MA. BELEN B. MANGONON, FOR AND IN BEHALF OF HER MINOR CHILDREN REBECCA ANGELA DELGADO AND REGINA ISABEL DELGADO. PETITIONER, VS.HON. COURT OF APPEALS, HON. JUDGE JOSEFINA GUEVAR...

G.R. NO. 125041. June 30, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Review on Certiorari assailing the Decision[1] of the Court of Appeals dated 20 March 1996, affirming the Order, dated 12 September 1995[2] of the Regional Trial Court (RTC), Branch 149, Makati, granting support pendente lite to Rebecca Angela (Rica) and Regina Isabel (Rina), both surnamed Delgado.

The generative facts leading to the filing of the present petition are as follows:

On 17 March 1994, petitioner Ma. Belen B. Mangonon filed, in behalf of her then minor children Rica and Rina, a Petition for Declaration of Legitimacy and Support, with application for support pendente lite with the RTC Makati.[3] In said petition, it was alleged that on 16 February 1975, petitioner and respondent Federico Delgado were civilly married by then City Court Judge Eleuterio Agudo in Legaspi City, Albay. At that time, petitioner was only 21 years old while respondent Federico was only 19 years old. As the marriage was solemnized without the required consent per Article 85 of the New Civil Code,[4] it was annulled on 11 August 1975 by the Quezon City Juvenile and Domestic Relations Court.[5]

On 25 March 1976, or within seven months after the annulment of their marriage, petitioner gave birth to twins Rica and Rina. According to petitioner, she, with the assistance of her second husband Danny Mangonon, raised her twin daughters as private respondents had totally abandoned them. At the time of the institution of the petition, Rica and Rina were about to enter college in the United States of America (USA) where petitioner, together with her daughters and second husband, had moved to and finally settled in. Rica was admitted to the University of Massachusetts (Amherst) while Rina was accepted by the Long Island University and Western New England College. Despite their admissions to said universities, Rica and Rina were, however, financially incapable of pursuing collegiate education because of the following:

i) The average annual cost for college education in the US is about US$22,000/year, broken down as follows:

Tuition Fees
US$13,000.00

Room & Board
5,000.00

Books
1,000.00

Yearly Transportation &

Meal Allowance
3,000.00

Total US$
2,000.00

> or a total of US$44,000.00, more or less, for both Rica and Rina
>
> ii) Additionally, Rica and Rina need general maintenance support each in the amount of US$3,000.00 per year or a total of US$6,000 per year.
>
> iii) Unfortunately, petitioner's monthly income from her 2 jobs is merely US$1,200 after taxes which she can hardly give general support to Rica and Rina, much less their required college educational support.
>
> iv) Neither can petitioner's present husband be compelled to share in the general support and college education of Rica and Rina since he has his own son with petitioner and own daughter (also in college) to attend to.
>
> v) Worse, Rica and Rina's petitions for Federal Student Aid have been rejected by the U.S. Department of Education.[6]

Petitioner likewise averred that demands[7] were made upon Federico and the latter's father, Francisco,[8] for general support and for the payment of the required college education of Rica and Rina. The twin sisters even exerted efforts to work out a settlement concerning these matters with respondent Federico and respondent Francisco, the latter being generally known to be financially well-off.[9] These demands, however, remained unheeded. Considering the impending deadline for admission to college and the opening of classes, petitioner and her then minor children had no choice but to file the petition before the trial court.

Petitioner also alleged that Rica and Rina are her legitimate daughters by respondent Federico since the twin sisters were born within seven months from the date of the annulment of her marriage to respondent Federico. However, as respondent Federico failed to sign the birth certificates of Rica and Rina, it was imperative that their status as legitimate children of respondent Federico, and as granddaughters of respondent Francisco, be judicially declared pursuant to Article 173 of the Family Code.[10]

As legitimate children and grandchildren, Rica and Rina are entitled to general and educational support under Articles 174[11] and 195(b)[12] in relation to Articles 194(1 and 2)[13] and 199(c)[14] of the Family Code. Petitioner alleged that under these provisions, in case of default on the part of the parents, the obligation to provide support falls upon the grandparents of the children; thus, respondent Federico, or in his default, respondent Francisco should be ordered to provide general and educational support for Rica and Rina in the amount of US$50,000.00, more or less, per year.

