

**IRENE REYES (ALIAS IRENE RAMERO, ALIAS IRENE DELGADO),
MOISES VILLANUEVA AND GENOVEVA RAMERO, PERITIONER, VS.
COURT OF APPEALS, PLACIDA DELGADO, DOMINGO DELGADO,
PAULA DELGADO A...**

G.R. No. L-39537. March 19, 1985

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This is a petition for certiorari to review the decision of the Court of Appeals Special Division of Five dated October 7, 1974 in CA-G.R. No. L-44964-R, reversing the decision of the Court of First Instance of Batangas, Branch I, dated December 26, 1969 in Civil Case No. 1144 dismissing the action for reconveyance.

On January 29, 1967, private respondents as plaintiffs filed a complaint in the Court of First Instance of Batangas praying that the defendant Irene Reyes, alias Irene Ramero or Irene Delgado, be ordered to execute a deed of reconveyance in favor of plaintiffs Placida Delgado, Domingo Delgado, and Paula Delgado over four parcels of land located in Tayabas, Quezon, and one parcel of land located in Pagbilao, Quezon, and another deed of reconveyance in favor of plaintiff Maximina Delgado over three parcels of land located in Alitagtag, Batangas.

It was alleged in the complaint that the defendants thru abuse of confidence, fraud, deceit, misrepresentation and other falsifications succeeded in registering in the offices of the Register of Deeds of Quezon and Batangas a document of self-adjudication (Exhibit "24"), wherein defendant Irene Delgado alleged that she was the sole child of the deceased Francisco Delgado and entitled to inherit the parcels of lands described in the complaint; that as a result thereof Transfer Certificate of Title Nos. 9913, 10348, 14937, T-11747 and 13489 were cancelled and new Transfer Certificates of Title were issued in the name of Irene Delgado; that defendant Irene Delgado is not the illegitimate daughter of Francisco Delgado, who died without issue, but is the legitimate daughter of Genoveva Ramero and Justino Reyes; that plaintiffs Placida Delgado, Domingo Delgado and Paula Delgado, sisters and brother of the deceased Francisco Delgado are the heirs entitled to inherit from Francisco Delgado, and that Paula, Placido and Domingo Delgado defrayed the expenses of the last illness and the funeral expenses of Francisco Delgado and for the purpose they borrowed the sum of P7,000.00 from their niece: plaintiff Maximina Delgado, and to pay Maximina Delgado they conveyed to her the three parcels of land described in subparagraphs (f) to (g) of paragraph 9 of the complaint They also alleged that the defendant spouses Irene and Moises Villanueva borrowed from plaintiffs common fund the sum of P23,000.00 which they used in the purchase of a parcel of land (pp. 1-14, Record on Appeal; p. 63. rec).

On or about March 2, 1967, defendant Irene Delgado. one of the petitioners herein, filed an answer to the complaint and set up the affirmative defense that she is the illegitimate daughter of the defendant Genoveva Ramero and the deceased Francisco Delgado; that for several years preceding the birth of Irene Delgado, her mother Genoveva Ramero had separated from her lawful husband Justino Reyes and never reconciled since then; and that Irene was born during the cohabitation of Francisco Delgado and Genoveva Ramero as common-law

husband and wife, and since her birth, lived with Francisco Delgado and Genoveva Ramero, who reared and treated her as their child, maintaining her and sending her through college. Defendants also denied having contracted a debt of P23,000.00 from plaintiffs, or that plaintiffs spent for the last illness and funeral of Francisco Delgado. Irene Delgado likewise set up a counterclaim, alleging that, as the illegitimate daughter of Francisco Delgado, she has the right to represent her father to the inheritance left by her grandmother (pp. 15-43, Record on Appeal; p. 63, rec).

