

JESSE U. LUCAS, PETITIONER, VS. JESUS S. LUCAS, RESPONDENT.

G.R. No. 190710. June 06, 2011

Ponente: NACHURA, J.

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NACHURA, J.:

Is a prima facie showing necessary before a court can issue a DNA testing order? In this petition for review on certiorari, we address this question to guide the Bench and the Bar in dealing with a relatively new evidentiary tool. Assailed in this petition are the Court of Appeals (CA) Decision [1] dated September 25, 2009 and Resolution dated December 17, 2009.

The antecedents of the case are, as follows:

On July 26, 2007, petitioner, Jesse U. Lucas, filed a Petition to Establish Illegitimate Filiation (with Motion for the Submission of Parties to DNA Testing) [2] before the Regional Trial Court (RTC), Branch 72, Valenzuela City. Petitioner narrated that, sometime in 1967, his mother, Elsie Uy (Elsie), migrated to Manila from Davao and stayed with a certain "Ate Belen (Belen)" who worked in a prominent nightspot in Manila. Elsie would oftentimes accompany Belen to work. On one occasion, Elsie got acquainted with respondent, Jesus S. Lucas, at Belen's workplace, and an intimate relationship developed between the two. Elsie eventually got pregnant and, on March 11, 1969, she gave birth to petitioner, Jesse U. Lucas. The name of petitioner's father was not stated in petitioner's certificate of live birth. However, Elsie later on told petitioner that his father is respondent. On August 1, 1969, petitioner was baptized at San Isidro Parish, Taft Avenue, Pasay City. Respondent allegedly extended financial support to Elsie and petitioner for a period of about two years. When the relationship of Elsie and respondent ended, Elsie refused to accept respondent's offer of support and decided to raise petitioner on her own. While petitioner was growing up, Elsie made several attempts to introduce petitioner to respondent, but all attempts were in vain.

Attached to the petition were the following: (a) petitioner's certificate of live birth; (b) petitioner's baptismal certificate; (c) petitioner's college diploma, showing that he graduated from Saint Louis University in Baguio City with a degree in Psychology; (d) his Certificate of Graduation from the same school; (e) Certificate of Recognition from the University of the Philippines, College of Music; and (f) clippings of several articles from different newspapers about petitioner, as a musical prodigy.

Respondent was not served with a copy of the petition. Nonetheless, respondent learned of the petition to establish filiation. His counsel therefore went to the trial court on August 29, 2007 and obtained a copy of the petition.

Petitioner filed with the RTC a Very Urgent Motion to Try and Hear the Case. Hence, on September 3, 2007, the RTC, finding the petition to be sufficient in form and substance, issued the Order [3] setting the case for hearing and urging anyone who has any objection to the petition to file his opposition. The court also directed that the Order be published once a week for three consecutive weeks in any newspaper of general circulation in the Philippines, and that the Solicitor General be furnished with copies of the Order and the petition in order that he may appear and represent the State in the case.

On September 4, 2007, unaware of the issuance of the September 3, 2007 Order, respondent filed a Special Appearance and Comment. He manifested inter alia that: (1) he did not receive the summons and a copy of the petition; (2) the petition was adversarial in nature and therefore summons should be served on him as respondent; (3) should the court agree that summons was required, he was waiving service of summons and making a voluntary appearance; and (4) notice by publication of the petition and the hearing was improper because of the confidentiality of the subject matter. [4]

On September 14, 2007, respondent also filed a Manifestation and Comment on Petitioner's Very Urgent Motion to Try and Hear the Case. Respondent reiterated that the petition for recognition is adversarial in nature; hence, he should be served with summons.

After learning of the September 3, 2007 Order, respondent filed a motion for reconsideration. [5] Respondent averred that the petition was not in due form and substance because petitioner could not have personally known the matters that were alleged therein. He argued that DNA testing cannot be had on the basis of a mere allegation pointing to respondent as petitioner's father. Moreover, jurisprudence is still unsettled on the acceptability of DNA evidence.