Petitioner also claimed that she was constrained to seek support pendente lite from private respondents - who are millionaires with extensive assets both here and abroad - in view of the imminent opening of classes, the possibility of a protracted litigation, and Rica and Rina's lack of financial means to pursue their college education in the USA.

In his Answer,[15] respondent Francisco stated that as the birth certificates of Rica and Rina do not bear the signature of respondent Federico, it is essential that their legitimacy be first established as "there is no basis to claim support until a final and executory judicial declaration has been made as to the civil status of the children."[16] Whatever good deeds he may have done to Rica and Rina, according to respondent Francisco, was founded on pure acts of Christian charity. He, likewise, averred that the order of liability for support under Article

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199 of the Family Code is not concurrent such that the obligation must be borne by those more closely related to the recipient. In this case, he maintained that responsibility should rest on the shoulders of petitioner and her second husband, the latter having voluntarily assumed the duties and responsibilities of a natural father. Even assuming that he is responsible for support, respondent Francisco contends that he could not be made to answer beyond what petitioner and the father could afford.

On 24 May 1994, petitioner filed a Motion to Declare Defendant (respondent herein) Federico in Default.[17] This was favorably acted upon by the trial court in the Order dated 16 June 1994.[18]

On 5 August 1994, respondent Federico filed a Motion to Lift Order of Default alleging that the summons and a copy of the petition were not served in his correct address.[19] Attached thereto was his Answer[20] where he claimed that petitioner had no cause of action against him. According to him, he left for abroad and stayed there for a long time "[w]ithin the first one hundred twenty (120) days of the three hundred days immediately preceding March 25, 1976" and that he only came to know about the birth of Rica and Rina when the twins introduced themselves to him seventeen years later. In order not to antagonize the two, respondent Federico claimed he did not tell them that he could not be their father. Even assuming that Rica and Rina are, indeed, his daughters, he alleged that he could not give them the support they were demanding as he was only making P40,000.00 a month.

Finding sufficient ground in the motion filed by respondent Federico, the trial court lifted its Order dated 16 June 1994 and admitted his Answer.[21]

In the meantime, on 25 April 1994, petitioner filed an Urgent Motion to Set Application for Support Pendente Lite for Hearing because Rica and Rina both badly needed immediate financial resources for their education.[22] This Motion was opposed by respondent Francisco.[23] After both parties submitted supplemental pleadings to bolster their respective positions, the trial court resolved the motion in an Order dated 12 September 1995 in this wise:

> WHEREFORE, in the light of the foregoing considerations, respondents are hereby directed to provide a monthly support (pendente lite) of P5,000.00 each or a total of P10,000.00 for the education of Rebecca Angela and Regina Isabel Delgado to be delivered within the first five days of each month without need of demand.[24]

Unsatisfied with the Order of the trial court, petitioner brought the case to the Court of Appeals via Petition for Certiorari. The Court of Appeals affirmed the holding of the trial court and disposed the petition in the following manner:

> WHEREFORE, the petition for certiorari is hereby DISMISSED and the Order of the lower court dated September 12, 1995 is hereby AFFIRMED.[25]

Petitioner's Motion for Reconsideration was denied through the Resolution of the Court of Appeals dated 16 May 1996.[26]

Petitioner is now before this Court claiming that the Decision of the Court of Appeals was tainted with the following errors:

> RESPONDENT COURT OF APPEALS ERRED IN CONCLUDING THAT RESPONDENT JUDGE DID NOT COMMIT GRAVE ABUSE OF DISCRETION IN FIXING THE AMOUNT OF MONTHLY SUPPORT PENDENTE LITE GRANTED TO PETITIONER'S CHILDREN AT A MEASLEY P5,000.00 PER CHILD.
>
> I.
>
> RESPONDENT COURT IGNORED EVIDENCE ON RECORD OF THE FINANCIAL INCAPACITY OF RICA AND RINA'S PARENTS IN DEFAULT OF WHOM THE OBLIGATION TO GIVE SUPPORT

DEVOLVES ON THE GRANDFATHER.