On March 16, 1967, the plaintiffs thru counsel filed an answer to the counterclaim denying that the defendant Irene Delgado was the illegitimate child of Francisco Delgado, and hence has no right to claim from the estate of Francisco's mother, Benigna Castillo, and that the properties claimed by the defendant Irene Delgado no longer formed part of the estate of Benigna Castillo as she had previously disposed of them during her lifetime (pp. 43-46, Record on Appeal; p. 63, rec).

On August 15, 1967, a pre-trial in Civil Case No. 1144 was conducted.

On March 25, 1969, the plaintiffs filed a motion to admit an amended answer to the counterclaim posed by defendant, wherein the plaintiffs alleged that the counterclaim of the defendant, in so far as it would have the effect of being an indirect action for acknowledgment has already prescribed (pp. 50-55, Record on Appeal; p. 63, rec).

On April 14, 1969, the lower court admitted the amended answer to the counterclaim over the objections of the defendant (pp. 56-61, Record on Appeal; p. 63, rec).

After trial on the merits, the Court rendered its decision on December 26, 1969 dismissing the action for reconveyance and declaring defendant Irene Delgado the lawful owner of the eight parcels of land. The counterclaim of Irene Delgado was dismissed for insufficiency of evidence.

Both parties appealed to the Court of Appeals (now IAC). the plaintiffs with respect to their complaint and the defendants with respect to their counterclaim.

The then Court of Appeals sitting as a Special Division of Five rendered its decision on October 7, 1974, the dispositive portion of which reads as follows:

"Wherefore, the decision of the court a quo is hereby reversed. The deed of self-adjudication executed by Irene Delgado is hereby declared null and void and set aside. The transfer certificates of title issued in the name of Irene Delgado in lieu of Transfer Certificate of Title Nos. 9913, 10348, 14937, T-11747 and 13489 are hereby cancelled, and T.C.T. 9913, 10348, 14937, T-11747 and 13489 are reinstated in the name of Francisco Delgado. Likewise, the extrajudicial declaration executed by Irene Delgado adjudicating to herself the 3 parcels of land located in Alitagtag, Batangas. with Tax Declaration Nos. 8625, 8626 and 8627 are declared null and void. No costs" (pp.58-59, rec).

The then Court of Appeals in arriving at this decision found that, although Irene Delgado was the spurious daughter of Francisco Delgado, she nevertheless cannot inherit from the estate of the deceased Francisco Delgado because she was not recognized either voluntarily or by court action (pp. 52-53, rec).

The titles to the questioned lot however cannot be executed in favor of the plaintiffs; because in so doing it will be in effect a recognition by the court that the plaintiffs are the only heirs of Francisco Delgado to the prejudice of other possible heirs or creditors of the deceased.

As to alleged loan contracted by Irene from the plaintiffs, the then Court of Appeals affirmed the lower court's decision that it was without merit, because if it were true, the plaintiffs could have demanded a receipt for such a big amount.

The counterclaim of Irene that she has the share to the inheritance of Benigna Castillo, Francisco Delgado's mother, and her alleged share in the expenses for the sickness and funeral of Francisco Delgado which was advanced by the plaintiffs, need not be ruled upon because of the findings that Irene is not an heir of Francisco Delgado (pp. 57-58, rec).

On December 2, 1974, defendants, petitioners herein, filed a petition to review the decision of the Court of Appeals (pp 22-37, rec).

On January 2, 1975, the plaintiffs, respondents herein, submitted their comment on the petition for review filed by the petitioner (pp. 67-71, rec).

On January 15, 1975, the petition for review filed by petitioners was denied in a resolution by the First Division of the Supreme Court for lack of merit (p. 75, rec).

On February 18, 1975, petitioners filed a motion for reconsideration (pp. 86-113, rec).

On April 5, 1975, respondents filed their comments on the motion for reconsideration filed by petitioners (pp. 130-134, rec).

On April 23, 1975, petitioners filed their reply to respondents' comment (pp. 118-125, rec).

On May 23, 1975, the Supreme Court reconsidered its resolution denying petitioners' motion for reconsideration (p. 142, rec).