On July 30, 2008, the RTC, acting on respondent's motion for reconsideration, issued an Order [6] dismissing the case. The court remarked that, based on the case of *Herrera v. Alba*, [7] there are four significant procedural aspects of a traditional paternity action which the parties have to face: a prima facie case, affirmative defenses, presumption of legitimacy, and physical resemblance between the putative father and the child. The court opined that petitioner must first establish these four procedural aspects before he can present evidence of paternity and filiation, which may include incriminating acts or scientific evidence like blood group test and DNA test results. The court observed that the petition did not show that these procedural aspects were present. Petitioner failed to establish a prima facie case considering that (a) his mother did not personally declare that she had sexual relations with respondent, and petitioner's statement as to what his mother told him about his father was clearly hearsay; (b) the certificate of live birth was not signed by respondent; and (c) although petitioner used the surname of respondent, there was no allegation that he was treated as the child of respondent by the latter or his family. The court opined that, having failed to establish a prima facie case, respondent had no obligation to present any affirmative defenses. The dispositive portion of the said Order therefore reads:

WHEREFORE, for failure of the petitioner to establish compliance with the four procedural aspects of a traditional paternity action in his petition, his motion for the submission of parties to DNA testing to establish paternity and filiation is hereby denied. This case is DISMISSED without prejudice.

SO ORDERED. [8]

Petitioner seasonably filed a motion for reconsideration to the Order dated July 30, 2008, which the RTC resolved in his favor. Thus, on October 20, 2008, it issued the Order [9] setting aside the court's previous order, thus:

WHEREFORE, in view of the foregoing, the Order dated July 30, 2008 is hereby reconsidered and set aside.

Let the Petition (with Motion for the Submission of Parties to DNA Testing) be set for hearing on January 22, 2009 at 8:30 in the morning.

x x x x

SO ORDERED. [10]

This time, the RTC held that the ruling on the grounds relied upon by petitioner for filing the petition is premature considering that a full-blown trial has not yet taken place. The court stressed that the petition was sufficient in

form and substance. It was verified, it included a certification against forum shopping, and it contained a plain, concise, and direct statement of the ultimate facts on which petitioner relies on for his claim, in accordance with Section 1, Rule 8 of the Rules of Court. The court remarked that the allegation that the statements in the petition were not of petitioner's personal knowledge is a matter of evidence. The court also dismissed respondent's arguments that there is no basis for the taking of DNA test, and that jurisprudence is still unsettled on the acceptability of DNA evidence. It noted that the new Rule on DNA Evidence [11] allows the conduct of DNA testing, whether at the court's instance or upon application of any person who has legal interest in the matter in litigation.

Respondent filed a Motion for Reconsideration of Order dated October 20, 2008 and for Dismissal of Petition, [12] reiterating that (a) the petition was not in due form and substance as no defendant was named in the title, and all the basic allegations were hearsay; and (b) there was no prima facie case, which made the petition susceptible to dismissal.

The RTC denied the motion in the Order dated January 19, 2009, and rescheduled the hearing. [13]

Aggrieved, respondent filed a petition for certiorari with the CA, questioning the Orders dated October 20, 2008 and January 19, 2009.

On September 25, 2009, the CA decided the petition for certiorari in favor of respondent, thus:

WHEREFORE, the instant petition for certiorari is hereby GRANTED for being meritorious. The assailed Orders dated October 20, 2008 and January 19, 2009 both issued by the Regional Trial Court, Branch 172 of Valenzuela City in SP. Proceeding Case No. 30-V-07 are REVERSED and SET ASIDE. Accordingly, the case docketed as SP. Proceeding Case No. 30-V-07 is DISMISSED. [14]

The CA held that the RTC did not acquire jurisdiction over the person of respondent, as no summons had been served on him. Respondent's special appearance could not be considered as voluntary appearance because it was filed only for the purpose of questioning the jurisdiction of the court over respondent. Although respondent likewise questioned the court's jurisdiction over the subject matter of the petition, the same is not equivalent to a waiver of his right to object to the jurisdiction of the court over his person.

