

BELEN CRUZ, PLAINTIFF-APPELLEE, VS. EXEQUIEL CASTILLO, DEFENDANT-APPELLANT.

G.R. No. L-27232. June 30, 1969

Ponente: CAPISTRANO, J.

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CAPISTRANO, J.:

Appeal from the judgment of the Court of First Instance of Nueva Ecija in Civil Case No. 3946.

Plaintiff's poorly drafted complaint, liberally construed so as to do substantial justice, stated a cause of action by the mother representing her recognized natural child for compulsory recognition and support of the child by the defendant father. The acknowledging parent who exercises parental authority over the acknowledged natural child (Article 311, Civil Code) has the duty to represent the child in all actions which may redound to the child's benefit (Article 316[1]). The reason for the law is stated by a member of the Code Commission that drafted the New Civil Code in his comment on Article 316 thus:

"The duty of the parents to represent their unemancipated children in all actions which may redound to their benefit (which had been held impliedly repealed by Section 553, Act 190 in *Palet vs. Aldecoa*, 15 Phil. 232) was revived by the Code Commission in order to maintain the principle of family solidarity consecrated in the new Code." (Capistrano, Civil Code of the Phil. with Comments and Annotations, Vol. I, pp. 297-298.)

Defendant's answer denied paternity of the child and liability to support said child.

After trial, the lower court rendered its decision on July 27, 1964 containing the following findings:

"The evidence for the plaintiff shows that on October 4 up to November 13, 1959, the plaintiff lived as housemaid in the house of Anselma de Leon, mother of the defendant, in the City of Cabanatuan wherein the defendant also lived; that at that time the plaintiff and the defendant were both single; that on October 5, 1959, the defendant embraced her and by force and threat she surrendered her womanhood because he would kill her if she did not accede to the wishes of the defendant; that she had sexual intercourse with the defendant on October 5, 12, 21, and 23, 1959; that on July 11, 1960 she gave birth to a child which was baptized Anselma Armi Castillo; she gave that name to her child because that was the name of the baby's grand-mother, Anselma de Leon, who is the mother of the defendant; that when Anselma de Leon, the mother of the defendant, noticed that she was conceiving, she drove the plaintiff away; that she was asked at first to go to the market 'to sell' (to attend to the store of defendant's mother) and during her absence one of the sons of the mother of the defendant was ordered to bring all her belongings to the house of the brother of the defendant's mother; that Exhibit A is the baptismal certificate of the child Anselma Armi Castillo wherein it appears that Edgardo Castillo, who is the brother of the defendant, stood as one of the sponsors, that she demanded from the defendant support for her child in the amount of P40.00 a month but the defendant refused to give support to her child; that to maintain her child she used to sell assorted goods in the market; that the defendant is now married and they own a big store in the public market with a car of their own and a television set; that she contracted her lawyer for P300.00. * * *."

The trial court, for the reasons stated in its decision, gave credence to the plaintiff's evidence.

Judgment was rendered as follows:

"WHEREFORE, the Court hereby renders its decision:

- (a) Declaring Anselma Armi Castillo the natural child of defendant Exequiel Castillo;
- (b) Ordering the defendant to give sup-port to the child Anselma Armi Castillo in the sum of P30.00 per month from the date of the filing of the complaint;
- (c) Further ordering the defendant to pay to the plaintiff the sum of P300.00 as attorney's fees and to pay the costs of the suit."

Defendant appealed from the judgment to the Court of Appeals. Said court, however, certified the case to this Court on the ground that it involves only questions of law.

In appellant's brief, it is admitted that Anselma Armi Castillo is appellant's natural child. Appellant, however, contends that the lower court erred in ordering him to give support to the child from date of the filing of the complaint. The contention is tenable insofar as the giving of the support was to begin from the time of the filing of the complaint. The fact of the child being natural is distinct from the fact of the child's recognition. A natural child not recognized by the father has no rights whatever, not even to support. This doctrine, laid down as early as fifty-one years ago in *Concepcion vs. Untaran*, 38 Phil., 736, has been followed in later decisions. It is the fact of recognition, voluntary (by any of the four means specified in Article 278, Civil Code) or compulsory (in any of the cases mentioned in Article 283), that gives the natural child the rights of support and succession. In the case at bar, the defendant father not having voluntarily recognized his natural child by any of the means specified in Article 278 of the Civil Code, he had no obligation to support said child until after judgment was rendered by the lower court declaring that he was the father of the child. The distinct effects of voluntary recognition and compulsory recognition may be further clarified with examples.

(1) The birth certificate giving the names of the unmarried father and mother of the newly born child was sworn to by both parents (Sec. 5, Act No. 3753). Subsequently, the father refused to support the child. In such case an action for support (not for recognition) of the child maybe brought against the father founded upon his voluntary act of having recognized the child in the record of birth.

(2) Suppose in the first example, the father who has refused to support his natural child did not recognize the child in the record of birth. In such case the child is not entitled to support, but a combined action for compulsory recognition and for support may be brought against the father, and the court may render judgment ordering the defendant father to recognize the child as his natural child and to give support to the child from the date of the judgment. The support should commence from the date of the judgment because it is the judgment compelling recognition that gives rights to the child.

Appellant contends that the lower court erred in declaring that he is the father of the natural child on the ground of physical resemblance between him and the child. The contention is unmeritorious. The finding of close resemblance between the child and the defendant was a minor one. It was not even mentioned in the trial court's conclusion as follows:

"After a careful consideration of the evidence presented in this case, the Court is convinced that the defendant really had sexual relations with the plaintiff on October 5, 12, 21, and 23, 1959, at first with force and intimidation but the subsequent sexual relations were done without force. As a consequence thereof, the plaintiff conceived and gave birth to a baby girl on July 11, 1960 who was named Anselma Armi Castillo. At that time, the plaintiff and the defendant were both single and had no impediment to marry each other."

In addition, counsel for appellant admitted in appellant's brief that appellant is the father of Anselma Armi

Castillo. In the case of Navarro vs. Bacalla, G.R. No. L-20607, October 14, 1965, this Court said 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."

The appealed judgment merely declared Anselma Armi Castillo the natural child of defendant Exequiel Castillo. It should be modified by ordering said defendant to recognize the child as his natural child and to give the child support in the sum of P100.00 per month, considering that the child is now of school age and that the defendant father has the means, from July 27, 1964, the date the lower court's judgment was promulgated.

PREMISES CONSIDERED, the appealed judgment is modified so as to read as follows:

(a) Declaring Anselma Armi Castillo the natural child of defendant-appellant Exequiel Castillo, and ordering said appellant to recognize said child as his natural child and to give her support in the amount of P100.00 per month from July 27, 1964; and

(b) Ordering defendant-appellant to pay plaintiff-appellee the sum of P500.00 as counsel fee.

Costs against defendant-appellant also in this instance.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Teehankee, and Barredo, JJ., concur.

Dizon, J., did not take part.

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