

**TEOFISTO I. VERCELES, PETITIONER, VS. MARIA CLARISSA POSADA,
IN HER OWN BEHALF, AND AS MOTHER OF MINOR VERNA AIZA
POSADA, CONSTANTINO POSADA AND FRANCISCA POSADA,
RESPONDENTS.**

G.R. NO. 159785. April 27, 2007

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review seeks the reversal of the Decision[1] dated May 30, 2003 and the Resolution[2] dated August 27, 2003 of the Court of Appeals in CA-G.R. CV No. 50557. The appellate court had affirmed with modification the Judgment[3] dated January 4, 1995 of the Regional Trial Court (RTC) of Virac, Catanduanes, Branch 42, in Civil Case No. 1401. The RTC held petitioner liable to pay monthly support to Verna Aiza Posada since her birth on September 23, 1987 as well as moral and exemplary damages, attorney's fees and costs of suit.

The facts in this case as found by the lower courts are as follows:

Respondent Maria Clarissa Posada (Clarissa), a young lass from the barrio of Pandan, Catanduanes, sometime in 1986 met a close family friend, petitioner Teofisto I. Verceles, mayor of Pandan. He then called on the Posadas and at the end of the visit, offered Clarissa a job.

Clarissa accepted petitioner's offer and worked as a casual employee in the mayor's office starting on September 1, 1986. From November 10 to 15 in 1986, with companions Aster de Quiros, Pat del Valle, Jaime and Jocelyn Vargas, she accompanied petitioner to Legaspi City to attend a seminar on town planning. They stayed at the Mayon Hotel.

On November 11, 1986, at around 11:00 a.m., petitioner fetched Clarissa from "My Brother's Place" where the seminar was being held. Clarissa avers that he told her that they would have lunch at Mayon Hotel with their companions who had gone ahead. When they reached the place her companions were nowhere. After petitioner ordered food, he started making amorous advances on her. She panicked, ran and closeted herself inside a comfort room where she stayed until someone knocked. She said she hurriedly exited and left the hotel. Afraid of the mayor, she kept the incident to herself. She went on as casual employee. One of her tasks was following-up barangay road and maintenance projects.

On December 22, 1986, on orders of petitioner, she went to Virac, Catanduanes, to follow up funds for barangay projects. At around 11:00 a.m. the same day, she went to Catanduanes Hotel on instructions of petitioner who asked to be briefed on the progress of her mission. They met at the lobby and he led her upstairs because he said he wanted the briefing done at the restaurant at the upper floor.

Instead, however, petitioner opened a hotel room door, led her in, and suddenly embraced her, as he told her that he was unhappy with his wife and would "divorce" her anytime. He also claimed he could appoint her as a municipal development coordinator. She succumbed to his advances. But again she kept the incident to herself.

Sometime in January 1987, when she missed her menstruation, she said she wrote petitioner that she feared she was pregnant. In another letter in February 1987, she told him she was pregnant. In a handwritten letter dated February 4, 1987, he replied:

My darling Chris,

Should you become pregnant even unexpectedly, I should have no regret, because I love you and you love me.

Let us rejoice a common responsibility — you and I shall take care of it and let him/her see the light of this beautiful world.

We know what to do to protect our honor and integrity.

Just relax and be happy, if true.

With all my love,

Ninoy

2/4/87[4]

Clarissa explained petitioner used an alias "Ninoy" and addressed her as "Chris," probably because of their twenty-five (25)-year age gap. In court, she identified petitioner's penmanship which she claims she was familiar with as an employee in his office.

Clarissa presented three other handwritten letters[5] sent to her by petitioner, two of which were in his letterhead as mayor of Pandan. She also presented the pictures[6] petitioner gave her of his youth and as a public servant, all bearing his handwritten notations at the back.

Clarissa avers that on March 3, 1987, petitioner, aware of her pregnancy, handed her a letter and P2,000 pocket money to go to Manila and to tell her parents that she would enroll in a CPA review course or look for a job. In June 1987, petitioner went to see her in Manila and gave her another P2,000 for her delivery. When her parents learned of her pregnancy, sometime in July, her father fetched her and brought her back to Pandan. On September 23, 1987,[7] she gave birth to a baby girl, Verna Aiza Posada.

Clarissa's mother, Francisca, corroborated Clarissa's story. She said they learned of their daughter's pregnancy through her husband's cousin. She added that she felt betrayed by petitioner and shamed by her daughter's pregnancy.