The CA remarked that petitioner filed the petition to establish illegitimate filiation, specifically seeking a DNA testing order to abbreviate the proceedings. It noted that petitioner failed to show that the four significant procedural aspects of a traditional paternity action had been met. The CA further held that a DNA testing should not be allowed when the petitioner has failed to establish a prima facie case, thus:

While the tenor [of Section 4, Rule on DNA Evidence] appears to be absolute, the rule could not really have been intended to trample on the substantive rights of the parties. It could have not meant to be an instrument to promote disorder, harassment, or extortion. It could have not been intended to legalize unwarranted expedition to fish for evidence. Such will be the situation in this particular case if a court may at any time order the taking of a DNA test. If the DNA test in compulsory recognition cases is immediately available to the petitioner/complainant without requiring first the presentation of corroborative proof, then a dire and absurd rule would result. Such will encourage and promote harassment and extortion.

x x x x

At the risk of being repetitious, the Court would like to stress that it sees the danger of allowing an absolute DNA testing to a compulsory recognition test even if the plaintiff/petitioner failed to establish prima facie proof. x x x If at anytime, motu proprio and without pre-conditions, the court can indeed order the taking of DNA test in compulsory recognition cases, then the prominent and well-to-do members of our society will be easy prey for opportunists and extortionists. For no cause at all, or even for [sic] casual sexual indiscretions in

their younger years could be used as a means to harass them. Unscrupulous women, unsure of the paternity of their children may just be taking the chances-just in case-by pointing to a sexual partner in a long past one-time encounter. Indeed an absolute and unconditional taking of DNA test for compulsory recognition case opens wide the opportunities for extortionist to prey on victims who have no stomach for scandal. [15]

Petitioner moved for reconsideration. On December 17, 2009, the CA denied the motion for lack of merit. [16]

In this petition for review on certiorari, petitioner raises the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT RESOLVED THE ISSUE OF LACK OF JURISDICTION OVER THE PERSON OF HEREIN RESPONDENT ALBEIT THE SAME WAS NEVER RAISED IN THE PETITION FOR CERTIORARI.

I.A

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT RULED THAT JURISDICTION WAS NOT ACQUIRED OVER THE PERSON OF THE RESPONDENT.

I.B

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT FAILED TO REALIZE THAT THE RESPONDENT HAD ALREADY SUBMITTED VOLUNTARILY TO THE JURISDICTION OF THE COURT A QUO.

I.C

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT ESSENTIALLY RULED THAT THE TITLE OF A PLEADING, RATHER THAN ITS BODY, IS CONTROLLING.

II.

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT ORDERED THE DISMISSAL OF THE PETITION BY REASON OF THE MOTION (FILED BY THE PETITIONER BEFORE THE COURT A QUO) FOR THE CONDUCT OF DNA TESTING.

II.A

WHETHER OR NOT THE COURT OF APPEALS ERRED WHEN IT ESSENTIALLY RULED THAT DNA TESTING CAN ONLY BE ORDERED AFTER THE PETITIONER ESTABLISHES PRIMA FACIE PROOF OF FILIATION.

III.

WHETHER OR NOT THE COURT OF APPEALS ERRED WITH ITS MISPLACED RELIANCE ON THE CASE OF HERRERA VS. ALBA,

ESPECIALLY AS REGARDS THE 'FOUR SIGNIFICANT PROCEDURAL ASPECTS OF A TRADITIONAL PATERNITY ACTION.' [17]

Petitioner contends that respondent never raised as issue in his petition for certiorari the court's lack of jurisdiction over his person. Hence, the CA had no legal basis to discuss the same, because issues not raised are deemed waived or abandoned. At any rate, respondent had already voluntarily submitted to the jurisdiction of the trial court by his filing of several motions asking for affirmative relief, such as the (a) Motion for Reconsideration of

the Order dated September 3, 2007; (b) Ex Parte Motion to Resolve Motion for Reconsideration of the Order dated November 6, 2007; and (c) Motion for Reconsideration of the Order dated October 20, 2008 and for Dismissal of Petition. Petitioner points out that respondent even expressly admitted that he has waived his right to summons in his Manifestation and Comment on Petitioner's Very Urgent Motion to Try and Hear the Case. Hence, the issue is already moot and academic.

