IN THE MATTER OF THE PETITION FOR ADOPTION OF DEXTEL L. CATAP AND MINORS CATHY LYN CATAP GALANG, CAYSE LYN CATAP GALANG, EDRALINE CATAP MANICAG, ROSARIO G. CATAP AND ULPIANO B. ...

Ponente: REYES, JR., J., J.

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REYES, JR., J., J.:

This is an appeal from the October 12, 1999 Decision (Rollo, pp. 51-54) of the Regional Trial Court of Angeles City, Branch LVI, in SP. Proc. No. 5550, the dispositive portion of which reads as follows:

> "WHEREFORE, for failure of the petitioners to substantiate the petition that they have all the qualifications and none of the disqualifications to adopt the subject minors, the above-entitled petition is hereby dismissed.
>
> SO ORDERED" (Rollo, p. 52).

On September 29, 1998, herein petitioners-appellants spouses Ulpiano B. Catap and Rosario Guio-Catap filed a Petition for Adoption (Records, pp. 2-5) of Dexter L. Catap, 18 years old; Edraline C. Manicag, 14 years old; Cayse Lyn C. Galang, 8 years old and; Cathy Lyn C. Galang, 8 years old (See: Certificate of Live Birth, Records, pp. 7-10). The minors sought to be adopted are the grandchildren of petitioners-appellants.

Petitioners-appellants Ulpiano B. Catap and Rosario Guiao-Catap, 69 years old and 64 years old, respectively, were married on September 24, 1952 (See: Certificate of Marriage, Records, p. 25). Out of their union, eleven children were born, two of them are now deceased. All of the nine living children, including the two who were living in the United States, gave their consent to the adoption (Records, pp. 20, 26-28). Two of the adoptees, Dexter Catap and Edraline Catap-Manicag, being 18 and 14 years of age, respectively, at the time of adoption, gave their written consent to the adoption (Records, pp. 22 and 18). The natural parents of Cathy Lyn, Cayse Lyn and Edraline also gave their consent to the adoption (Records, pp.16-17).

During trial, petitioners-appellants presented evidence consisting of the requisite publication (Records, p. 8) and the notice of hearing (Records, pp. 31-35). Petitioners-appellants likewise proved that they own real properties covered by TCT Nos. 209895-R, 367297-R and 94810-R (Records, pp. 9-11), that they have cash deposit amounting to P240,718.63 (Records, p. 12) and that they have an annual income of approximately P200,000.00. Petitioners-appellants also alleged that they have not committed any crime nor have any derogatory record and that they are physically and mentally fit to take care of the adopted minors.

Petitioners-appellants also presented as their evidence the Adoption Home Study Report (Records, pp. 31-35) and the Adoption Child Study Report (Records, pp. 36-40) prepared by DSWD Officer II, RTC, Angeles City, Sophia Castro. The Adoption Home Study Report revealed petitioners-appellants' physical, mental, emotional and financial capability to adopt the subject minors. The Adoption Child Study Report, on the other hand, showed how the minors depended on petitioners-appellants for their essential needs and support (considering that their natural parents could not afford to give them a better life) and how they grew up to be closer and attached to

petitioners-appellants. On the basis of the study conducted, DSWD Officer Castro recommended the granting of the petition for adoption for the minor's best welfare and interest.

In a Decision dated October 12, 1999, the RTC denied the petition for adoption for failure of the petitioners-appellants to substantiate their petition that they have all the qualifications and none of the disqualifications to adopt the subject minors. The RTC basically ruled as follows:

> "X x x x x x x x x
>
> Thus, aside from the bare testimonies of the petitioners that they are earning P200,000.00 annually, that they are physically and mentally fit to adopt and that they have not been convicted of any crime involving moral turpitude, no other evidence was adduced to support the same such a income tax return, medical and mental; certificate and clearances from the different government agencies.
>
> Then, too, the advanced age of the petitioners should also be considered. The age gap of the petitioners being 69 and 64 years old with 11 children already, is too wide and to the mind of the Court might no longer be emotionally and psychologically capable of caring for the adoptees who are 18, 14 and 8 years old.
>
> Moreover, as testified by the petitioners, their children Jaime and Agnes who are now residents of the United States had filed petition with the U.S. Government to extend immigrant status to petitioners and their ulterior motive in adopting the minors is they will petition them as soon as they become American citizens (as quoted). X x x" (Rollo, pp. 53-54).

