

IN RE: PETITION FOR CANCELLATION AND CORRECTION OF ENTRIES IN THE RECORD OF BIRTH, EMMA K. LEE, PETITIONER, VS. COURT OF APPEALS, RITA K. LEE, LEONCIO K. LEE, LUCIA K. LEE-ONG, ...

G.R. No. 177861. July 13, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about the grounds for quashing a subpoena ad testificandum and a parent's right not to testify in a case against his children.

The Facts and the Case

Spouses Lee Tek Sheng (Lee) and Keh Shiok Cheng (Keh) entered the Philippines in the 1930s as immigrants from China. They had 11 children, namely, Rita K. Lee, Leoncio K. Lee, Lucia K. Lee-Ong, Julian K. Lee, Martin K. Lee, Rosa Lee-Vanderlek, Melody Lee-Chin, Henry K. Lee, Natividad Lee-Miguel, Victoriano K. Lee, and Thomas K. Lee (collectively, the Lee-Keh children).

In 1948, Lee brought from China a young woman named Tiu Chuan (Tiu), supposedly to serve as housemaid. The respondent Lee-Keh children believe that Tiu left the Lee-Keh household, moved into another property of Lee nearby, and had a relation with him.

Shortly after Keh died in 1989, the Lee-Keh children learned that Tiu's children with Lee (collectively, the Lee's other children) claimed that they, too, were children of Lee and Keh. This prompted the Lee-Keh children to request the National Bureau of Investigation (NBI) to investigate the matter. After conducting such an investigation, the NBI concluded in its report:

[I]t is very obvious that the mother of these 8 children is certainly not KEH SHIOK CHENG, but a much younger woman, most probably TIU CHUAN. Upon further evaluation and analysis by these Agents, LEE TEK SHENG is in a quandary in fixing the age of KEH SHIOK CHENG possibly to conform with his grand design of making his 8 children as their own legitimate children, consequently elevating the status of his second family and secure their future. The doctor lamented that this complaint would not have been necessary had not the father and his second family kept on insisting that the 8 children are the legitimate children of KEH SHIOK CHENG.[1]

The NBI found, for example, that in the hospital records, the eldest of the Lee's other children, Marcelo Lee (who was recorded as the 12th child of Lee and Keh), was born of a 17-year-old mother, when Keh was already 38 years old at the time. Another of the Lee's other children, Mariano Lee, was born of a 23-year-old mother, when Keh was then already 40 years old, and so forth. In other words, by the hospital records of the Lee's other children, Keh's declared age did not coincide with her actual age when she supposedly gave birth to such other children, numbering eight.

On the basis of this report, the respondent Lee-Keh children filed two separate petitions, one of them before the Regional Trial Court (RTC) of Caloocan City[2] in Special Proceeding C-1674 for the deletion from the certificate of live birth of the petitioner Emma Lee, one of Lee's other children, the name Keh and replace the same with the name Tiu to indicate her true mother's name.

In April 2005 the Lee-Keh children filed with the RTC an ex parte request for the issuance of a subpoena ad testificandum to compel Tiu, Emma Lee's presumed mother, to testify in the case. The RTC granted the motion but Tiu moved to quash the subpoena, claiming that it was oppressive and violated Section 25, Rule 130 of the Rules of Court, the rule on parental privilege, she being Emma Lee's stepmother.[3] On August 5, 2005 the RTC quashed the subpoena it issued for being unreasonable and oppressive considering that Tiu was already very old and that the obvious object of the subpoena was to badger her into admitting that she was Emma Lee's mother.

Because the RTC denied the Lee-Keh children's motion for reconsideration, they filed a special civil action of certiorari before the Court of Appeals (CA) in CA-G.R. SP 92555. On December 29, 2006 the CA rendered a decision,[4] setting aside the RTC's August 5, 2005 Order. The CA ruled that only a subpoena duces tecum, not a subpoena ad testificandum, may be quashed for being oppressive or unreasonable under Section 4, Rule 21 of the Rules of Civil Procedure. The CA also held that Tiu's advanced age alone does not render her incapable of testifying. The party seeking to quash the subpoena for that reason must prove that she would be unable to withstand the rigors of trial, something that petitioner Emma Lee failed to do.

Since the CA denied Emma Lee's motion for reconsideration by resolution of May 8, 2007,[5] she filed the present petition with this Court.

The Question Presented

The only question presented in this case is whether or not the CA erred in ruling that the trial court may compel Tiu to testify in the correction of entry case that respondent Lee-Keh children filed for the correction of the certificate of birth of petitioner Emma Lee to show that she is not Keh's daughter.

The Ruling of the Court

Petitioner Emma Lee claims that the RTC correctly quashed the subpoena ad testificandum it issued against Tiu on the ground that it was unreasonable and oppressive, given the likelihood that the latter would be badgered on oral examination concerning the Lee-Keh children's theory that she had illicit relation with Lee and gave birth to the other Lee children.