Petitioner argues that the case was adversarial in nature. Although the caption of the petition does not state respondent's name, the body of the petition clearly indicates his name and his known address. He maintains that the body of the petition is controlling and not the caption.

Finally, petitioner asserts that the motion for DNA testing should not be a reason for the dismissal of the petition since it is not a legal ground for the dismissal of cases. If the CA entertained any doubt as to the propriety of DNA testing, it should have simply denied the motion. [18] Petitioner points out that Section 4 of the Rule on DNA Evidence does not require that there must be a prior proof of filiation before DNA testing can be ordered. He adds that the CA erroneously relied on the four significant procedural aspects of a paternity case, as enunciated in *Herrera v. Alba*. [19] Petitioner avers that these procedural aspects are not applicable at this point of the proceedings because they are matters of evidence that should be taken up during the trial. [20]

In his Comment, respondent supports the CA's ruling on most issues raised in the petition for certiorari and merely reiterates his previous arguments. However, on the issue of lack of jurisdiction, respondent counters that, contrary to petitioner's assertion, he raised the issue before the CA in relation to his claim that the petition was not in due form and substance. Respondent denies that he waived his right to the service of summons. He insists that the alleged waiver and voluntary appearance was conditional upon a finding by the court that summons is indeed required. He avers that the assertion of affirmative defenses, aside from lack of jurisdiction over the person of the defendant, cannot be considered as waiver of the defense of lack of jurisdiction over such person.

The petition is meritorious.

Primarily, we emphasize that the assailed Orders of the trial court were orders denying respondent's motion to dismiss the petition for illegitimate filiation. An order denying a motion to dismiss is an interlocutory order which neither terminates nor finally disposes of a case, as it leaves something to be done by the court before the case is finally decided on the merits. As such, the general rule is that the denial of a motion to dismiss cannot be questioned in a special civil action for certiorari, which is a remedy designed to correct errors of jurisdiction and not errors of judgment. Neither can a denial of a motion to dismiss be the subject of an appeal unless and until a final judgment or order is rendered. In a number of cases, the court has granted the extraordinary remedy of certiorari on the denial of the motion to dismiss but only when it has been tainted with grave abuse of discretion amounting to lack or excess of jurisdiction. [21] In the present case, we discern no grave abuse of discretion on the part of the trial court in denying the motion to dismiss.

The grounds for dismissal relied upon by respondent were (a) the court's lack of jurisdiction over his person due to the absence of summons, and (b) defect in the form and substance of the petition to establish illegitimate filiation, which is equivalent to failure to state a cause of action.

We need not belabor the issues on whether lack of jurisdiction was raised before the CA, whether the court acquired jurisdiction over the person of respondent, or whether respondent waived his right to the service of summons. We find that the primordial issue here is actually whether it was necessary, in the first place, to serve summons on respondent for the court to acquire jurisdiction over the case. In other words, was the service of summons jurisdictional? The answer to this question depends on the nature of petitioner's action, that is, whether it is an action in personam, in rem, or quasi in rem.