In their petition, petitioners sought to reverse the decision of the Court of Appeals raising the following arguments:

1. "There are strong and cogent reasons why this Honorable Court must return to and even enhance the doctrine in *Zuzuarregui vs. Zuzuarregui*, considering serious flaws in the reasoning of the currently prevailing doctrine, so that assuming *arguendo* and *pro hac vice* that Irene was not duly recognized or acknowledged as illegitimate child, she is nevertheless entitled to successional rights as sole heir of the late Francisco Delgado, considering that her filiation as illegitimate daughter of Francisco Delgado is undisputed and beyond question" (p. 12, Petitioner's Brief; p. 164, rec).
2. "Upon the other hand, this time assuming *arguendo* and *pro hac vice* that under the Civil Code recognition of an other illegitimate' is a pre-requisite to enjoyment of rights, Irene Delgado was legally acknowledged by her father Francisco Delgado, specially by his consent or advice to her marriage with Moises Villanueva contrary to the erroneous conclusions of the Court of Appeals" (p. 39, Petitioner's Brief; p. 164, rec).

The petition is without merit.

The doctrine that for an illegitimate child other than natural to inherit must be first recognized voluntarily or by court action is well settled in Our jurisprudence (*Bercilles vs. GSIS*, 128 SCRA 53 [1984]; *Divinagracia vs. Rovira*, 72 SCRA 307 [1976]; *Clemefia vs. Clemena*, 24 SCRA 720 [1968]; *Noble vs. Noble*, 18 SCRA 1104 [1966]; *Republic vs. Workmen's Compensation Commission*, 13 SCRA 272 [1965]; *Paulino vs. Paulino*, 3 SCRA 703 [1961]; *Barles vs. Ponce Enrile*, 109 Phil. 522 [1960]).

There is no reason to overturn this doctrine and revert to what was enunciated in the case of *Zuzuarregui vs. Zuzuarregui* (103 Phil. 346 [1958]), as suggested by herein petitioners in their first assignment of errors.

It is the contention of the petitioners that the silence of the Civil Code as to the recognition of illegitimate children other than natural, in contrast to natural children who are expressly required to be recognized in order to inherit, only meant that illegitimate children need not be recognized in order to inherit from his or her alleged parent (p. 13, Petitioner's Brief; p. 164, rec). Petitioners also raised the argument that under Article 287 of the New Civil

Code which reads: "Illegitimate children other than natural in accordance with Article 269 and other than natural children by legal fiction are entitled to support and such successional rights as are granted in this code." The term "other illegitimate children" refers not only to those who are not natural or merely adulterous or incestuous but also includes natural children who were not acknowledged or recognized (p. 18, Petitioner's Brief; p. 164. rec). In other words, unrecognized natural children can inherit not the share of a natural child but the share of a spurious child so long as his filiation shall be duly proved. So, in effect, illegitimate children need only to prove his filiation to inherit and such does not place him in a more advantageous position than natural children, as they are placed in the same situation.

WE do not find these arguments persuasive.

Though the Civil Code is silent with respect to spurious children as to their recognition, this Court, in applying the rules of recognition, applicable to natural children, to said spurious children, declared in *Clemenca vs. Clemenca*, *supra*.

"The considerations of fairness and justice that underlie the time limit fixed in Article 285 of the Civil Code for actions seeking compulsory acknowledgment of natural children are fully applicable, if not more, to actions to investigate and declare the paternity of illegitimate children that are not natural. The motive that led the codifiers to restrict the period for bringing action for compulsory recognition of natural children were stated by this Court in *Serrano vs. Aragon*, 22 Phil. 18, to be as follows:

'x x the writers of the code no doubt had in mind that there would arise instances where certain illegitimate children, on account of the strong temptation due to the large estates left by deceased persons, would attempt to establish that they were natural children of such persons in order to get part of the property; and furthermore, they considered that it is nothing but just and right that alleged parents should have a personal opportunity" to be heard It was for these reasons and others equally as well founded that Article 137 was enacted"' (p. 724).

