeal to be meritorious.

The lower court in the decision complained of ruled that plaintiffs' cause of action accrued from birth, and on the theory that the action, pursuant to sec. 44 of the Code of Civil Procedure, could only be brought within 10 years after the cause of action accrued, since no period therefor had been fixed by law, it held that plaintiffs' complaint is already barred by, prescription, the same not having been filed within two years after attaining the age of majority as required by sec. 45 of the aforementioned Code of Civil Procedure. The law, in our opinion, has been misapplied. Plaintiffs, who are admittedly illegitimate (spurious) children, seek mainly to establish in their complaint their filiation or paternity with the defendant, aware as they must be that in the absence of a competent voluntary recognition on the part of the defendant, their alleged father, they cannot be entitled to successional rights unless their filiation is judicially decreed. Their action is authorized under Article 2S9 of the new Civil Code which permits the investigation of the paternity of illegitimate (spurious) children under the circumstances specified in Articles 283 and 284 of the same Code. The Code nowhere specifies the period within which the action to investigate spurious paternity should be brought., It will be observed, however, that such action is similar to the action for compulsory recognition of natural children which, under Article 285 of the new Civil Code, may be brought only during the lifetime of the presumed parents, except (1) where the parent has died during the minority of the child, in which case the later may file the action within four years from the attainment of his majority, or (2) when a hitherto unknown document of recognition is discovered after the parent's death, in

which case the action must be commenced within four years from such discovery. Both are actions whereby the child may prove that the defendant is in fact the father or mother of the the plaintiff, notwithstanding the refusal of the parent to admit the generative link. The grounds upon which either action must be premised are the same, i. e., those specified in Articles 283 and 284 of the new Civil Code. And as a matter of fact, both spurious and natural children are the offspring of illicit relations and for this reason it is but just that the investigation of parental relation should take place during the lifetime of the putative parent; for only the parent is in a position to reveal the true facts surrounding the claimant's conception. Logically, therefore, the same time limitation, in the absence of an express legal provision to the contrary, should apply to both actions. Plaintiffs' action in the present case having been filed during the lifetime of the presumed parent, it follows that the lower court erred in dismissing it upon the ground of prescription.

It is true that plaintiffs were born before the effectivity of the new Civil Code and for this reason, it may be argued, their action for declaration or investigation of paternity should be governed by the laws then existing. Under the old Civil Code, however, except where the paternity appears in a final judgment rendered in a criminal or civil action, nor is shown by some indubitable document in which the filiation is expressly acknowledged, no complaint, the purpose of which may be to investigate, either directly or indirectly, the paternity of illegitimate children who do not have the legal status of natural children, could be admitted. (Art. 141 in connection with Art. 140.) It will thus be seen that the old Civil Code, unlike the new, allowed only a limited investigation of paternity of illegitimate children who are not natural. Indeed, considering the allegations of the complaint and the nature of the evidence already presented in the case at bar, we think plaintiffs' action could not have been admitted under the old Civil Code. There can hardly be any doubt, however, that it is now authorized by the new Civil Code, which took effect only in August, 1950. In this connection, the lower court erred in holding that plaintiffs' cause of action accrued from birth. The time for prescription for all kinds of action, when there is no special provision which ordains otherwise, shall be counted from the day they may be brought. (Art. 1969, old Civil Code; Art. 1150 of the new.) Stated differently, alright of action accrues only from the moment the right to commence an action comes into existence and prescription commences to run from that time.

Upon the other hand, Articles 283, 284 and 289 of the new Civil Code, concerning proof of illegitimate filiation under which the present action has been brought, are expressly given retroactive effect under paragraph 3, Article 2263 of the same Code.

Wherefore, the appealed decision is hereby reversed and the case remanded to the lower court for further proceedings. So ordered without costs.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

Reyes, J. B. L. J., concurs in the result.

RESOLUTION

January 28, 1961

GUTIERREZ DAVID, J.:

This is a motion filed by defendant-appellee for reconsideration of this Court's decision promulgated September 30, 1960, reversing the judgment of the Juvenile and Domestic Relations Court which dismissed plaintiffs' complaint for declaration or investigation of paternity on the ground of prescription.