An action in personam is lodged against a person based on personal liability; an action in rem is directed against the thing itself instead of the person; while an action quasi in rem names a person as defendant, but its object is to subject that person's interest in a property to a corresponding lien or obligation. A petition directed against the "thing" itself or the res, which concerns the status of a person, like a petition for adoption, annulment of marriage, or correction of entries in the birth certificate, is an action in rem. [22]

In an action in personam, jurisdiction over the person of the defendant is necessary for the court to validly try and decide the case. In a proceeding in rem or quasi in rem, jurisdiction over the person of the defendant is not a prerequisite to confer jurisdiction on the court, provided that the latter has jurisdiction over the res. Jurisdiction over the res is acquired either (a) by the seizure of the property under legal process, whereby it is brought into actual custody of the law, or (b) as a result of the institution of legal proceedings, in which the power of the court is recognized and made effective. [23]

The herein petition to establish illegitimate filiation is an action in rem. By the simple filing of the petition to establish illegitimate filiation before the RTC, which undoubtedly had jurisdiction over the subject matter of the petition, the latter thereby acquired jurisdiction over the case. An in rem proceeding is validated essentially through publication. Publication is notice to the whole world that the proceeding has for its object to bar indefinitely all who might be minded to make an objection of any sort to the right sought to be established. [24] Through publication, all interested parties are deemed notified of the petition.

If at all, service of summons or notice is made to the defendant, it is not for the purpose of vesting the court with jurisdiction, but merely for satisfying the due process requirements. [25] This is but proper in order to afford the person concerned the opportunity to protect his interest if he so chooses. [26] Hence, failure to serve summons will not deprive the court of its jurisdiction to try and decide the case. In such a case, the lack of summons may be excused where it is determined that the adverse party had, in fact, the opportunity to file his opposition, as in this case. We find that the due process requirement with respect to respondent has been satisfied, considering that he has participated in the proceedings in this case and he has the opportunity to file his opposition to the petition to establish filiation.

To address respondent's contention that the petition should have been adversarial in form, we further hold that the herein petition to establish filiation was sufficient in form. It was indeed adversarial in nature despite its caption which lacked the name of a defendant, the failure to implead respondent as defendant, and the non-service of summons upon respondent. A proceeding is adversarial where the party seeking relief has given legal warning to the other party and afforded the latter an opportunity to contest it. [27] In this petition--classified as an action in rem--the notice requirement for an adversarial proceeding was likewise satisfied by the publication of the petition and the giving of notice to the Solicitor General, as directed by the trial court.

The petition to establish filiation is sufficient in substance. It satisfies Section 1, Rule 8 of the Rules of Court, which requires the complaint to contain a plain, concise, and direct statement of the ultimate facts upon which the plaintiff bases his claim. A fact is essential if it cannot be stricken out without leaving the statement of the cause of action inadequate. [28] A complaint states a cause of action when it contains the following elements: (1) the legal right of plaintiff, (2) the correlative obligation of the defendant, and (3) the act or omission of the defendant in violation of said legal right. [29]

The petition sufficiently states the ultimate facts relied upon by petitioner to establish his filiation to respondent. Respondent, however, contends that the allegations in the petition were hearsay as they were not of petitioner's personal knowledge. Such matter is clearly a matter of evidence that cannot be determined at this point but only during the trial when petitioner presents his evidence.

In a motion to dismiss a complaint based on lack of cause of action, the question submitted to the court for determination is the sufficiency of the allegations made in the complaint to constitute a cause of action and not whether those allegations of fact are true, for said motion must hypothetically admit the truth of the facts alleged in the complaint.[30] The inquiry is confined to the four corners of the complaint, and no other.[31] The test of the sufficiency of the facts alleged in the complaint is whether or not, admitting the facts alleged, the court could render a valid judgment upon the same in accordance with the prayer of the complaint. [32]

If the allegations of the complaint are sufficient in form and substance but their veracity and correctness are assailed, it is incumbent upon the court to deny the motion to dismiss and require the defendant to answer and go to trial to prove his defense. The veracity of the assertions of the parties can be ascertained at the trial of the case on the merits. [33]

The statement in *Herrera v. Alba* [34] that there are four significant procedural aspects in a traditional paternity case which parties have to face has been widely misunderstood and misapplied in this case. A party is confronted by these so-called procedural aspects during trial, when the parties have presented their respective evidence. They are matters of evidence that cannot be determined at this initial stage of the proceedings, when only the petition to establish filiation has been filed. The CA's observation that petitioner failed to establish a prima facie case--the first procedural aspect in a paternity case--is therefore misplaced. A prima facie case is built by a party's evidence and not by mere allegations in the initiatory pleading.