II.

IT BEING ESTABLISHED THAT THE PERSON OBLIGED TO GIVE SUPPORT – GRANDFATHER DON PACO – IS UNDOUBTEDLY CAPABLE OF GIVING THE AMOUNT DEMANDED, RESPONDENT COURT ERRED IN NOT HOLDING THAT RESPONDENT JUDGE ACTED WITH GRAVE ABUSE OF DISCRETION IN FIXING AN AMOUNT OF SUPPORT PENDENTE LITE THAT IS OBVIOUSLY INADEQUATE TO SUPPORT THE EDUCATIONAL REQUIREMENTS OF THE RECIPIENTS.[27]

At the time of the filing of the present Petition, it is alleged that Rica had already entered Rutgers University in New Jersey with a budget of US$12,500.00 for academic year 1994-1995. She was able to obtain a tuition fee grant of US$1,190.00 and a Federal Stafford loan from the US government in the amount of US$2,615.00.[28] In order to defray the remaining balance of Rica's education for said school year, petitioner claims that she had to secure a loan under the Federal Direct Student Loan Program.

Meanwhile, Rina entered CW Post, Long Island University, where she was expected to spend US$20,000.00 for the school year 1994-1995. She was given a financial grant of US$6,000.00, federal work study assistance of US$2,000.00, and a Federal Stafford loan of US$2,625.00.[29] Again, petitioner obtained a loan to cover the remainder of Rina's school budget for the year.

Petitioner concedes that under the law, the obligation to furnish support to Rica and Rina should be first imposed upon their parents. She contends, however, that the records of this case demonstrate her as well as respondent Federico's inability to give the support needed for Rica and Rina's college education. Consequently, the obligation to provide support devolves upon respondent Francisco being the grandfather of Rica and Rina.

Petitioner also maintains that as respondent Francisco has the financial resources to help defray the cost of Rica and Rina's schooling, the Court of Appeals then erred in sustaining the trial court's Order directing respondent Federico to pay Rica and Rina the amount of award P5,000.00 each as monthly support pendente lite.

On the other hand, respondent Francisco argues that the trial court correctly declared that petitioner and respondent Federico should be the ones to provide the support needed by their twin daughters pursuant to Article 199 of the Family Code. He also maintains that aside from the financial package availed of by Rica and Rina in the form of state tuition aid grant, work study program and federal student loan program, petitioner herself was eligible for, and had availed herself of, the federal parent loan program based on her income and properties in the USA. He, likewise, insists that assuming he could be held liable for support, he has the option to fulfill the obligation either by paying the support or receiving and maintaining in the dwelling here in the Philippines the person claiming support.[30] As an additional point to be considered by this Court, he posits the argument that because petitioner and her twin daughters are now US citizens, they cannot invoke the Family Code provisions on support as "[l]aws relating to family rights and duties, or to the status, condition and legal capacity of persons are binding upon citizens of the Philippines, even though living abroad."[31]

Respondent Federico, for his part, continues to deny having sired Rica and Rina by reiterating the grounds he had previously raised before the trial court. Like his father, respondent Federico argues that assuming he is indeed the father of the twin sisters, he has the option under the law as to how he would provide support. Lastly, he assents with the declaration of the trial court and the Court of Appeals that the parents of a child should primarily bear the burden of providing support to their offspring.

The petition is meritorious.