But, as the CA correctly ruled, the grounds cited--unreasonable and oppressive--are proper for subpoena ad duces tecum or for the production of documents and things in the possession of the witness, a command that has a tendency to infringe on the right against invasion of privacy. Section 4, Rule 21 of the Rules of Civil Procedure, thus provides:

SECTION 4. Quashing a subpoena. -- The court may quash a subpoena duces tecum upon motion promptly made and, in any event, at or before the time specified therein if it is unreasonable and oppressive, or the relevancy of the books, documents or things does not appear, or if the person in whose behalf the subpoena is issued fails to advance the reasonable cost of the production thereof.

Notably, the Court previously decided in the related case of Lee v. Court of Appeals[6] that the Lee-Keh children have the right to file the action for correction of entries in the certificates of birth of Lee's other children, Emma Lee included. The Court recognized that the ultimate object of the suit was to establish the fact that Lee's other children were not children of Keh. Thus:

It is precisely the province of a special proceeding such as the one outlined under Rule 108 of the Revised Rules of Court to establish the status or right of a party, or a particular fact. The petitions filed by private respondents for the correction of entries in the petitioners' records of birth were intended to establish that for physical and/or biological reasons it was impossible for Keh Shiok Cheng to have conceived and given birth to the petitioners as shown in their birth records. Contrary to petitioners' contention that the petitions before the lower courts were actually actions to impugn legitimacy, the prayer therein is not to declare that petitioners are illegitimate children of Keh Shiok Cheng, but to establish that the former are not the latter's children. There is nothing to impugn as there is no blood relation at all between Keh Shiok Cheng and petitioners.[7] (Underscoring supplied)

Taking in mind the ultimate purpose of the Lee-Keh children's action, obviously, they would want Tiu to testify or admit that she is the mother of Lee's other children, including petitioner Emma Lee. Keh had died and so could not give testimony that Lee's other children were not hers. The Lee-Keh children have, therefore, a legitimate reason for seeking Tiu's testimony and, normally, the RTC cannot deprive them of their right to compel the attendance of such a material witness.

But petitioner Emma Lee raises two other objections to requiring Tiu to come to court and testify: a) considering her advanced age, testifying in court would subject her to harsh physical and emotional stresses; and b) it would violate her parental right not to be compelled to testify against her stepdaughter.

1. Regarding the physical and emotional punishment that would be inflicted on Tiu if she were compelled at her age and condition to come to court to testify, petitioner Emma Lee must establish this claim to the satisfaction of the trial court. About five years have passed from the time the Lee-Keh children sought the issuance of a subpoena for Tiu to appear before the trial court. The RTC would have to update itself and determine if Tiu's current physical condition makes her fit to undergo the ordeal of coming to court and being questioned. If she is fit, she must obey the subpoena issued to her.

Tiu has no need to worry that the oral examination might subject her to badgering by adverse counsel. The trial court's duty is to protect every witness against oppressive behavior of an examiner and this is especially true where the witness is of advanced age.[8]

2. Tiu claimed before the trial court the right not to testify against her stepdaughter, petitioner Emma Lee, invoking Section 25, Rule 130 of the Rules of Evidence, which reads:

SECTION 25. Parental and filial privilege.- No person may be compelled to testify against his parents, other direct ascendants, children or other direct descendants.

The above is an adaptation from a similar provision in Article 315 of the Civil Code that applies only in criminal cases. But those who revised the Rules of Civil Procedure chose to extend the prohibition to all kinds of actions, whether civil, criminal, or administrative, filed against parents and other direct ascendants or descendants.

But here Tiu, who invokes the filial privilege, claims that she is the stepmother of petitioner Emma Lee. The privilege cannot apply to them because the rule applies only to "direct" ascendants and descendants, a family tie connected by a common ancestry. A stepdaughter has no common ancestry by her stepmother. Article 965 thus provides:

Art. 965. The direct line is either descending or ascending. The former unites the head of the family with those who descend from him. The latter binds a person with those from whom he descends.

Consequently, Tiu can be compelled to testify against petitioner Emma Lee.

WHEREFORE, the Court DENIES the petition and AFFIRMS the decision and resolution of the Court of

Appeals in CA-G.R. SP 92555.

SO ORDERED.

Carpio, Villarama, Jr.,[*] Perez,[**] and Mendoza, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per Special Order No. 858 dated July 1, 2010.

[**] Designated as additional member in lieu of Associate Justice Antonio Eduardo B. Nachura, per Special Order No. 863 dated July 5, 2010.

[1] Rollo, pp. 13-14.

[2] Branch 131.

[3] Sec. 25. Parental and filial privilege. -- No person may be compelled to testify against his parents, other direct ascendants, children or other direct descendants.

[4] Rollo, pp. 9-23; Opinion of then Presiding Justice Ruben T. Reyes (now a retired Associate Justice of the Court), with the concurrence of Associate Justices Juan Q. Enriquez, Jr. and Vicente S.E. Veloso.

[5] Id. at 25-26.

[6] 419 Phil. 392 (2001).

[7] Id. at 404-405.

[8] Sec. 3. Rights and obligations of a witness. - A witness must answer questions, although his answer may tend to establish a claim against him. However, it is the right of a witness: x x x (2) Not to be detained longer than the interests of justice require; (3) Not to be examined except only as to matters pertinent to the issue; x x x.

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