The Posadas filed a Complaint for Damages coupled with Support Pendente Lite before the RTC, Virac, Catanduanes against petitioner on October 23, 1987.[8]

On January 4, 1995, the trial court issued a judgment in their favor, the dispositive portion of which reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the [respondents] and against the [petitioner] and ordering the latter:

- to pay a monthly support of P2,000.00 to Verna Aiza Posada since her birth on September 23, 1987 as he was proved to be the natural father of the above-named minor as shown by the exhibits and testimonies of the [respondents];
- to pay the amount of P30,000.00 as moral damages;
- to pay the amount of P30,000.00 as exemplary damages;

- to pay the sum of P10,000.00 as attorney's fees; and
- to pay the costs of the suit.

SO ORDERED.[9]

Verceles appealed to the Court of Appeals which affirmed the judgment with modification, specifying the party to whom the damages was awarded. The dispositive portion of the Court of Appeals' decision reads:

WHEREFORE, the appealed judgment is AFFIRMED with modification by ordering [petitioner] Teofisto I. Verceles:

- To pay a monthly support of P2,000.00 to Verna Aiza Posada from her birth on September 23, 1987.
- To pay [respondent] Maria Clarissa Posada the sum of P15,000.00 as moral damages and [P]15,000.00 as exemplary damages.
- To pay [respondents] spouses Constantino and Francisca Posada the sum of P15,000.00 as moral damages and P15,000.00 as exemplary damages.
- To pay each of the said three [respondents] P10,000.00 as attorney's fees; and
- To pay the costs of suit.

SO ORDERED.[10]

Hence, this petition.

Petitioner now presents the following issues for resolution:

I.

WAS THERE ANY EVIDENCE ON RECORD TO PROVE THAT APPELLANT VERCELES WAS THE FATHER OF THE CHILD?

II.

WOULD THIS ACTION FOR DAMAGES PROSPER?

III.

WOULD THE RTC COURT HAVE ACQUIRED JURISDICTION OVER THIS ISSUE OF APPELLANT'S PATERNITY OF THE CHILD, WHICH IS MADE COLLATERAL TO THIS ACTION FOR DAMAGES?[11]

In sum, the pertinent issues in this case are: (1) whether or not paternity and filiation can be resolved in an action for damages with support pendente lite; (2) whether or not the filiation of Verna Aiza Posada as the illegitimate child of petitioner was proven; and (3) whether or not respondents are entitled to damages.

In his Memorandum, petitioner asserts that the fact of paternity and filiation of Verna Aiza Posada has not been duly established or proved in the proceedings; that the award for damages and attorney's fees has no basis; and that the issue of filiation should be resolved in a direct and not a collateral action.

Petitioner argues he never signed the birth certificate of Verna Aiza Posada as father and that it was respondent Clarissa who placed his name on the birth certificate as father without his consent. He further contends the alleged love letters he sent to Clarissa are not admissions of paternity but mere expressions of concern and advice.[12] As to the award for damages, petitioner argues Clarissa could not have suffered moral damages because she was in

pari delicto, being a willing participant in the "consensual carnal act" between them.[13] In support of his argument that the issue on filiation should have been resolved in a separate action, petitioner cited the case of *Rosales v. Castillo Rosales*[14] where we held that the legitimacy of a child which is controversial can only be resolved in a direct action.[15]

On the other hand, respondents in their Memorandum maintain that the Court of Appeals committed no error in its decision. They reiterate that Clarissa's clear narration of the circumstances on "how she was deflowered" by petitioner, the love letters and pictures given by petitioner to Clarissa, the corroborating testimony of Clarissa's mother, the fact that petitioner proffered no countervailing evidence, are preponderant evidence of paternity. They cited the case of *De Jesus v. Syquia*[16] where we held that a conceived child can be acknowledged because this is an act favorable to the child.[17] They also argue that damages should be awarded because petitioner inveigled Clarissa to succumb to his sexual advances.[18]

Could paternity and filiation be resolved in an action for damages? On this score, we find petitioner's stance unmeritorious. The caption is not determinative of the nature of a pleading. In a string of cases we made the following rulings. It is not the caption but the facts alleged which give meaning to a pleading. Courts are called upon to pierce the form and go into the substance thereof.[19] In determining the nature of an action, it is not the caption, but the averments in the petition and the character of the relief sought, that are controlling.[20]

A perusal of the Complaint before the RTC shows that although its caption states "Damages coupled with Support Pendente Lite," Clarissa's averments therein, her meeting with petitioner, his offer of a job, his amorous advances, her seduction, their trysts, her pregnancy, birth of her child, his letters, her demand for support for her child, all clearly establish a case for recognition of paternity. We have held that the due recognition of an illegitimate child in a record of birth, a will, a statement before a court of record, or in any authentic writing is, in itself, a consummated act of acknowledgement of the child, and no further court action is required. In fact, any authentic writing is treated not just a ground for compulsory recognition; it is in itself a voluntary recognition that does not require a separate action for judicial approval.[21]

The letters of petitioner marked as Exhibits "A" to "D" are declarations that lead nowhere but to the conclusion that he sired Verna Aiza. Although petitioner used an alias in these letters, the similarity of the penmanship in these letters vis the annotation at the back of petitioner's fading photograph as a youth is unmistakable. Even an inexperienced eye will come to the conclusion that they were all written by one and the same person, petitioner, as found by the courts a quo.