As a preliminary matter, we deem it necessary to briefly discuss the essence of support pendente lite. The pertinent portion of the Rules of Court on the matter provides:

> Rule 61
> SUPPORT 'PENDENTE LITE'
>
> SECTION 1. Application.- At the commencement of the proper action or proceeding, or at any time prior to the judgment or final order, a verified application for support pendente lite may be filed by any party stating the grounds for the claim and the financial conditions of both parties, and accompanied by affidavits, depositions or other authentic documents in support thereof.
>
> x x x x
>
> SEC. 4. Order.- The court shall determine provisionally the pertinent facts, and shall render such orders as justice and equity may require, having due regard to the probable outcome of the case and such other circumstances as may aid in the proper resolution of the question involved. If the application is granted, the court shall fix the amount of money to be provisionally paid or such other forms of support as should be provided, taking into account the necessities of the applicant and the resources or means of the adverse party, and the terms of payment or mode for providing the support. If the application is denied, the principal case shall be tried and decided as early as possible.

Under this provision, a court may temporarily grant support pendente lite prior to the rendition of judgment or final order. Because of its provisional nature, a court does not need to delve fully into the merits of the case before it can settle an application for this relief. All that a court is tasked to do is determine the kind and amount of evidence which may suffice to enable it to justly resolve the application. It is enough that the facts be established by affidavits or other documentary evidence appearing in the record.[32]

After the hearings conducted on this matter as well as the evidence presented, we find that petitioner was able to establish, by prima facie proof, the filiation of her twin daughters to private respondents and the twins' entitlement to support pendente lite. In the words of the trial court –

> By and large, the status of the twins as children of Federico cannot be denied. They had maintained constant communication with their grandfather Francisco. As a matter of fact, respondent Francisco admitted having wrote several letters to Rica and Rina (Exhs. A, B, C, D, E, F, G, G-1 to G-30). In the said letters, particularly at the bottom thereof, respondent Francisco wrote the names of Rica and Rina Delgado. He therefore was very well aware that they bear the surname Delgado. Likewise, he referred to himself in his letters as either "Lolo Paco" or "Daddy Paco." In his letter of October 13, 1989 (Exh. G-21), he said "as the grandfather, am extending a financial help of US$1,000.00." On top of this, respondent Federico even gave the twins a treat to Hongkong during their visit to the Philippines. Indeed, respondents, by their actuations, have shown beyond doubt that the twins are the children of Federico.[33]

Having addressed the issue of the propriety of the trial court's grant of support pendente lite in favor of Rica and Rina, the next question is who should be made liable for said award.

The pertinent provision of the Family Code on this subject states:

> ART. 199. Whenever two or more persons are obliged to give support, the liability shall devolve upon the following persons in the order herein provided:
>
> (1) The spouse;
> (2) The descendants in the nearest degree;
> (3) The ascendants in the nearest degree; and
> (4) The brothers and sisters.

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An eminent author on the subject explains that the obligation to give support rests principally on those more closely related to the recipient. However, the more remote relatives may be held to shoulder the responsibility should the claimant prove that those who are called upon to provide support do not have the means to do so.[34]

In this case, both the trial court and the Court of Appeals held respondent Federico liable to provide monthly support pendente lite in the total amount of P10,000.00 by taking into consideration his supposed income of P30,000.00 to P40,000.00 per month. We are, however, unconvinced as to the veracity of this ground relied upon by the trial court and the Court of Appeals.

It is a basic procedural edict that questions of fact cannot be the proper subject of a petition for review under Rule 45 of the 1997 Rules of Civil Procedure. The rule finds a more stringent application where the Court of Appeals upholds the findings of fact of the trial court; in such a situation, this Court, as the final arbiter, is generally bound to adopt the facts as determined by the appellate and the lower courts. This rule, however, is not ironclad as it admits of the following recognized exceptions: "(1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion."[35] The case at bar falls within the seventh and eleventh exceptions.