Dissatisfied with the foregoing decision of the RTC, petitioners-appellants filed an appeal with this Court, raising the following errors to have been committed by the RTC, to wit:

> First Error: Dismissing the petition for alleged failure of the petitioners to substantiate the petition that they have all the qualifications and none of the disqualifications to adopt the subject minors;
>
> Second Error. In failing to appreciate the preponderance of evidence in favor of petitioners-appellants that they have all the qualifications and none of the disqualifications provided by law in adopting children. In fact the Report and Recommendation of the Department of Social Welfare and Development (DSWD) was never considered and mentioned by the court a quo in Its Decision.
>
> Third Error. In holding that the ulterior motive of the petitioners-appellants in adopting the minors is that they will petition them as soon as they became American citizens (Rollo, pp. 34, 35 & 39).

The main issue to be resolved in the instant case is "WHETHER OR NOT THE RTC ERRED IN DENYING PETITIONERS-APPELLANTS' PETITION FOR ADOPTION".

After careful perusal of the records of the case, this Court concurs with the finding of the RTC that there was no compelling need to grant the instant petition for adoption.

This Court noted the fact that herein petitioners-appellants have amply demonstrated their willingness and capability to adopt. Petitioners-appellants showed the court the love, devotion, attachment and closeness they had with the minor children they sought to adopt. They also showed how the minors love them and treated them with respect just like real parents as well as the minors' express desires to be adopted. They also made certain that the future of the minor children is taken cared of. They also showed how they provided for all the basic needs of the children, from food, shelter, clothing and education and how they defrayed all the costs and expenses of the minors, which the natural parents, could not afford.

However, we found the aforementioned considerations insufficient to defeat the parental authority vested by law to the natural parents of the subject minors. In Santos, Sr. vs. Court of Appeals, 242 SCRA 407, 411 (1995), the

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Supreme Court, expounding on the concept of parental authority given to natural parents, held:

> "Parental authority or patria potestas in Roman Law is the juridical institution whereby parents rightfully assume control and protection of their unemancipated children to the extent required by the latter's needs. It is a mass of rights and obligations which the law grants to parents for the purpose of the children's physical preservation and development, as well as the cultivation of their intellect and the education of their heart and senses".

Thus, the law vests on the father and mother joint parental authority over the persons of their common children. In case of absence or death of either parent, the parent present shall continue exercising parental authority. Only in case of the parents' death, absence or unsuitability may substitute parental authority be exercised by the surviving grandfather (Santos, Sr. vs. Court of Appeals, 242 SCRA 407, 413 [1995]).

In the instant case, this Court found no reason to divest the biological parents of the minors of parental authority as well as its concomitant right over their respective children especially since there was no evidence presented sufficient to establish the unsuitability and unfitness of herein minors' biological parents.

It appears however that the primordial reason why the natural parents of minor (Cathy Lyn Galang, Casey Lyn Galang and Edraline Manicag) consented to the adoption is because of financial consideration. It was disclosed that the parents of the said minors were not earning adequately to support their children. The family of the twins Cathy Lyn and Casey Lyn derived their source of livelihood from their father's earning as tricycle driver. The family of Edraline, on the other hand, derived their income from her father who is a tricycle driver and her mother who is a dealer of Tupperware (Records, pp. 37-38)

But inadequacy of income alone is not sufficient to consider a person to be unfit and unsuitable to carry on parental authority over his child. The Supreme Court has held that parental authority cannot be entrusted to a person simply because he could give the child a larger measure of material comfort than his natural parents (Cang vs. Court of Appeals, 296 SCRA 128, 152 [1998]). It is enough that the natural parents are earning a decent living and are able to support their children according to their means. Indeed, it would be against the spirit of the law if financial consideration were to be the paramount consideration in deciding whether to deprive a person of parental authority over his children. There should be a holistic approach to the matter, taking into account the physical, emotional, psychological, mental, social and spiritual needs of the child (Cang vs. Court of Appeals, 296 SCRA 128, 153 [2005]).

