

LIGAYA GAPUSAN-CHUA, PETITIONER, VS. COURT OF APPEALS AND PROSPERO PARCON, RESPONDENTS.

G.R. NO. L-46746. March 15, 1990

Ponente: NARVASA, J.

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NARVASA, J.:

Felisa Gapusan Parcon died intestate and without legitimate issue on April 6, 1966 in Bacolod City. Neither her surviving spouse, Prospero Parcon, nor her other known relatives -- three (3) sisters and a nephew -- made any move to settle her estate judicially.

It was Ligaya Gapusan-Chua, claiming to be an acknowledged natural daughter of Felisa Gapusan Parcon, who instituted judicial proceedings for the settlement of the latter's estate. About a year and eight months after Felisa's demise, or on January 15, 1968, Ligaya filed with the Court of First Instance of Negros Occidental a petition for the settlement of the estate and for issuance of letters of administration in her favor.[1] She also sought her designation as Special Administratrix pending her appointment as regular administratrix.[2]

By Order dated January 16, 1968, the Court appointed Ligaya Special Administratrix of Felisa Parcon's estate.

On April 22, 1968, Prospero Parcon, Felisa Parcon's surviving husband, filed a motion for reconsideration of the Order of January 16, 1968.[3] He denied that Ligaya was an acknowledged natural child of his deceased wife, and applied for his own appointment as administrator of his wife's estate.[4]

Hearings were had on the issue of Ligaya's claimed filiation. Ligaya presented, among other proofs,[5] the following documents:

- a) Felisa Parcon's sworn statement of assets and liabilities wherein Ligaya is named and described as the daughter of Felisa (Exh. 4);
- b) Felisa Parcon's application for GSIS life insurance in which Ligaya is set out as her (Felisa's) daughter (Exh. 3);
- c) Check No. 44046 of the Government Service Insurance System in the sum of P505.50 paid to her (Ligaya) as her share in the death benefits due the heirs of Felisa Parcon (Exh. 2); and
- d) a family photograph, showing Ligaya beside the deceased (Exh. 1).

Prospero Parcon, on the other hand, sought to demonstrate that Ligaya's exhibits did not constitute conclusive proof of her claimed status of acknowledged natural child, for the reason that:

- a) another document, Felisa's application for membership in Negros Occidental Teachers' Federation (NOTF), merely named Ligaya as her "adopted daughter;"
- b) in the distribution of death benefits pursuant to the decedent's GSIS insurance policy, supra, Ligaya was allocated only P500.00 whereas Prospero received P1,000.00; and

c) Mrs. Leticia Papasin (Felisa's sister) and Vice-Mayor Solomon Mendoza travelled from afar to affirm before the Probate Court on the witness stand that Ligaya was not the daughter of Felisa,[6] Mrs. Papasin's testimony being that in 1942 an unknown "drifter" had sold Ligaya, then an infant, to Felisa.

The Probate Court found for Ligaya. Its Order dated April 16, 1969 disposed as follows:[7]

"WHEREFORE, it is hereby declared that petitioner is the acknowledged natural child of the late Felisa Gapusan, and for being the next of kin of the deceased (Rule 78, Rules of Court), she is hereby appointed regular administratrix of the properties of the above-mentioned deceased with the same bond given by her as special administratrix, with costs against the oppositors."

On appeal seasonably perfected, the Court of Appeals (Fourth Division), in a Decision dated April 13, 1977, (1) set aside the Probate Court's Orders of January 16, 1968 (appointing Ligaya Special Administratrix) and of April 16, 1969 (declaring her the decedent's acknowledged natural child and appointing her regular administratrix), and (2) appointed Prospero Parcon regular administrator of his wife's estate. In that Court's view, the evidence at best showed merely that Ligaya had been treated as a daughter by Felisa, but that this did "not constitute acknowledgement but "only a ground to compel recognition;" and that Ligaya had failed to establish that she had been acknowledged by Felisa in accordance with Article 278 of the Civil Code (Article 131 of the Civil Code of 1889). Appeal has in turn been taken from this judgment to this Court by Ligaya Gapusan-Chua.