The trial court gave full credence to respondent Federico's allegation in his Answer[36] and his testimony[37] as to the amount of his income. We have, however, reviewed the records of this case and found them bereft of evidence to support his assertions regarding his employment and his earning. Notably, he was even required by petitioner's counsel to present to the court his income tax return and yet the records of this case do not bear a copy of said document.[38] This, to our mind, severely undermines the truthfulness of respondent Federico's assertion with respect to his financial status and capacity to provide support to Rica and Rina.

In addition, respondent Francisco himself stated in the witness stand that as far as he knew, his son, respondent Federico did not own anything –

> "Atty. Lopez:
>
> I have here another letter under the letter head of Mr. & Mrs. Dany Mangonon, dated October 19, 1991 addressed to Mr. Francisco Delgado signed by "sincerely, Danny Mangonon, can you remember."
>
> x x x x
>
> WITNESS:
>
> A:

I do remember this letter because it really irritated me so much that I threw it away in a waste basket. It is a very demanding letter, that is what I do not like at all.

ATTY. LOPEZ:

Q:

It is stated in this letter that "I am making this request to you and not to your son, Rico, for reasons we both are aware of." Do you know what reason that is?

A:

Yes. The reason is that my son do not have fix employment and do not have fix salary and income and they want to depend on the lolo.

x x x x

Q:

Would you have any knowledge if Federico owns a house and lot?

A:

Not that I know. I do not think he has anything.

Q:

How about a car?

A:

Well, his car is owned by my company.[39]

Respondent Federico himself admitted in court that he had no property of his own, thus:

Q:

You also mentioned that you are staying at Mayflower Building and you further earlier testified that this building belongs to Citadel Corporation. Do you confirm that?

A:

Yes, sir.

Q:

What car are you driving, Mr. Witness?

A:

I am driving a lancer, sir.

Q:

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What car, that registered in the name of the corporation?

A:

In the corporation, sir.

Q:

What corporation is that?

A:

Citadel Commercial, Inc., sir.

Q:

What properties, if any, are registered in your name, do you have any properties, Mr. Witness?

A:

None, sir."[40] (Emphasis supplied.)

Meanwhile, respondent Francisco asserts that petitioner possessed the capacity to give support to her twin daughters as she has gainful employment in the USA. He even went as far as to state that petitioner's income abroad, when converted to Philippine peso, was much higher than that received by a trial court judge here in the Philippines. In addition, he claims that as she qualified for the federal parent loan program, she could very well support the college studies of her daughters.

We are unconvinced. Respondent Francisco's assertion that petitioner had the means to support her daughters' education is belied by the fact that petitioner was even forced by her financial status in the USA to secure the loan from the federal government. If petitioner were really making enough money abroad, she certainly would not have felt the need to apply for said loan. The fact that petitioner was compelled to take out a loan is enough indication that she did not have enough money to enable her to send her daughters to college by herself. Moreover, even Rica and Rina themselves were forced by the circumstances they found themselves in to secure loans under their names so as not to delay their entrance to college.

There being prima facie evidence showing that petitioner and respondent Federico are the parents of Rica and Rina, petitioner and respondent Federico are primarily charged to support their children's college education. In view however of their incapacities, the obligation to furnish said support should be borne by respondent Francisco. Under Article 199 of the Family Code, respondent Francisco, as the next immediate relative of Rica and Rina, is tasked to give support to his granddaughters in default of their parents. It bears stressing that respondent Francisco is the majority stockholder and Chairman of the Board of Directors of Citadel Commercial, Incorporated, which owns and manages twelve gasoline stations, substantial real estate, and is engaged in shipping, brokerage and freight forwarding. He is also the majority stockholder and Chairman of the Board of Directors of Citadel Shipping which does business with Hyundai of Korea. Apart from these, he also owns the

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Citadel Corporation which, in turn, owns real properties in different parts of the country. He is likewise the Chairman of the Board of Directors of Isla Communication Co. and he owns shares of stocks of Citadel Holdings. In addition, he owns real properties here and abroad.[41] It having been established that respondent Francisco has the financial means to support his granddaughters' education, he, in lieu of petitioner and respondent Federico, should be held liable for support pendente lite.

