

BENJAMIN NAVARRO, PLAINTIFF AND APPELLANT, VS. VICTORIANO BACALLA, DEFENDANT AND APPELLEE.

G.R. No. L-20607. October 14, 1965

Ponente: BENGZON, J.P., J.

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BENGZON, J.P., J.:

A minor of two months, Benjamin Navarro, represented by his mother, Ceferina S. Navarro, filed a complaint on January 23, 1962 in the Court of First Instance of Cebu against Victoriano Bacalla for compulsory recognition of natural child, support, damages and attorney's fees.

It was alleged inter alia that plaintiff is the son of defendant with Ceferina S. Navarro; that at the time of his conception there was no impediment for defendant and Ceferina S. Navarro to marry each other; that in spite of repeated demands the defendant has failed and refused to recognize plaintiff as his natural child and to support him. Plaintiff asked P80.00 a month for support, P5,000.00 for moral damages, and P1,000.00 for attorney's fees.

Answering the complaint on February 15, 1962, defendant Victoriano Bacalla denied that he is the father of plaintiff and averred that during the time of plaintiff's conception Ceferina S. Navarro had "five other persons" as paramours, and that one of them is plaintiff's father. As to his earnings, defendant admitted employment with a compensation of P4.00 a day.

On June 15, 1962, after trial, the Court of First Instance rendered a decision containing among its findings of fact the following:

"Ceferina Navarro and Victoriano Bacalla are neighbors in Calamba-Englis, Cebu City, sometime in the early part of 1961. The defendant had carnal intercourse with Ceferina Navarro. Both were single and there was no impediment to their marriage. Out of their illicit relation, the plaintiff was born on November 17, 1961."
(Record on Appeal, p. 7.).

Nonetheless, the trial court ruled that defendant cannot be compelled to acknowledge plaintiff as his natural child upon the reasoning that the evidence of paternity adduced was not of the kind stated in Article 283 of the New Civil Code as grounds for compulsory recognition of a natural child.

Accordingly, the court dismissed plaintiff's complaint, with costs.

Plaintiff moved to set aside the judgment on June 25, 1962, stating that the same was contrary to law. The court, in its order of July 7, 1962, denied the aforesaid motion. Whereupon plaintiff appealed directly to this Court to raise a question purely of law.

The sole issue presented in this appeal hinges on the interpretation of paragraph 4 of Article 283 of the New Civil Code, which provides:

"ART. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

"(1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of

the conception;

"(2) When the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or of his family;

"(3) When the child was conceived during the time when the mother cohabited with the supposed father;

"(4) When the child has in his favor any evidence or proof that the defendant is his father."

Appellant contends that by "any evidence or proof" the law means anything that suffices to establish the paternity of the child, so that once it is found as a fact, as in this case, that plaintiff is the child of defendant, compulsory recognition is in order.

Appellee, on the other hand, would rely on the court a quo's interpretation that paragraph 4 of Article 283 of the New Civil Code refers to evidence to establish pedigree as provided under Sections 30, 31 and 32 of Rule 123 (now Sections 32, 33 and 34, Rule 130) of the Rules of Court.

At the outset it is well to emphasize that the court a quo's findings of fact cannot be disturbed inasmuch as the defendant did not appeal and the plaintiff brought this case to us on a question purely of law. The point at issue, therefore, is not whether defendant is the father of plaintiff. Rather, it is whether the evidence by which such fact has been proved is such as to fall under paragraph 4 of Article 283, New Civil Code, thus constituting a ground for compulsory recognition.

Specifically, as the record shows, the paternity of defendant herein was proved by the testimony of plaintiff's mother that "he (defendant) impregnated me" and that at the time, before, and during plaintiff's conception she had no affair with any other man aside from the defendant (Tsn., Limbaga, p. 4.).

We agree with appellant that the foregoing evidence is included in the broad scope of paragraph 4, Article 283, New Civil Code. It is true Sections 30, 31, and 32 of Rule 123 of the Rules of Court adverted to by the court a quo lay down means of proving relationship or pedigree. Such provisions of the Rules, however, are set forth by way of exceptions to the hearsay rule. They are, in other words, means of proving relationship through hearsay evidence. The Rules by no means preclude the proof of relationship by testimonial evidence based on personal knowledge, that is, under Section 27 of Rule 123 (now Section 30 of Rule 130).

An analogy will better illustrate the point. Another exception to the hearsay rule is dying declaration. The Rules of Court provides: "The declaration of a dying person, made under a consciousness of an impending death, may be received in a criminal case wherein his death is the subject of inquiry, as evidence of the cause and surrounding circumstances of such death." (Sec; 28, Rule 123, now Sec. 31, Rule 130.). It is undeniable, however, that testimony which is based on personal knowledge, such as that of an eyewitness, may also prove "the cause and surrounding circumstances of such death". From the fact, therefore, that the Rules allow relationship to be proved by hearsay evidence such as act or declaration about pedigree,[1] family reputation or tradition regarding pedigree,[2] common reputation,[3] it does not follow that evidence based on personal knowledge cannot prove the same.

We are not ruling whether the mere testimony of the Mother, without more, is sufficient to prove the paternity of the child. Neither are we ruling on the scope of Art. 280 New Civil Code which enjoins the mother in making a separate and voluntary recognition of a child from revealing the name of the father, specifically, as to whether the mother's testimony identifying the father is admissible in an action to compel recognition if and when a timely objection to such oral evidence is interposed. In the present case such testimony was admitted during the trial without objection and defendant, not having appealed, has accepted the finding of fact, based on such testimony, that he is the father of the child. What we are here deciding, therefore, is that once the fact of paternity of a natural

child is found to have been established by evidence and is no longer disputed by the father, he should be compelled to recognize the child as his own.

We are not unmindful of pertinent observations by commentators that because of the broad language of Article 283 of the New Civil Code it may pave the way for abuses or even blackmail suits.[4] Such provision was adopted by Congress in the New Civil Code to liberalize the rule on investigation of paternity, following modern trends, thereby allowing what was formerly prohibited under the Old Civil Code, to do away with grievous injustice.[5] Such liberality is to some extent compensated by the fact that the defendant may defend himself likewise by any evidence excluding paternity, including immorality of the mother during conception, or negative blood tests.[6] As far as the courts are concerned the safeguard lies in the proper and timely application of the substantial and procedural laws and the utmost scrutiny of the evidence in the process of reaching findings of fact so as to arrive at a finding of paternity only upon satisfying itself, even to the point of moral certainty, that, denials notwithstanding, plaintiff is defendant's child.

Premises Considered, the judgment appealed from is set aside and a new judgment is entered ordering defendant to recognize plaintiff as his natural child and to pay him support of P40.00 a month; P1,000.00 moral damages; and P500.00 attorney's fees, without costs. So Ordered.

Bengzon, C. J., Bautista Angelo, Concepcion, Reyes, J. B. L., Dizon, Regala, Makalintal, and Zaldivar, JJ., concur.

[1] Section 30, Rule 123, Old Rules of Court.

[2] Section 31, Rule 123, Old Rules of Court.

[3] Section 32, Rule 123, Old Rules of Court.

[4] See I TOLENTINO, CIVIL CODE OF THE PHILIPPINES 565 (1960) quoting Mr. Justice J.B.L. Reyes.

[5] Report of the Code Commission, p.88.

[6] Vol. I, Civil Law, J.B.L. Reyes and R.C. Puno, p.271.

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