Here, Ligaya insists that the evidence submitted by her does indeed sufficiently establish her status as the acknowledged natural child of Felisa Parcon, and that her appointment as regular administratrix is justified by law and jurisprudence.

More particularly, she contends that the sworn statement of assets and liabilities, a public document submitted by the decedent pursuant to a legal requirement therefor, and the latter's application for life insurance were in law indubitable recognition by her mother of her status as an acknowledged natural child, voluntarily made, and were adequate foundation for a judicial declaration of her status as heir. These statements, she alleges, were "authentic writings" in contemplation of Article 278 of the Civil Code:

ART. 278. Recognition shall be made in the record of birth, a will, a statement before a court of record, or in any authentic writing."

These, she contends, together with her treatment as a daughter by Felisa -- a fact found to have been established by the evidence by both the Trial Court and the Court of Appeals -- eliminate all doubt about the juridical verity of her recognition as a natural child.

Prospero Parcon disagrees. He argues that, as ruled by the Court of Appeals, the statements designating Ligaya as Felisa's daughter merely furnished ground for Ligaya to compel recognition by action which, however, should have been brought during the lifetime of the putative parent in accordance with Article 285 of the Civil Code, reading as follows:

ART. 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

- (1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority;
- (2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document.

Since, Parcon continues, no such action was instituted prior to the death of Felisa, proof of the "authentic document" (sworn statement of assets and liabilities) in the proceedings for the settlement of the latter's estate was inefficacious as basis for a declaration of filiation or heirship.

The issue thus presented is whether or not Felisa's sworn statement of assets and liabilities and her application for insurance are "authentic writings" which effectively operated as a recognition of Ligaya Gapusan-Chua as her natural child, even if no action was brought by the latter to compel the former, during her lifetime, to recognize her as such.

Recognition of natural children may be voluntary or compulsory.[8]

Voluntary recognition, it has been said, "is an admission of the fact of paternity or maternity by the presumed parent, expressed in the form prescribed by the Civil Code. Its essence lies in the avowal of the parent that the child is his; the formality is added to make the admission incontestable, in view of its consequences." [9] The form is prescribed by Article 278 of the Civil Code, earlier adverted to; it provides that a voluntary recognition "shall be made in the record of birth, a will, a statement before a court of record, or in any authentic writing." [10]

Compulsory recognition is sometimes also called judicial recognition, to distinguish it from that which is a purely voluntary act of the parent. [11] It is recognition decreed by final judgment of a competent court. It is governed by Articles 283 and 284, setting forth the cases in which the father or mother, respectively, is obliged to recognize a natural child, and Article 285, providing that generally, the action for recognition, of natural children may be brought only during the lifetime of the presumed parents. [12]

The matter of whether or not judicial approval is needful for the efficacy of voluntary recognition is dealt with in Article 281 of the Civil Code. [13]

ART. 281. A child who is of age cannot be recognized without his consent.

When the recognition of a minor does not take place in a record of birth or in a will, judicial approval shall be necessary.

A minor can in any case impugn the recognition within four years following the attainment of his majority.

In other words, judicial approval is not needed if a recognition is voluntarily made -

- 1) of a person who is of age, only his consent being necessary; or
- 2) of a minor whose acknowledgment is effected in a record of birth or in a will.

On the other hand, judicial approval is needful if the recognition of the minor is effected, not through a record of birth or in a will but through a statement in a court of record or an authentic document. In any case the individual recognized can impugn the recognition within four years following the attainment of his majority. [14]

Now, there are no less than three (3) writings submitted in evidence in this case in which Felisa Gapusan Parcon describes Ligaya Gapusan-Chua as her daughter, viz.:

- a) Felisa's sworn statement of assets and liabilities, in which she names and describes Ligaya as her daughter (Exh. 4);
- b) her application for GSIS life insurance in which she again describes Ligaya as her daughter (Exh. 3); and
- c) her application for membership in the Negros Occidental Teachers' Federation, where she names Ligaya as her "adopted daughter" (Exh. 1).