Anent respondent Francisco and Federico's claim that they have the option under the law as to how they could perform their obligation to support Rica and Rina, respondent Francisco insists that Rica and Rina should move here to the Philippines to study in any of the local universities. After all, the quality of education here, according to him, is at par with that offered in the USA. The applicable provision of the Family Code on this subject provides:

> Art. 204. The person obliged to give support shall have the option to fulfill the obligation either by paying the allowance fixed, or by receiving and maintaining in the family dwelling the person who has a right to receive support. The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto.

Under the abovecited provision, the obligor is given the choice as to how he could dispense his obligation to give support. Thus, he may give the determined amount of support to the claimant or he may allow the latter to stay in the family dwelling. The second option cannot be availed of in case there are circumstances, legal or moral, which should be considered.

In this case, this Court believes that respondent Francisco could not avail himself of the second option. From the records, we gleaned that prior to the commencement of this action, the relationship between respondent Francisco, on one hand, and petitioner and her twin daughters, on the other, was indeed quite pleasant. The correspondences exchanged among them expressed profound feelings of thoughtfulness and concern for one another's well-being. The photographs presented by petitioner as part of her exhibits presented a seemingly typical family celebrating kinship. All of these, however, are now things of the past. With the filing of this case, and the allegations hurled at one another by the parties, the relationships among the parties had certainly been affected. Particularly difficult for Rica and Rina must be the fact that those who they had considered and claimed as family denied having any familial relationship with them. Given all these, we could not see Rica and Rina moving back here in the Philippines in the company of those who have disowned them.

Finally, as to the amount of support pendente lite, we take our bearings from the provision of the law mandating the amount of support to be proportionate to the resources or means of the giver and to the necessities of the recipient.[42] Guided by this principle, we hold respondent Francisco liable for half of the amount of school expenses incurred by Rica and Rina as support pendente lite. As established by petitioner, respondent Francisco has the financial resources to pay this amount given his various business endeavors.

Considering, however, that the twin sisters may have already been done with their education by the time of the promulgation of this decision, we deem it proper to award support pendente lite in arrears[43] to be computed from the time they entered college until they had finished their respective studies.

The issue of the applicability of Article 15 of the Civil Code on petitioner and her twin daughters raised by respondent Francisco is best left for the resolution of the trial court. After all, in case it would be resolved that Rica and Rina are not entitled to support pendente lite, the court shall then order the return of the amounts already paid with legal interest from the dates of actual payment.[44]

WHEREFORE, premises considered, this Petition is PARTIALLY GRANTED. The Decision of the Court of Appeals dated 20 March 1996 and Resolution dated 16 May 1996 affirming the Order dated 12 September 1995 of the Regional Trial Court, Branch 149, Makati, fixing the amount of support pendente lite to P5,000.00 for

Rebecca Angela and Regina Isabel, are hereby MODIFIED in that respondent Francisco Delgado is hereby held liable for support pendente lite in the amount to be determined by the trial court pursuant to this Decision. Let the records of this case be remanded to the trial court for the determination of the proper amount of support pendente lite for Rebecca Angela and Regina Isabel as well as the arrearages due them in accordance with this Decision within ten (10) days from receipt hereof. Concomitantly, the trial court is directed to proceed with the trial of the main case and the immediate resolution of the same with deliberate dispatch. The RTC Judge, Branch 149, Makati, is further directed to submit a report of his compliance with the directive regarding the support pendente lite within ten (10) days from compliance thereof.

SO ORDERED.

Ynares-Santiago (Acting Chairman), Austria-Martinez, and Callejo, Sr., JJ., concur.
Panganiban, C.J., (Chairperson), on official leave.