Clearly then, it was also not the opportune time to discuss the lack of a prima facie case vis-à-vis the motion for DNA testing since no evidence has, as yet, been presented by petitioner. More essentially, it is premature to discuss whether, under the circumstances, a DNA testing order is warranted considering that no such order has yet been issued by the trial court. In fact, the latter has just set the said case for hearing.

At any rate, the CA's view that it would be dangerous to allow a DNA testing without corroborative proof is well taken and deserves the Court's attention. In light of this observation, we find that there is a need to supplement the Rule on DNA Evidence to aid the courts in resolving motions for DNA testing order, particularly in paternity and other filiation cases. We, thus, address the question of whether a prima facie showing is necessary before a court can issue a DNA testing order.

The Rule on DNA Evidence was enacted to guide the Bench and the Bar for the introduction and use of DNA evidence in the judicial system. It provides the "prescribed parameters on the requisite elements for reliability and validity (i.e., the proper procedures, protocols, necessary laboratory reports, etc.), the possible sources of error, the available objections to the admission of DNA test results as evidence as well as the probative value of DNA evidence." It seeks "to ensure that the evidence gathered, using various methods of DNA analysis, is utilized effectively and properly, [and] shall not be misused and/or abused and, more importantly, shall continue to ensure that DNA analysis serves justice and protects, rather than prejudice the public." [35]

Not surprisingly, Section 4 of the Rule on DNA Evidence merely provides for conditions that are aimed to safeguard the accuracy and integrity of the DNA testing. Section 4 states:

SEC. 4. Application for DNA Testing Order. - The appropriate court may, at any time, either motu proprio or on application of any person who has a legal interest in the matter in litigation, order a DNA testing. Such order shall issue after due hearing and notice to the parties upon a showing of the following:

- (a) A biological sample exists that is relevant to the case;
- (b) The biological sample: (i) was not previously subjected to the type of DNA testing now requested; or (ii) was previously subjected to DNA testing, but the results may require confirmation for good reasons;

(c) The DNA testing uses a scientifically valid technique;

(d) The DNA testing has the scientific potential to produce new information that is relevant to the proper resolution of the case; and

(e) The existence of other factors, if any, which the court may consider as potentially affecting the accuracy or integrity of the DNA testing.

This Rule shall not preclude a DNA testing, without need of a prior court order, at the behest of any party, including law enforcement agencies, before a suit or proceeding is commenced.

This does not mean, however, that a DNA testing order will be issued as a matter of right if, during the hearing, the said conditions are established.

In some states, to warrant the issuance of the DNA testing order, there must be a show cause hearing wherein the applicant must first present sufficient evidence to establish a prima facie case or a reasonable possibility of paternity or "good cause" for the holding of the test. [36] In these states, a court order for blood testing is considered a "search," which, under their Constitutions (as in ours), must be preceded by a finding of probable cause in order to be valid. Hence, the requirement of a prima facie case, or reasonable possibility, was imposed in civil actions as a counterpart of a finding of probable cause. The Supreme Court of Louisiana eloquently explained --