Each of these writings is undoubtedly an "authentic writing" within the contemplation of Article 278. "An 'authentic writing' for purposes of voluntary recognition * * (is) understood as a genuine or indubitable writing of the father" (or mother), including "a public instrument (one acknowledged before a notary public or other competent official with the formalities required by law),[15] and, of course, a public or official document in accordance with Section 20, Rule 132 of the Rules of Court. The sworn statement of assets and liabilities filed by Felisa Parcon is a public document, having been executed and submitted pursuant to a requirement of the law. So it has been held by this Court.[16] The other two writings above mentioned are, to be sure, not public documents, but this is of no moment; neither of them has to be a public document in order to be categorized as an "authentic writing." It is enough that they are the genuine or indubitable writings of Felisa Gapusan Parcon. That in one of the writings, Felisa's application for membership in the Negros Occidental Teachers' Federation, Felisa describes Ligaya as her "adopted" daughter is also inconsequential. It may be explained by her reluctance to confess publicly to her colleagues in the teaching profession that she had borne a child out of wedlock. It is in any case a categorical avowal by Felisa that Ligaya is indeed her daughter, an admission entirely consistent with the two other authentic writings executed by her in which she acknowledges Ligaya to be her daughter without qualification. Moreover, if these three (3) writings are considered in conjunction with the undisputed fact that Ligaya had been continuously treated by Felisa as her daughter, the proposition that Ligaya was indeed Felisa's daughter becomes well nigh conclusive.

It is admitted on all sides that no judicial action or proceeding was ever brought during the lifetime of Felisa to compel her to recognize Ligaya as her daughter. It is also evident that Ligaya's recognition as Felisa's daughter was not made in a record of birth or a will, a circumstance which would have made judicial approval unnecessary, only her own consent to the recognition being required. The acknowledgment was made in authentic writings, and hence, conformably with the legal provisions above cited, judicial approval thereof was needed if the writings had been executed during Ligaya's minority.[17] In other words, the question of whether or not the absence of judicial approval negated the effect of the writings as a mode of recognition of Ligaya is dependent upon the latter's age at the time the writings were made.

The point need not be belabored, however. For whether Ligaya were still a minor or already of age at the time of her recognition in the authentic writings mentioned, that circumstance would be immaterial in the light of the attendant facts.

In the first place, the consent required by Article 281 of a person of age who has been voluntarily recognized may be given expressly or tacitly.[18] Assuming then that Ligaya was of age at the time of her voluntary recognition, the evidence shows that she has in fact consented thereto. Her consent to her recognition is not only implicit from her failure to impugn it at any time before her mother's death, but is made clearly manifest and conclusive by her assertion of that recognition in the judicial proceeding for the settlement of her mother's estate as basis for her rights thereto. Assuming on the other hand, that she was a minor at the time of her recognition, and therefore judicial approval of the recognition was necessary, the absence thereof was cured by her ratification of that recognition, after having reached the age of majority, by her initiation of the proceedings for the settlement of her deceased mother's estate on the claim precisely that she was the decedent's acknowledged natural daughter.[19] The requirement of judicial approval imposed by Article 281 is clearly intended for the benefit of the minor. "The lack of judicial approval can not impede the effectivity of the acknowledgment made. The judicial approval is for the protection of the minor against any acknowledgment made to his prejudice." [20] "Therefore, the lack or insufficiency of such approval is NOT a defect available to the recognizing parent but one which the minor may raise or waive. If after reaching majority the minor consents to the acknowledgment, the lack of judicial approval should make no difference. Implied consent to the acknowledgment may be shown (e.g.,) by such acts as keeping, even after reaching the age of majority, the acknowledgment papers and the use of the parent's surname." [21]

Upon the foregoing facts and considerations, Ligaya Gapusan Chua must be held to be a voluntarily acknowledged natural child of Felisa Gapusan Parcon. She is therefore entitled, in accordance with Article 282 of the Civil Code, to bear her mother's surname, and to receive the hereditary portion accorded to her by the Code.