We declared in the decision sought to be reconsidered that plaintiffs' action, authorized under Article 289 of the

new Civil Code which permits the investigation "of the paternity of illegitimate (spurious) children under the circumstances therein mentioned, is similar to the action for the recognition of natural children under Article 285 of the same Code, which provides that such action may be brought during the lifetime of the presumed parents unless the case falls within the exceptions therein specified allowing the filing of the action even after the death of the alleged parent. Owing to this similarity, we ruled that the same time limitation should apply to both actions, in the absence of express legal provision to the contrary. Movant now contends that the action to investigate spurious paternity must be brought within five years from the time the right of action accrues as provided in Article 1149 of the new Civil Code and not during the periods mentioned in Article 285 thereof. It is argued that said Article 285 is merely a "prerequisite or a condition precedent to the existence of a valid cause of action", which applies exclusively to natural children. We find the contention and the argument untenable. That Article 285 of the new Civil Code limits the action for recognition of natural children cannot seriously be doubted. It clearly and explicitly provides so, and what is more, this Court has, in no uncertain terms, already ruled that, under said Article 285, the action of the natural child prescribes if not taken during the lifetime of the parent, unless the case falls within the exceptions which allow the filing of such action even after the death of the alleged parents. (Gabrinao, et al. vs. Latorre, G. R. No. L-5825, February 27, 1953; Narag vs. Cecilio, supra, p. 299).

Movant also argues that if the provisions contained in Article 285 were really intended as a period of prescription, it should have been included in Chapter 3, Book 3, Title V of the Code. The argument loses sight of the fact that public policy is involved in actions for acknowledgment of natural children. Thus the Supreme Court of Spain, in its decision of May 24, 1956, declared:

"Considerando que igual criterio informa la sentencia de este Tribunal Supremo de 6 de mayo de 1926 al reconocer que las acciones que establece dicho artículo 137 para el reconocimiento de hijos naturales solo podran promoverse en vida de los padres, salvo los casos en que si al ocurrir el fallecimiento de estos fueran menores, quedaran facultados para deducirlas antes de que transcurrieran los cuatro años de haber llegado a la mayor edad, o cuando se basa en la aparición de un documento de reconocimiento expreso de paternidad dentro del termino de los seis meses siguientes al de su hallazgo, y que las restricciones impuestas en dicho texto legal condicionando su viabilidad y ejercicio a la inexcusable concurrencia de las expresadas circunstancias, son de caracter publico y ajenas en absoluto a la regla general y comun de la prescripción extintiva sometida a la voluntad de las partes, que en distinto Libro y Titulo regula el artículo 1964, con el que no guardan ninguna conexión."

It is apparently for this reason that a special period of prescription has been provided therefor. At any rate, Article 1148 in the same chapter, book and title of the Civil Code expressly provides that the limitations of actions mentioned in articles under said title are without prejudice to those specified in other parts of the Code.

Neither may it validly be maintained that the time limitation established by Article 285 for actions by natural children to compel their acknowledgment or recognition cannot apply to spurious children. We have considered this question in the decision sought to be reconsidered, and we find no reason either in law or in the arguments of movant appellee to modify our conclusions therein. Needless to say, the view we have taken of the case does not confer upon spurious children better rights than natural children contrary to the codal classification of children into legitimate, natural and spurious and the gradation of their rights in that order.

In support of his stand, movant also invokes the opinion of Mr. Justice J. B. L. Reyes in the case of Zuzuarregui vs. Zuzuarregui (102 Phil., 346). Far from supporting his case, the opinion cited rather serves to refute his contention that Article 285 does not apply to spurious children. Thus after expounding on the real meaning of the action for voluntary acknowledgment or recognition of a natural child and explaining why there is no substantial difference between such action and the action for declaration or investigation of paternity or maternity of illegitimate children not natural, the opinion cited concluded that "Art. 285 limits not only the so-called action for

recognition by natural children but also actions for investigation of paternity by illegitimate children".

Wherefore, the motion for reconsideration must be, as it is hereby, denied.

Bengzon, Labrador, Concepcion, Reyes, J. B. L., Barrera, and Dizon, JJ., concur.

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