Although a paternity action is civil, not criminal, the constitutional prohibition against unreasonable searches and seizures is still applicable, and a proper showing of sufficient justification under the particular factual circumstances of the case must be made before a court may order a compulsory blood test. Courts in various jurisdictions have differed regarding the kind of procedures which are required, but those jurisdictions have almost universally found that a preliminary showing must be made before a court can constitutionally order compulsory blood testing in paternity cases. We agree, and find that, as a preliminary matter, before the court may issue an order for compulsory blood testing, the moving party must show that there is a reasonable possibility of paternity. As explained hereafter, in cases in which paternity is contested and a party to the action refuses to voluntarily undergo a blood test, a show cause hearing must be held in which the court can determine whether there is sufficient evidence to establish a prima facie case which warrants issuance of a court order for blood testing. [37]

The same condition precedent should be applied in our jurisdiction to protect the putative father from mere harassment suits. Thus, during the hearing on the motion for DNA testing, the petitioner must present prima facie evidence or establish a reasonable possibility of paternity.

Notwithstanding these, it should be stressed that the issuance of a DNA testing order remains discretionary upon the court. The court may, for example, consider whether there is absolute necessity for the DNA testing. If there is already preponderance of evidence to establish paternity and the DNA test result would only be corroborative, the court may, in its discretion, disallow a DNA testing.

WHEREFORE, premises considered, the petition is GRANTED. The Court of Appeals Decision dated September 25, 2009 and Resolution dated December 17, 2009 are REVERSED and SET ASIDE. The Orders dated October 20, 2008 and January 19, 2009 of the Regional Trial Court of Valenzuela City are AFFIRMED.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

- [1] Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Juan Q. Enriquez, Jr. and Francisco P. Acosta, concurring; rollo, pp. 35-46.
- [2] Id. at 50-59.
- [3] Penned by Executive Judge Maria Nena J. Santos.
- [4] Rollo, p. 76.
- [5] Id. at 156-157.
- [6] Penned by Acting Presiding Judge Ma. Belen Ringpis-Liban; id. at 61-64.
- [7] 499 Phil. 185 (2005).
- [8] Rollo, p. 64.
- [9] Penned by Judge Nancy Rivas-Palmones; id. at 65-69.
- [10] Id. at 69.
- [11] A.M. No. 06-11-5-SC, October 15, 2007.
- [12] Rollo, p. 161.
- [13] Id. at 71.
- [14] Id. at 46.
- [15] Id. at 45-46.
- [16] Id. at 49.
- [17] Id. at 16-17.
- [18] Id. at 23.
- [19] Supra note 7.
- [20] Rollo, p. 30.
- [21] Lu Ym v. Nabua, 492 Phil. 397, 404 (2005).
- [22] Alba v. Court of Appeals, 503 Phil. 451, 458-459 (2005).
- [23] Id. at 459.
- [24] Barco v. Court of Appeals, 465 Phil. 39, 57 (2004).
- [25] Alba v. Court of Appeals, supra note 22, at 459.
- [26] Ceruila v. Delantar, 513 Phil. 237, 252 (2005).
- [27] Republic v. Capote, G.R. No. 157043, February 2, 2007, 514 SCRA 76, 85.
- [28] Ceroferr Realty Corporation v. Court of Appeals, 426 Phil. 522, 528 (2002).
- [29] Spouses Diaz v. Diaz, 387 Phil. 314, 329 (2000).
- [30] Balo v. Court of Appeals, 508 Phil. 224, 231 (2005).

[31] Id.

[32] Id.

[33] Id.

[34] Supra note 7.

[35] Rationale of the Rule on DNA Evidence.

[36] State ex rel. Department of Justice and Division of Child Support v. Spring, 201 Or.App. 367, 120 P.3d 1 (2005); State v. Shaddinger, 702 So.2d 965, (1998); State in the Interest of A.N.V. v. McCain, 637 So.2d 650 (1994); In the Interest of J.M., 590 So.2d 565 (1991); Schenectady County Department of Social Services on Behalf of Maureen E. v. Robert "J," 126 A.D. 2d 786, 510 N.Y.S. 2d 289 (1987); State ex rel. McGuire v. Howe, 44 Wash. App. 559, 723 P.2d 452 (1986)

[37] In the Interest of J.M., supra, at 568.

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