WHEREFORE, the challenged decision of the Court of Appeals (Fourth Division) dated April 13, 1977 is hereby REVERSED AND SET ASIDE, and the Orders of the Probate Court dated January 16, 1968 -- appointing Ligaya Gapusan-Chua Special Administratrix -- and of April 16, 1969 -- declaring said Ligaya Gapusan-Chua the decedent's acknowledged natural child and appointing her regular administratrix -- are REINSTATED AND HEREBY AFFIRMED, without pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Docketed as Sp. Proceedings No. 8427 of Branch 5 of said Court

[2] Rollo, p. 10

[3] The decedent's sisters also opposed Ligaya's petition.

[4] Id., pp. 10-11

[5] Her own testimony regarding Felisa's revelations that Ligaya was her natural child, her father being Gaudioso de Monteverde; and that of Rosario Edar, regarding the statement of de Monteverde that Ligaya was his daughter by Felisa Gapusan. Rollo, pp. 24-25

[6] Id., pp. 12-13

[7] Id., p. 28

[8] SEE, e.g., *Castro v. C.A., et al.*, G.R. Nos. 50974-75, May 31, 1989, in which it is also pointed out that under the Family Code (Exec. Order No. 209, July 6, 1987, as amended by Exec. Order No. 227, July 17, 1987), there are only two classes of children, legitimate and illegitimate, and "the fine distinctions among various types of illegitimate children have been eliminated" (Title VI) and that illegitimate children may establish their filiation "in the same way and on the same evidence as legitimate children" (ART. 175).

[9] Caguioa, *Comments and Cases on Civil Law*, 3rd ed. (1967), Vol. 1, p. 375

[10] The Family Code, supra -- which has "retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws" (ART. 256) -- provides that the filiation of legitimate (or illegitimate) children may be established by (a) the record of birth appearing in the civil register or a final judgment, or (2) an admission of legitimate filiation in a public document or a private handwritten instrument signed by the parent concerned; and in the absence of the foregoing evidence, the legitimate filiation may be proved by (a) the open and continuous possession of the status of a legitimate child; or (b) any other means allowed by the Rules of Court and special laws (ART. 172).

[11] Tolentino, *Civil Code, Commentaries and Jurisprudence*, 1983 ed., Vol. 1, p. 577, citing 5 Sanchez Roman 1033

[12] ART. 173 of the Family Code declares that the action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In the cases, the heirs shall have a period of five years within which to institute the action. The action

already commenced by the child shall survive notwithstanding the death of either or both of the parties.

[13] Not reproduced in the Family Code

[14] There does not appear to be any provision in the Family Code governing impugnation by the recognized child of his recognition. What the Code does deal with is an action to impugn by the husband or the heirs of the person recognizing (Arts. 170, 171).

[15] Tolentino, op. cit., p. 585, citing Pareja, et al. v. Pareja, et al., 95 Phil. 167; Lim v. C.A., 65 SCRA 160, 161; Padilla, Civil Law, 1975 ed., Vol. 1, pp. 96-101, citing Gustilo v. Gustilo, 14 SCRA 149, Varela v. Villanueva, et al., 95 Phil. 248, and decisions of the Court of Appeals

[16] Pareja v. Pareja, 95 Phil. 167, cited in Caguioa, op. cit., p. 379

[17] ART. 281, Civil Code

[18] Donado v. Donado, 55 Phil. 861, cited in Caguioa, op. cit., p. 382

[19] Apacible Aguilar v. Castillo, 74 Phil. 589, cited in Paras, Civil Code of the Philippines Annotated, 11th ed. (1984), Vol. 1, pp. 676-677, and in Caguioa, op. cit., p. 382

[20] Caguioa, op. cit., p. 385, citing Guariña v. Guariña, L-15707, Oct. 31, 1960 and Apacible v. Castillo, 74 Phil. 589

[21] Paras, op. cit., p. 677, citing Javelona v. Monteclaro, 74 Phil. 393; Apacible v. Castillo, 74 Phil. 589, supra; Guariña, et al. v. Guariña-Casas, 109 Phil. 1111

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