

MELCHORA CABANAS, PLAINTIFF AND APPELLEE, VS. FRANCISCO PILAPIL, DEFENDANT AND APPELLANT.*G.R. No. L-25843. July 25, 1974*

Ponente: FERNANDO, J.

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The disputants in this appeal from a question of law from a lower court decision are the mother and the uncle of a minor beneficiary of the proceeds of an insurance policy issued on the life of her deceased father. The dispute centers as to who of them should be entitled to act as trustee thereof. The lower court applying the appropriate Civil Code provisions decided in favor of the mother, the plaintiff in this case. Defendant uncle appealed. As noted, the lower court acted the way it did following the specific mandate of the law. In addition, it must have taken into account the principle that in cases of this nature the welfare of the child is the paramount consideration. It is not an unreasonable assumption that between a mother and an uncle, the former is likely to lavish more care on and pay greater attention to her. This is all the more likely considering that the child is with the mother. There are no circumstances then that did militate against what conforms to the natural order of things, even if the language of the law were not as clear. It is not to be lost sight of either that the judiciary pursuant to its role as an agency of the State as *parens patriae*, with an even greater stress on family unity under the present Constitution, did weigh in the balance the opposing claims and did come to the conclusion that the welfare of the child called for the mother to be entrusted with such responsibility. We have to affirm.

The appealed decision made clear: "There is no controversy as to the facts." [1] The insured, Florentino Pilapil had a child, Millian Pilapil, with a married woman, the plaintiff, Melchora Cabanas. She was ten years old at the time the complaint was filed on October 10, 1964. The defendant, Francisco Pilapil, is the brother of the deceased. The deceased insured himself and instituted as beneficiary, his child, with his brother to act as trustee during her minority. Upon his death, the proceeds were paid to him. Hence this complaint by the mother, with whom the child is living, seeking the delivery of such sum. She filed the bond required by the Civil Code. Defendant would justify his claim to the retention of the amount in question by invoking the terms of the insurance policy. [2]

After trial duly had, the lower court in a decision of May 10, 1965, rendered judgment ordering the defendant to deliver the proceeds of the policy in question to plaintiff. Its main reliance was on Articles 320 and 321 of the Civil Code. The former provides: "The father, or in his absence the mother, is the legal administrator of the property pertaining to the child under parental authority. If the property is worth more than two thousand pesos, the father or mother shall give a bond subject to the approval of the Court of First Instance." [3] The latter states: "The property which the unemancipated child has acquired or may acquire with his work or industry, or by any lucrative title, belongs to the child in ownership, and in usufruct to the father or mother under whom he is under parental authority and whose company he lives; * * *"[4]

Conformity to such explicit codal norm is apparent in this portion of the appealed decision: "The insurance proceeds belong to the beneficiary. The beneficiary is a minor under the custody and parental authority of the plaintiff, her mother. The said minor lives with plaintiff or lives in the company of the plaintiff. The said minor

acquired this property by lucrative title. Said property, therefore, belongs to the minor child in ownership, and in usufruct to the plaintiff, her mother. Since under our law the usufructuary is entitled to possession, the plaintiff is entitled to possession of the insurance proceeds. The trust, insofar as it is in conflict with the above quoted provision of law, is pro tanto null and void. In order, however, to protect the rights of the minor, Millian Pilapil, the plaintiff should file an additional bond in the guardianship proceedings, Sp. Proc. No. 2418-R of this Court to raise her bond therein to the total amount of P5,000.00." [5]

It is very clear, therefore, considering the above that unless the applicability of the two cited Civil Code provisions can be disputed, the decision must stand. There is no ambiguity in the language employed. The words are rather clear. Their meaning is unequivocal. Time and time again, this Court has left no doubt that where codal or statutory norms are cast in categorical language, the task before it is not one of interpretation but of application. [6] So it must be in this case. So it was in the appealed decision.