We also note that in his Memorandum, petitioner admitted his affair with Clarissa, the exchange of love letters between them, and his giving her money during her pregnancy. [22]

Articles 172 and 175 of the Family Code are the rules for establishing filiation. They are as follows:

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.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.

The letters, one of which is quoted above, are private handwritten instruments of petitioner which establish Verna Aiza's filiation under Article 172 (2) of the Family Code. In addition, the array of evidence presented by respondents, the dates, letters, pictures and testimonies, to us, are convincing, and irrefutable evidence that Verna Aiza is, indeed, petitioner's illegitimate child.

Petitioner not only failed to rebut the evidence presented, he himself presented no evidence of his own. His bare denials are telling. Well-settled is the rule that denials, if unsubstantiated by clear and convincing evidence, are negative and self-serving which merit no weight in law and cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.[23]

We, however, cannot rule that respondents are entitled to damages. Article 2219[24] of the Civil Code which states moral damages may be recovered in cases of seduction is inapplicable in this case because Clarissa was already an adult at the time she had an affair with petitioner.

Neither can her parents be entitled to damages. Besides, there is nothing in law or jurisprudence that entitles the parents of a consenting adult who begets a love child to damages. Respondents Constantino and Francisca Posada have not cited any law or jurisprudence to justify awarding damages to them.

We, however, affirm the grant of attorney's fees in consonance with Article 2208 (2)[25] and (11)[26] of the New Civil Code.

WHEREFORE, the assailed Decision dated May 30, 2003 and the Resolution dated August 27, 2003 of the Court of Appeals in CA-G.R. CV No. 50557 are AFFIRMED, with the MODIFICATION that the award of moral damages and exemplary damages be DELETED.

SO ORDERED.

Carpio, Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 22-38.

[2] Id. at 41.

[3] CA rollo, pp. 27-31.

[4] Exhibit "A," records, p. 75.

[5] Exhibits "B," "C," and "D," records, pp. 76-78.

[6] Exhibits "E" to "R," records, pp. 79-92.

[7] Exhibit "U," records, p. 95.

[8] Records, pp. 1-7.

[9] CA rollo, p. 31.

- [10] Rollo, pp. 37-38.
- [11] Id. at 179.
- [12] Id. at 181-183.
- [13] Id. at 189-190.
- [14] No. L-31712, September 28, 1984, 132 SCRA 132.
- [15] Id. at 141.
- [16] 58 Phil. 866 (1933).
- [17] Id. at 868.
- [18] Rollo, p. 169.
- [19] I O. Herrera, remedial law 495 (2000 Edition).
- [20] Flores v. Office of the Ombudsman, G.R. No. 136769, September 17, 2000, 389 SCRA 127, 132.
- [21] Eceta v. Eceta, G.R. No. 157037, May 20, 2004, 428 SCRA 782, 786, citing De Jesus v. Estate of Decedent Juan Gamboa Dizon, G.R. No. 142877, October 2, 2001, 366 SCRA 499, 503.
- [22] Rollo, p. 178.
- [23] Carpio v. Valmonte, G.R. No. 151866, September 9, 2004, 438 SCRA 38, 43-44.
- [24] Art. 2219. Moral damages may be recovered in the following and analogous cases:
- (1) A criminal offense resulting in physical injuries;
 - (2) Quasi-delicts causing physical injuries;
 - (3) Seduction, abduction, rape, or other lascivious acts;
 - (4) Adultery or concubinage;
 - (5) Illegal or arbitrary detention or arrest;
 - (6) Illegal search;
 - (7) Libel, slander or any other form of defamation;
 - (8) Malicious prosecution;
 - (9) Acts mentioned in Article 309;
 - (10) Acts and actions referred to in Articles 21, 26, 27, 28, 29, 30, 32, 34, and 35.

The parents of the female seduced, abducted, raped, or abused, referred to in No. 3 of this article, may also recover moral damages.

The spouse, descendants, ascendants, and brother and sisters may bring the action mentioned in No. 9 of this article, in the order named.

[25] Art. 2208. In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;

x x x x

[26] x x x x

(11) In any other case where the court deems it just and equitable that attorney's fees and expenses of litigation should be recovered.

In all cases, the attorney's fees and expenses of litigation must be reasonable.

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