It bears repeating that in ascertaining the welfare and best interest of the child, all pertinent considerations must likewise be considered. Thus:

> "Courts are mandated to take into account all relevant circumstances that would have a bearing on the children's well-being and development. Aside from the material resources and the moral and social situations of each parent, other factors may also be considered to ascertain which one has the capability to attend to the physical, educational, social and moral welfare of the children. Among these factors are the previous care and devotion shown by each of the parents; their religious background, moral uprightness, home environment and time availability, as well as the children's emotional and educational needs (Gualberto vs. Gualberto, 461 SCRA 450, 475-476 [2005]).

As correctly held by the RTC, the advanced age of petitioners-appellants should likewise be considered. While they may be available now, time might hinder them to carry on their objective of looking after the best interest and welfare of their grandchildren.

Of equal significance is the case of Dexter Catap, one of the children sought to be adopted. It was disclosed that Dexter's father was stabbed to death when he was young and his mother married another man. Thus, he went to

live with his grandparents (petitioners-appellants) who took care of all his needs.

However, an examination of the records would show that petitioners-appellants failed to show the required written consent of Dexter's natural mother. As can be culled from the records, the RTC denied admission of Exhibit S which is purportedly the written consent of Dexter's natural mother, Bernadette Catap (See: Order dated July 21, 1999, Records, p. 34). Apparently, the said document was not duly signed by Bernadette Catap. Hence, the petition for the adoption of Dexter Catap violates the clear mandate of Article III, Section 9 of Republic Act No. 8552 otherwise known as the Domestic Adoption Act of 1998 which provides:

> "Sec. 9. Whose Consent is Necessary to the Adoption. - After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:
>
> - The adoptee, if ten (10) years of age or over;
>
> - The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentality which has legal custody of the child;
>
> - The legitimate and adopted sons/daughters, ten (10) years of age or over, of the adopter(s) and adoptee, if any;
>
> - The illegitimate sons/daughters, ten (10) years of age or over, of the adopter if living with said adopter and the latter's spouse, if any; and
>
> - The spouse, if any, of the person adopting or to be adopted (Underscoring supplied).

As clearly inferred from the foregoing provisions of law, the written consent of the natural parent is indispensable for the validity of the decree of adoption. Nevertheless, the requirement of written consent can be dispensed with if the parent has abandoned the child, or that such parent is insane or hopelessly intemperate (Cang vs. Court of Appeals, 296 SCRA 128, 143 [1998]). In the instant case, no allegation of abandonment by the natural mother of Dexter Catap is contained in the petition for adoption. What was extant on record is the testimony of Dexter that his mother is in Cutcut, Angeles City, that he seldom communicates with her and that his mother does not take care of him, does not visit him nor send him to school (TSN, March 2, 1999, pp. 3, 6). These allegations cannot be construed as abandonment on the part of Dexter's natural mother in order to warrant exemption from the requirement of written consent.

We are not unmindful of the main purpose of adoption statutes, which is the promotion of the welfare of children. Accordingly, the law should be construed liberally, in a manner that will sustain rather than defeat said purpose (Republic vs. Vergara, 270 SCRA 206, 210. [1997]). When, however, the law is clear and no other choice is given, we must obey its full mandate, such as in this case.

As final note, while we fully grasp and understand the strong bond of love and attachment between petitioners-appellants and the children, still and all, the law considers the natural love of a parent to outweigh that of the grandparents. Only when the parent present is shown to be unfit or unsuitable may the grandparents exercise substitute parental authority, a fact which has not been proven here (Santos, Sr. vs. Court of Appeals, 242 SCRA 407, 414 [1995]).

WHEREFORE, in view of the foregoing, the instant appeal is DENIED. The October 12, 1999 Decision of the Regional Trial Court of Angeles City, Branch LVI, in SP. Proc. No. 5550 is hereby AFFIRMED.

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SO ORDERED.

Reyes, (Chairman) and Lanzanas, JJ., concur.

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