1. It would take more than just two paragraphs as found in the brief for the defendant-appellant [7] to blunt the force of legal commands that speak so plainly and so unqualifiedly. Even if it were a question of policy, the conclusion will remain unaltered. What is paramount, as mentioned at the outset, is the welfare of the child. It is in consonance with such primordial end that Articles 320 and 321 have been worded. There is recognition in the law of the deep ties that bind parent and child. In the event that there is less than full measure of concern for the offspring, the protection is supplied by the bond required. With the added circumstance that the child stays with the mother, not the uncle, without any evidence of lack of maternal care, the decision arrived at can stand the test of the strictest scrutiny. It is further fortified by the assumption, both logical and natural, that infidelity to the trust imposed by the deceased is much less in the case of a mother than in the case of an uncle. Manresa, commenting on Article 159 of the Civil Code of Spain, the source of Article 320 of the Civil Code, was of that view: Thus "El derecho y la obligacion de administrar el patrimonio de los hijos es una consecuencia natural y logica de la patria potestad y de la presuncion de que nadie cuidara de los bienes de aquellos con mas carino y solicitud que los padres. En nuestro Derecho antiguo puede decirse que se hallaba reconocida de una manera indirecta aquella doctrina, y asi se desprende de la sentencia del Tribunal Supremo de 30 de diciembre de 1864, que se refiere a la ley 24, tit. XIII de la Partida 5, De la propia suerte aceptan en general dicho principio los Codigos extranjeros, con las limitaciones y requisitos de que trataremos mas adelante." [8]

2. The appealed decision is supported by another cogent consideration. It is buttressed by its adherence to the concept that the judiciary, as an agency of the State acting as *parens patriae*, is called upon whenever a pending suit of litigation affects one who is a minor to accord priority to his best interest. It may happen, as it did occur here, that family relations may press their respective claims. It would be more in consonance not only with the natural order of things but the tradition of the country for a parent to be preferred. It could have been different if the conflict were between father and mother. Such is not the case at all. It is a mother asserting priority. Certainly, the judiciary as the instrumentality of the State in its role of *parens patriae* cannot remain insensible to the validity of her plea. In a recent case, [9] there is this quotation from an opinion of the United States Supreme Court: "This prerogative of *parens patriae* is inherent in the supreme power of every State, whether that power is lodged in a royal person or in the legislature, and has no affinity to those arbitrary powers which are sometimes exerted by irresponsible monarchs to the great detriment of the people and the destruction of their liberties." What is more, there is this constitutional provision vitalizing this concept. It reads: "The State shall strengthen the family as a basic social institution." [10] If, as the Constitution so wisely dictates, it is the family as a unit that has to be strengthened, it does not admit of doubt that even if a stronger case were presented for the uncle, still deference to a constitutional mandate would have led the lower court to decide as it did.

WHEREFORE, the decision of May 10, 1965 is affirmed. Costs against defendant-appellant.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.
Barredo, J., took no part.

[1] Decision, Record on Appeal, 24.

[2] Cf. Ibid, 24-25.

[3] Article 320 of the Civil Code (1950).

[4] Article 321 of the Civil Code (1950).

[5] Decision, Record on Appeal, 27.

[6] Cf. People vs. Mapa, L-22301, Aug. 30, 1967. 20 SCRA 1164; Pacific Oxygen & Acetylene Co. vs. Central Bank, L-21881, March 1. 1968. 22 SCRA 917; Dequito vs. Lopez, L-27757, March 28, 1968, 22 SCRA 1352; Padilla vs. City of Pasay, L-24039, June 29, 1968, 23 SCRA 1349; Garcia vs. Vasquez, L--26808, March 28, 1969, 27 SCRA 505; La Perla Cigar and Cigarette Factory vs. Capapas, L-27948 and 28001-11, July 31, 1969, 28 SCRA 1085; Mobil Oil Phil., Inc. vs. Diocares, L-26371, Sept. 30, 1969, 29 SCRA 656; Luzon Surety Co., Inc. vs. De Garcia, L-25659, Oct. 31, 1969, 30 SCRA 111; Vda. de Macabenta vs. Davao Stevedore Terminal Co., L-27489, April 30, 1970, 32 SCRA 553; Republic Flour Mills, Inc. vs. Commissioner of Customs, L--28463, May 31, 1971, 39 SCRA 269; Maritime Co. of the Phil. vs. Reparations Commission, L-29203. July 26, 1971, 40 SCRA 70; Allied Brokerage Corp. vs. Commissioner of Customs, L-27641, Aug. 31, 1971, 40 SCRA 555; Gonzaga vs. Court of Appeals, L-27455, June 28, 1973, 51 SCRA 381; Vallangca vs. Ariola, L-29226, Sept. 28, 1973, 53 SCRA 139; Jalandoni vs. Endaya, L-23894, Jan. 24, 1974, 55 SCRA 261; Pacis vs. Pamaran, L--23996, March 15, 1974.

[7] Brief for the Defendant-Appellant, 8-9.

[8] 2 Manresa, Codigo Civil Espanol, 38 (1944).

[9] Nery vs. Lorenzo, L-23096, April 27, 1972, 44 SCRA 431, 438-439.

[10] Article II, Section 4 of the Constitution.

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