

CAMELO CABATANIA, PETITIONER, VS. COURT OF APPEALS AND CAMELO REGODOS, RESPONDENTS.

G.R. No. 124814. October 21, 2004

Ponente: CORONA, J.

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CORONA, J.:

Before us is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the March 15, 1996 decision[1] of the Court of Appeals in CA-G.R. 36708 which in turn affirmed the decision of the Regional Trial Court of Cadiz City, Branch 60 in Spec. Proc. No. 88-C which compelled petitioner Camelo Cabatania to acknowledge private respondent Camelo Regodos as his illegitimate son and to give support to the latter in the amount of P 500 per month.

This controversy stemmed from a petition for recognition and support filed by Florencia Regodos in behalf of her minor son, private respondent Camelo Regodos.

During the trial, Florencia testified that she was the mother of private respondent who was born on September 9, 1982 and that she was the one supporting the child. She recounted that after her husband left her in the early part of 1981, she went to Escalante, Negros Occidental to look for work and was eventually hired as petitioner's household help. It was while working there as a maid that, on January 2, 1982, petitioner brought her to Bacolod City where they checked in at the Visayan Motel and had sexual intercourse. Petitioner promised to support her if she got pregnant.

Florencia claimed she discovered she was carrying petitioner's child 27 days after their sexual encounter. The sexual intercourse was repeated in March 1982 in San Carlos City. Later, on suspicion that Florencia was pregnant, petitioner's wife sent her home. But petitioner instead brought her to Singcang, Bacolod City where he rented a house for her. On September 9, 1982, assisted by a hilot in her aunt's house in Tiglawigan, Cadiz City, she gave birth to her child, private respondent Camelo Regodos.

Petitioner Camelo Cabatania's version was different. He testified that he was a sugar planter and a businessman. Sometime in December, 1981, he hired Florencia as a servant at home. During the course of her employment, she would often go home to her husband in the afternoon and return to work the following morning. This displeased petitioner's wife, hence she was told to look for another job.

In the meantime, Florencia asked permission from petitioner to go home and spend New Year's Eve in Cadiz City. Petitioner met her on board the Ceres bus bound for San Carlos City and invited her to dinner. While they were eating, she confided that she was hard up and petitioner offered to lend her some money. Later, they spent the night in San Carlos City and had sexual intercourse. While doing it, he felt something jerking and when he asked her about it, she told him she was pregnant with the child of her husband. They went home the following day.

In March 1982, Florencia, then already working in another household, went to petitioner's house hoping to be re-employed as a servant there. Since petitioner's wife was in need of one, she was re-hired. However

petitioner's wife noticed that her stomach was bulging and inquired about the father of the unborn child. She told petitioner's wife that the baby was by her husband. Because of her condition, she was again told to go home and they did not see each other anymore.

Petitioner was therefore surprised when summons was served on him by Florencia's counsel. She was demanding support for private respondent Camelo Regodos. Petitioner refused, denying the alleged paternity. He insisted she was already pregnant when they had sex. He denied going to Bacolod City with her and checking in at the Visayan Motel. He vehemently denied having sex with her on January 2, 1982 and renting a house for her in Singcang, Bacolod City.

After trial, the court a quo gave more probative weight to the testimony of Florencia despite its discovery that she misrepresented herself as a widow when, in reality, her husband was alive. Deciding in favor of private respondent, the trial court declared:

The child was presented before the Court, and if the Court is to decide this case, based on the personal appearance of the child then there can never be a doubt that the plaintiff-minor is the child of the defendant with plaintiff-minor's mother, Florencia Regodos.

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In view of the evidence presented by the plaintiff, the Court finds the evidence of the plaintiff in support of the claim to "be meritorious; defendant admitted having a sexual intercourse with the plaintiff's mother, Florencia Regodos, but denied paternity to the child. The child was presented before the Court, and if the Court is to decide this case, based on the personal appearance of the child, then there can never be a doubt that the plaintiff-minor is the child of the defendant with plaintiff-minor's mother, Florencia Regodos." [2]

On appeal, the Court of Appeals affirmed the RTC:

The misrepresentation made by Florencia in the petition that she was a widow should not prejudice the right of petitioner-appellee. As held by the Supreme Court, even where a witness has been found to have deliberately falsified the truth in some particulars, it is not required that the whole of her testimony be rejected (*People vs. Bohol*, 170 SCRA 585). It is perfectly reasonable to believe the testimony of a witness with respect to some facts and disbelieve it with respect to other facts (*People vs. Delas*, 199 SCRA 574, 575). There is therefore no reason to disbelieve Florencia that her first intercourse with appellant occurred on January 2, 1982 and nine (9) months later or on September 9, 1982, she gave birth to appellee (TSN, Hearing of June 10, 1991 and Exhibit "A").

In the absence of arbitrariness in the evaluation of the evidence adduced before the trial court and there being no evidence that the latter had overlooked or misappreciated, we find no cogent reason to disturb the trial court's findings.