There are two (2) general classifications of illegitimate children or those who are conceived and born out of wedlock. They may be either natural (actually or by fiction) or spurious (the incestuous, adulterous or illicit). Natural children are defined as those born outside of wedlock of parents, who at the time of conception of the former, were not disqualified by any impediment to marry each other (Article 269, New Civil Code) On the other hand, spurious children are those born of parents, who at the time of their conception, are disqualified to marry each other on account of certain impediment Because of this basic distinction between these children, it is not legally possible to classify unrecognized natural children under the class of spurious children. Besides, commentators construe the phrase "illegitimate children other than natural" as excluding from the grants of rights under Article 287 of the New Civil Code those children who are natural child proper by birth and who have not secured voluntary or compulsory recognition (p. 276, *An Outline of Civil Law*, J.B.L Reyes and R.C. Puno, Vol. 1). They fall within the scope of the definition of natural children enumerated in Article 269, New Civil Code (p. 142, *Civil Law Reviewer*, D. Jurado, 1982 ed). Lastly, to follow petitioners' contention will not be in accordance with the consistent pronouncements of this Court. It is an elementary and basic principle under the old and new Civil Code, that an unrecognized natural child has no rights whatsoever against his parent or his estate. His rights spring not from the filiation itself, but from the child's acknowledgment by the natural parent (*Alabat vs. Alabat*, 21 SCRA 1479 [1967]; *Mise vs. Rodriguez*, 95 Phil. 396 [1954]; *Magallanes vs. CA*, 95 Phil. 797 [1954]; *Canales vs. Ugarte*, 91 Phil. 6 [1952]; *Malonda vs. Malonda*, 81 Phil. 149 [1948]; *Buenaventura vs. Urbano*, 5 Phil. 1 [1905]).

As to the second assignment of error raised by petitioners, We find that there was no sufficient legal recognition of petitioner Irene Deleado by Francisco Deleado

It can be seen from the record of birth (Exhibit "L-2") that the name of the petitioner was Irene Ramero, and signed by Genoveva Ramero and of an unknown father. This was certified to by the treasurer of the municipality of Alitagtag, Batangas (Exhibits "L" and "L-1") Another certified copy of another birth certificate issued by the municipal treasurer and local civil registrar of the municipality of Alitagtag (Exhibit "20") stated therein that the name of the child is Irene Ramero, and the name of the father is "Francisco" and the mother "Genoveva Ramero." Any of these records of birth cannot be sufficient recognition under the law. The birth certificate, to be sufficient recognition, must be signed by the father and mother jointly, or by the mother alone if the father refuses, otherwise she may be penalized (Sec. 5, Act 3753; *Madredejo vs. De Leon*, 55 Phil. 1 [1930]); and if the alleged father did not sign in the birth certificate, the placing of his name by the mother, or doctor or registrar, is incompetent evidence of paternity of said child (*Bercilles vs. GSIS*, 128 SCRA 53 [1984]; *Roces vs. Local Civil Registrar of Manila*, 102 Phil. 1050 [1958]). Since any of the certificates of birth presented were not signed by Francisco Delgado, it cannot be taken as record of birth to prove recognition of Irene Delgado; nor can this birth certificate be taken as a recognition in a public instrument (*Pareja vs. Pareja*, 95 Phil. 167 [1954]).

Irene's certificate of baptism (Exhibit "1") cannot be taken as proof of recognition (*Bercilles vs. GSIS*, supra; *People vs. Villeza*, 127 SCRA 349 [1984]; *Cid vs. Burnaman*, 24 SCRA 434 [1968]; *Vudaurrazaga vs. CA*, 91 Phil. 492 [1952]; *Capistrano vs. Gabino*, 8 Phil. 135 [1907]). In the case of *Macadangdang vs. CA* (100 SCRA 73 [1980]), this Court said that while baptismal certificates may be considered public documents, they are evidence only to prove the administration of the sacraments on the dates therein specified, but not the veracity of the statements or declarations made therein with respect to his kinsfolk.

