

CHERRYL B. DOLINA, PETITIONER, VS. GLENN D. VALLECERA, RESPONDENT.

G.R. No. 182367. December 15, 2010

Ponente: ABAD, J.

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ABAD, J.:

This case is about a mother's claim for temporary support of an unacknowledged child, which she sought in an action for the issuance of a temporary protection order that she brought against the supposed father.

The Facts and the Case

In February 2008 petitioner Cherryl B. Dolina filed a petition with prayer for the issuance of a temporary protection order against respondent Glenn D. Vallecera before the Regional Trial Court (RTC) of Tacloban City in P.O. 2008-02-07[1] for alleged woman and child abuse under Republic Act (R.A.) 9262.[2] In filling out the blanks in the pro-forma complaint, Dolina added a handwritten prayer for financial support[3] from Vallecera for their supposed child. She based her prayer on the latter's Certificate of Live Birth which listed Vallecera as the child's father. The petition also asked the RTC to order Philippine Airlines, Vallecera's employer, to withhold from his pay such amount of support as the RTC may deem appropriate.

Vallecera opposed the petition. He claimed that Dolina's petition was essentially one for financial support rather than for protection against woman and child abuses; that he was not the child's father; that the signature appearing on the child's Certificate of Live Birth is not his; that the petition is a harassment suit intended to force him to acknowledge the child as his and give it financial support; and that Vallecera has never lived nor has been living with Dolina, rendering unnecessary the issuance of a protection order against him.

On March 13, 2008[4] the RTC dismissed the petition after hearing since no prior judgment exists establishing the filiation of Dolina's son and granting him the right to support as basis for an order to compel the giving of such support. Dolina filed a motion for reconsideration but the RTC denied it in its April 4, 2008 Order,[5] with an admonition that she first file a petition for compulsory recognition of her child as a prerequisite for support. Unsatisfied, Dolina filed the present petition for review directly with this Court.

The Issue Presented

The sole issue presented in this case is whether or not the RTC correctly dismissed Dolina's action for temporary protection and denied her application for temporary support for her child.

The Court's Ruling

Dolina evidently filed the wrong action to obtain support for her child. The object of R.A. 9262 under which she filed the case is the protection and safety of women and children who are victims of abuse or violence.[6] Although the issuance of a protection order against the respondent in the case can include the grant of legal

support for the wife and the child, this assumes that both are entitled to a protection order and to legal support.

Dolina of course alleged that Vallecera had been abusing her and her child. But it became apparent to the RTC upon hearing that this was not the case since, contrary to her claim, neither she nor her child ever lived with Vallecera. As it turned out, the true object of her action was to get financial support from Vallecera for her child, her claim being that he is the father. He of course vigorously denied this.

To be entitled to legal support, petitioner must, in proper action, first establish the filiation of the child, if the same is not admitted or acknowledged. Since Dolina's demand for support for her son is based on her claim that he is Vallecera's illegitimate child, the latter is not entitled to such support if he had not acknowledged him, until Dolina shall have proved his relation to him.[7] The child's remedy is to file through her mother a judicial action against Vallecera for compulsory recognition.[8] If filiation is beyond question, support follows as matter of obligation.[9] In short, illegitimate children are entitled to support and successional rights but their filiation must be duly proved.[10]

Dolina's remedy is to file for the benefit of her child an action against Vallecera for compulsory recognition in order to establish filiation and then demand support. Alternatively, she may directly file an action for support, where the issue of compulsory recognition may be integrated and resolved.[11]

It must be observed, however, that the RTC should not have dismissed the entire case based solely on the lack of any judicial declaration of filiation between Vallecera and Dolina's child since the main issue remains to be the alleged violence committed by Vallecera against Dolina and her child and whether they are entitled to protection. But of course, this matter is already water under the bridge since Dolina failed to raise this error on review. This omission lends credence to the conclusion of the RTC that the real purpose of the petition is to obtain support from Vallecera.

While the Court is mindful of the best interests of the child in cases involving paternity and filiation, it is just as aware of the disturbance that unfounded paternity suits cause to the privacy and peace of the putative father's legitimate family.[12] Vallecera disowns Dolina's child and denies having a hand in the preparation and signing of its certificate of birth. This issue has to be resolved in an appropriate case.

ACCORDINGLY, the Court DENIES the petition and AFFIRMS the Regional Trial Court of Tacloban City's Order dated March 13, 2008 that dismissed petitioner Cherryl B. Dolina's action in P.O. 2008-02-07, and Order dated April 4, 2008, denying her motion for reconsideration dated March 28, 2008.

SO ORDERED.

Carpio, Nachura, Peralta, and Mendoza, JJ., concur.

[1] Rollo, pp. 12-23.

[2] "An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore, And For Other Purposes."

[3] Rollo, p. 22.

[4] Id. at 41.

[5] Id. at 40.

[6] Go-Tan v. Tan, G.R. No. 168852, September 30, 2008, 567 SCRA 231, 238.

[7] Article 195, paragraph 4 of the Family Code requires support between parents and their illegitimate children.

[8] *Tayag v. Tayag-Gallor*, G.R. No. 174680, March 24, 2008, 549 SCRA 68, 74.

[9] *Montefalcon v. Vasquez*, G.R. No. 165016, June 17, 2008, 554 SCRA 513, 527.

[10] *De la Puerta v. Court of Appeals*, G.R. No. 77867, February 6, 1990, 181 SCRA 861, 869.

[11] *Agustin v. Court of Appeals*, 499 Phil. 307, 317 (2005).

[12] *Nepomuceno v. Lopez*, G.R. No. 181258, March 18, 2010.

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