WHEREFORE, the appealed decision is AFFIRMED. [3]

Hence this petition which assigns the following errors:

- THE COURT OF APPEALS ERRED IN ITS APPLICATION OF ARTICLE 283 OF THE CIVIL CODE ON THE COMPULSORY RECOGNITION AND AWARD OF SUPPORT IN FAVOR OF RESPONDENT-APPELLEE CAMELO REGODOS;
- THE COURT OF APPEALS ERRED IN ITS DECISION BASED ON THE EVIDENCE ADDUCED BY RESPONDENT CAMELO REGODOS BEFORE THE TRIAL COURT. [4]

Clearly, this petition calls for a review of the factual findings of the two lower courts. As a general rule, factual issues are not within the province of this Court. Factual findings of the trial court, when adopted and confirmed by

the Court of Appeals, become final and conclusive and may not be reviewed on appeal except (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is a grave abuse of discretion; (3) when the finding is grounded entirely on speculation, surmises or conjectures; (4) when the judgment of the Court of Appeals is based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals, in making its findings, goes beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of fact are conclusions without citation of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooks certain relevant facts not disputed by the parties and which, if properly considered, justifies a different conclusion, and (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record. The Court is convinced that this case falls within one of the exceptions.[5]

The trial court's finding of a paternal relationship between petitioner and private respondent was based on the testimony of the child's mother and "the personal appearance of the child."

Time and again, this Court has ruled that a high standard of proof is required to establish paternity and filiation.[6] An order for recognition and support may create an unwholesome situation or may be an irritant to the family or the lives of the parties so that it must be issued only if paternity or filiation is established by clear and convincing evidence.[7]

The applicable provisions of the law are Articles 172 and 175 of the Civil Code:

Art. 172. The filiation of legitimate children is established by any of the following:

- (1) 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 and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws.

Art. 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

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Private respondent presented a copy of his birth and baptismal certificates, the preparation of which was without the knowledge or consent of petitioner. A certificate of live birth purportedly identifying the putative father is not competent evidence of paternity when there is no showing that the putative father had a hand in the preparation of said certificate. The local civil registrar has no authority to record the paternity of an illegitimate child on the information of a third person.[8]

In the same vein, we have ruled that, while a baptismal certificate may be considered a public document, it can only serve as evidence of the administration of the sacrament on the date specified but not the veracity of the entries with respect to the child's paternity.[9] Thus, certificates issued by the local civil registrar and baptismal certificates are per se inadmissible in evidence as proof of filiation and they cannot be admitted indirectly as circumstantial evidence to prove the same.[10]

Aside from Florencia's self-serving testimony that petitioner rented a house for her in Singcang, Bacolod City,

private respondent failed to present sufficient proof of voluntary recognition.

We now proceed to the credibility of Florencia's testimony. Both the trial court and the appellate court brushed aside the misrepresentation of Florencia in the petition for recognition that she was a widow. Both courts dismissed the lie as minor which did not affect the rest of her testimony. We disagree. The fact that Florencia's husband is living and there is a valid subsisting marriage between them gives rise to the presumption that a child born within that marriage is legitimate even though the mother may have declared against its legitimacy or may have been sentenced as an adulteress.[11] The presumption of legitimacy does not only flow out of a declaration in the statute but is based on the broad principles of natural justice and the supposed virtue of the mother. The presumption is grounded on the policy to protect innocent offspring from the odium of illegitimacy.[12]

In this age of genetic profiling and deoxyribonucleic acid (DNA) analysis, the extremely subjective test of physical resemblance or similarity of features will not suffice as evidence to prove paternity and filiation before the courts of law.

WHEREFORE, the petition is hereby granted. The assailed decision of the Court of Appeals in CA-G.R. 36708 dated March 15, 1996, affirming the decision of the Regional Trial Court of Cadiz City, Branch 60, in Spec. Proc. No. 88-C is reversed and set aside. Private respondent's petition for recognition and support is dismissed.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Carpio-Morales and Garcia, JJ., concur.

[1] Penned by Associate Justice Alicia Austria-Martinez (now Associate Justice of the Supreme Court) and concurred in by Associate Justices Pedro A. Ramirez and Bernardo LL. Salas of the Fifth Division.

[2] Rollo, pp. 17-19.

[3] Rollo, pp. 22-23.

[4] Rollo, p. 10.

[5] Martinez vs. CA, G.R. No. 123547, 21 May 2001, 358 SCRA 38; Baricuatro, Jr. vs. CA, et al, 382 Phil. 15 (2000); Sarmiento vs. CA, 353 Phil. 834 (1998); Acebedo Optical Co. Inc., vs. CA et al, 320 Phil. 506 (1995).

[6] Baluyut vs. Baluyut, G.R. No. 33659, 14 June 1990, 186 SCRA 506.

[7] Constantino, et al. vs. Mendez, et al., G.R. No. 57227, 14 May 1992, 209 SCRA 18.

[8] Fernandez vs. Court of Appeals, G.R. 108366, 16 February 1994, 230 SCRA 130 citing Rocas vs. Local Civil Registrar, 102 Phil. 1050 (1958).

[9] Macandang vs. Court of Appeals, No. L-49542, 12 September 1980, 100 SCRA 73.

[10] Jison vs. Court of Appeals, 350 Phil. 138 (1998).

[11] Article 256 of the Civil Code, now Article 167 of the Family Code.

[12] William Liyao Jr. vs. Juanita Tanhoti Liyao et al., 428 Phil. 628 (2002).

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