Irene's secondary student permanent record (Exhibits "12", "13", "15" and "16") nor the written consent given by Irene to the operation of her alleged father (Exhibit "4") cannot be taken as an authentic writing. An authentic writing does not have to be a public instrument, it is sufficient that it is genuine and not a forgery. It must generally be signed by the alleged parent (*Madredejo vs. De Leon*, supra) unless the whole instrument is in the handwriting of the alleged parent and the facts mentioned therein correspond to actual and real facts (*Vare la vs. Villanueva*, 95 Phil. 248 [1954]). Thus, Irene's secondary student permanent record and her written consent to the operation of her father, not being signed nor written in the handwriting of Francisco Delgado, cannot be taken as an authentic writing to prove her recognition by her alleged father.

The marriage contract (Exhibit "17") of Irene Delgado and Moises Villanueva, wherein it was stated that Francisco Delgado gave his consent or advice for Irene Delgado to marry, and that he was her father cannot be also taken as recognition in an authentic document because it was not signed nor in the handwriting of Francisco Delgado. It cannot also be taken as recognition in a public instrument as held in the case of *Lim vs. CA*. (65 SCRA 161, 164 [1975]), wherein the Court said:

"According to Article 1216 of the Civil Code of 1889, public documents 'are those authenticated by a notary or by a competent public official, with the formalities required by law.' Thus, 'there are two classes of public documents, those executed by private individuals which must be authenticated by notaries, and those issued by competent public officials by reason of their office.' The public document pointed out in Article 131 as one of the means by which recognition may be made belongs to the first class."

"The marriage contract presented by Felisa Lim does not satisfy the requirements of solemnity prescribed by Article 131 of the Civil Code of 1889. Such contract is not a written act with the intervention of a notary; it is not an instrument executed in due form before a notary and certified by him. The marriage contract is a mere declaration by the contracting parties, in the presence of the person solemnizing the marriage and of two witnesses of legal age, that they take each other as husband and wife, signed by signature or mark by said contracting parties and the said witnesses, and attested by the person solemnizing the marriage. The marriage contract does not possess the requisites of a public document of recognition, x x x"

The family pictures (Exhibits "11" to "11-E") presented by Irene, showing Irene posing with Francisco Delgado, cannot be a sufficient proof of recognition. In the case of *Bercilles vs. GSIS*, supra, it was held that pictures do not constitute proof of filiation.

What Irene may have proved is that she had been in continuous possession of a status of an illegitimate child who is not natural. But such fact alone without a valid recognition in a record of birth, will, statement before a court of record, or authentic writing does not make Irene a recognized illegitimate child who is not natural. She nevertheless possesses the right to compel judicial recognition and the action for this must be brought within the proper prescriptive period (*Clemenca vs. Clemenca*, supra). Article 285 of the New Civil Code provides "that the action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except when the father or mother dies during the minority of the child, the action shall be brought within four years from the age of majority, or 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, the action shall be brought within four years from the finding of the document." Since Irene was already of age (35 years old) when her alleged father died, and she had not presented any discovered document wherein her presumed father recognized her, the action to compel recognition is already barred (*Canales vs. Arrogante*, 91 Phil. 6 [1952]).

WE affirm the findings of the then Court of Appeals that Irene Reyes alias Irene Delgado is not an heir of the late Francisco Delgado.

WHEREFORE, THE DECISION OF THE THEN COURT OF APPEALS IS HEREBY AFFIRMED IN TOTO, WITH COSTS

AGAINST PETITIONERS.

Conception Jr., AbadSantos, Escolin, and Cuevas, JJ., concur.
Aquino, J., see dissent.