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[1] Penned by Associate Justice Portia Aliño-Hormachuelos with Associate Justices Artemon D. Luna and Ramon Barcelona, concurring; Rollo, pp. 38-46.

[2] Rollo, pp. 216-221.

[3] Records, Vol. I, pp. 2-13; Docketed as Civil Case No. 94-1093.

[4] Article 85. A marriage may be annulled for any of the following causes, existing at the time of the marriage:

(1) That the party in whose behalf it is sought to have the marriage annulled was between the ages of sixteen and twenty years, if male, or between the ages of fourteen and eighteen years, if female, and the marriage was solemnized without the consent of the parent, guardian or person having authority over the party, unless after attaining the ages of twenty or eighteen years, as the case may be, such party freely cohabited with the other and both lived together as husband and wife.

[5] Records, Vol. I, pp. 14-18.

[6] Id. at 4-5.

[7] Annexes "D" and "D-1"; Records, Vol. I, pp. 25-27.

[8] Sometimes referred to in the pleadings as Don Paco.

[9] Annexes " E-1" and "E-2"; Records, Vol. I, pp. 29 and 30.

[10] Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

[11] Art. 174. Legitimate children shall have the right:

(1) To bear the surnames of the father and the mother, in conformity with the provisions of the Civil Code on Surnames;

(2) To receive support from their parents, their ascendants, and in proper cases, their brothers and sisters, in conformity with the provisions of this Code on Support; and

(3) To be entitled to the legitime and other successional rights granted to them by the Civil Code.

[12] Should be Art. 195(2). It reads:

Art. 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

x x x

(2) Legitimate ascendants and descendants;

x x x

[13] Art. 194. Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work.

[14] Should be Art. 199(3). It states:

Art. 199. Whenever two or more persons are obliged to give support, the liability shall devolve upon the following persons in the order herein provided:

x x x

(3) The ascendants in the nearest degree; and

x x x

[15] Records, Vol. I, pp. 68-77.

[16] Id. at 71, citing Francisco v. Zandueta, 61 Phil. 752, 757 (1935).

[17] Records, Vol. I, pp. 220-222.

[18] Id. at 261.

[19] Id. at 397-399.

[20] Id. at 400-402.

[21] Order dated 29 August 1994; Records, Vol. I, p. 479.

[22] Records, Vol. I, pp. 58-61.

[23] Id. at 78-91.

[24] Order dated 12 September 1995; Records, Vol. II, p. 610.

[25] Rollo, p. 46.

[26] Id. at 48-49.

[27] Id. at 14-15.

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[28] Id. at 12.

[29] Id.

[30] Citing Article 204 of the Family Code.

[31] CIVIL CODE, Art. 15.

[32] Ramos v. Court of Appeals, 150-A Phil. 996, 1001 (1972).

[33] Rollo, p. 220.

[34] CIVIL CODE OF THE PHILIPPINES, COMMENTARIES AND JURISPRUDENCE, Vol. I, Arturo Tolentino, Art. 199 of the Family Code.

[35] The Insular Life Assurance Company, Ltd. v. Court of Appeals, G.R. No. 126850, 28 April 2004, 428 SCRA 79, 86.

[36] Records, p. 400.

[37] TSN, November 11, 1994, pp. 17-19; Records, Vol. II, pp. 468-470.

[38] TSN, October 21, 1994, p. 13; Records, Vol. II, p. 438.

[39] TSN, August 19, 1994, pp. 31-33; Records, Vol. II, pp. 347-349.

[40] TSN, October 21, 1994, pp. 12-13; Records, Vol. II, pp. 437-438.

[41] Rollo, pp. 20-30.

[42] FAMILY CODE, Art. 201.

[43] See Amurao v. Court of Appeals, G.R. No. 83942, 29 December 1988, 168 SCRA 734, 737.

[44] RULES OF COURT, Rule 62, Sec. 7.

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