DISSENTING OPINION

AQUINO, J., :

I dissent. The spouses Justino Reyes and Genoveva Ramero, natives of Tayabas town, were married there in 1906. They had seven children. An eighth child, named Irene, was born to Genoveva, either on May 5, 1930 in Tayabas town, or on September 1, 1931 in Barrio Dalipit, Alitagtag, Batangas. Of course, the presumption under Article 255 of the Civil Code is that Irene was Justino's child. Was that presumption rebutted?

Joaquin Reyes, Irene's elder brother, testified that his parents, the Reyes spouses, separated in 1928 when his father surprised Francisco Delgado in his house. On that occasion, there was a commotion in the house which was investigated by the police. Justino eventually decided to allow Genoveva to go with Francisco. That testimony is sufficient to rebut the presumption of legitimacy. It shows that Irene was not Justino's child. Was Delgado her father?

Her birth certificate shows that she was born on September 1, 1931 as the child of Genoveva at Barrio Dalipit, Alitagtag, Batangas with an unknown (desconocido) father Exh. L-2 or 22).

Since 1928, Genoveva lived with Francisco Delgado and was never reconciled to Justino who died in 1935. Irene was educated at their expense.

Justino was not mentioned as the father of Irene in her record of birth. Among the eight children of Genoveva, Irene's birth was the only one registered in Alitagtag, Francisco's native town. Irene had always lived with Genoveva and Francisco up to 1951, when she was 19 and she got married.

She was baptized in 1949, when she was 18. Francisco and Genoveva were listed as her parents in the baptismal certificate, Exhibit 1. In the certificate of marriage of Irene and Moises Villanueva, Francisco Delgado was mentioned as her father and as the one who gave consent to the marriage (Exh. 17).

Irene consented to the operation of Francisco when he was submitted to an operation at the Family Clinic in 1966 (Exh. 2). She paid his hospital bills (Exh. 4). She used the surname "Delgado" in her school records and Francisco Delgado was indicated therein as her guardian (Exh 12 to 16)

Francisco died intestate on October 28, 1966. On November 25, 1966 Irene adjudicated to herself the lands left by Francisco (Exh. H or 9). On January 30, 1967, the brother, two sisters and a niece of Francisco Delgado sued her for the annulment of said adjudication. They sought a declaration that they are the nearest legal heirs of Francisco.

Judge Lorenzo Relova ruled that Irene's filiation was duly proven. The Appellate Court disagreed because she was not duly acknowledged within the meaning of Articles 278 and 283 of the Civil Code. It held that the evidence submitted by her does not amount to voluntary and compulsory recognition required of natural children.

In my opinion the rule requiring voluntary or compulsory recognition for the so-called spurious children or bastards is not mandatory. Article 289 of the Civil Code does not make such recognition mandatory.

Irene's status as an heir is governed by the Civil Code pursuant to its Article 2264. To enjoy successional rights, she has to prove her filiation as required in Article 887 of the Civil Code. To prove filiation, the rules on acknowledgment for natural children may be applied to spurious children. But there may be cases, where the filiation of an illegitimate child, other than natural, has been duly proven and such proof does not satisfy the requirements of recognition under Articles 278 and 283.

In such exceptional cases, Articles 278 and 283 should not be applied. If sufficient proof to satisfy the judicial mind has been adduced to prove the spurious child's filiation, he or she should be entitled to successional rights. This is justified by the liberal policy of the Civil Code towards illegitimate children.

The natural child needs acknowledgment because he may become a legitimated child. The spurious child will never attain the status of a legitimated child.

I agree with Judge Lorenzo Relova that Irene's filiation as Francisco Delgado's child was duly proven within the meaning of Article 887. She is the nearest compulsory and legal heir of Francisco. She excludes the brother, two sisters and niece of Francisco (Art. 988, Civil Code).

I vote to reverse the decision of the Appellate Court and affirm the decision of Judge Relova.

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