

RICHELLE P. ABELLA, FOR AND IN BEHALF OF HER MINOR DAUGHTER, MARL JHORYLLE ABELLA, PETITIONER, V. POLICARPIO CABAÑERO, RESPONDENT.

G.R. No. 206647. August 09, 2017

Ponente: LEONEN, J.

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LEONEN, J.:

Filiation must be established for a child to claim support from a putative father. When "filiation is beyond question, support follows as [a] matter of obligation." [1] To establish filiation, an action for compulsory recognition may be filed against the putative father ahead of an action for support. In the alternative, an action for support may be directly filed, where the matter of filiation shall be integrated and resolved. [2]

This resolves a Petition for Review on Certiorari [3] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed August 25, 2011 Decision [4] and January 15, 2013 Resolution [5] of the Court of Appeals in CA-G.R. SP No. 02687 be reversed and set aside.

The assailed Court of Appeals August 25, 2011 Decision sustained the March 19, 2007 Decision [6] of Branch 12, Regional Trial Court, San Jose, Antique in Civil Case No. 2005-4-3496. The Regional Trial Court Decision dismissed petitioner Richelle P. Abella's (Richelle) action for support of her minor daughter, Marl Jhorylle Abella (Jhorylle) against respondent Policarpio Cabañero (Cabañero). The assailed Court of Appeals January 15, 2013 Resolution denied petitioner's Motion for Reconsideration. [7]

In a Complaint [8] for Support (Complaint) filed on April 22, 2005, petitioner Richelle alleged that while she was still a minor in the years 2000 to 2002, she was repeatedly sexually abused by respondent Cabañero inside his rest house at Barangay Masayo, Tobias Fornier, Antique. [9] As a result, she allegedly gave birth to a child on August 21, 2002. [10]

Richelle added that on February 27, 2002, she initiated a criminal case for rape against Cabañero. This, however, was dismissed. Later, she initiated another criminal case, this time for child abuse under Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act. This, too, was dismissed. [11]

Richelle prayed for the child's monthly allowance in the amount of P3,000.00. [12]

In his Answer, Cabañero denied sexually abusing Richelle, or otherwise having any sexual relations with her. Thus, he asserted that he could not have been the father of Richelle's child. [13]

After two (2) re-settings, pre-trial was held on February 21, 2007. Only Richelle's counsel appeared. Richelle's motion to present her evidence ex parte was granted. [14]

In her testimony, Richelle noted that Cabañero was related to her mother and that she treated him as her uncle. She narrated how she was sexually abused by Cabañero on July 25, 2000, September 10, 2000, and February 8,

2002 and how Cabañero threatened her to keep her silent. She added that during this period, Cabañero sent her three (3) letters. She testified that she bore her and Cabañero's child, whom she named Marl Jhorylle Abella, on August 21, 2002. She insisted on her certainty that Cabañero was the father of the child as she supposedly had no sexual relations with any other man.[15]

In its March 19, 2007 Decision,[16] the Regional Trial Court dismissed Richelle's Complaint without prejudice, on account of her failure to implead her minor child, Jhorylle, as plaintiff.

Richelle filed a petition for certiorari and mandamus before the Court of Appeals.[17]

In its assailed August 25, 2011 Decision,[18] the Court of Appeals sustained the dismissal of the Complaint.

However, the Court of Appeals disagreed with the Regional Trial Court's basis for dismissing the Complaint. It emphasized that non-joinder of indispensable parties is not a ground for the dismissal of an action and added that it would have sufficed for the Regional Trial Court to have "ordered the amendment of the caption of the [C]omplaint to implead the minor child." [19] The Court of Appeals still ruled that the dismissal of the Complaint was proper as the filiation and paternity of the child had not been previously established. As the child's birth certificate did not indicate that Cabañero was the father and as Cabañero had not done anything to voluntarily recognize the child as his own, the Court of Appeals asserted that Richelle "should have first instituted filiation proceedings to adjudicate the minor child's paternity." [20]

Following the denial of her Motion for Reconsideration, Richelle filed this Petition.

For resolution is the sole issue of whether the Court of Appeals erred in ruling that filiation proceedings should have first been separately instituted to ascertain the minor child's paternity and that without these proceedings having first been resolved in favor of the child's paternity claim, petitioner Richelle P. Abella's action for support could not prosper.

This Court reverses the Court of Appeals Decision.

While it is true that the grant of support was contingent on ascertaining paternal relations between respondent and petitioner's daughter, Jhorylle, it was unnecessary for petitioner's action for support to have been dismissed and terminated by the Court of Appeals in the manner that it did. Instead of dismissing the case, the Court of Appeals should have remanded the case to the Regional Trial Court. There, petitioner and her daughter should have been enabled to present evidence to establish their cause of action—inclusive of their underlying claim of paternal relations—against respondent.

I

Article 194 of the Family Code delineates the extent of support among family members, while Article 195 identifies family members who "are obliged to support each other":

Article 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.

Article 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:

(1) The spouses;

- (2) Legitimate ascendants and descendants;
- (3) Parents and their legitimate children and the legitimate and illegitimate children of the latter;
- (4) Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
- (5) Legitimate brothers and sisters, whether of the full or half-blood. (Emphasis supplied)

Lim-Lua v. Lua[21] echoed Article 201 of the Family Code[22] and stated that the "amount of support which those related by marriage and family relationship is generally obliged to give each other shall be in proportion to the resources or means of the giver and to the needs of the recipient." [23] Article 202 of the Family Code adds, however, that support may be adjusted and that it "shall be reduced or increased proportionately, according to the reduction or increase of the necessities of the recipient and the resources or means of the person obliged to furnish the same." [24]

II

The obligation to give support shall only be demandable from the time the person entitled to it needs it for maintenance, but it shall not be paid except from the date of judicial or extrajudicial demand.[25] Support pendente lite may also be claimed, in conformity with the manner stipulated by the Rules of Court.[26]

An illegitimate child, "conceived and born outside a valid marriage," as is the admitted case with petitioner's daughter, is entitled to support.[27] To claim it, however, a child should have first been acknowledged by the putative parent or must have otherwise previously established his or her filiation with the putative parent." [28] When "filiation is beyond question, support [shall then follow] as [a] matter of obligation." [29]

The judicial remedy to enable this is an action for compulsory recognition.[30] Filiation proceedings do not merely resolve the matter of relationship with a parent but also secure the legal rights associated with that relationship: citizenship, support, and inheritance, among others.[31]

The paramount consideration in the resolution of questions affecting a child is the child's welfare,[32] and it is "[t]he policy of the Family Code to liberalize the rule on the investigation of the paternity and filiation of children, especially of illegitimate children." [33] Nevertheless, in keeping with basic judicial principles, the burden of proof in proceedings seeking to establish paternity is upon the "person who alleges that the putative father is the biological father of the child." [34] Likewise, a liberal application of rules should not be "without prejudice to the right of the putative parent to claim his or her own defenses." [35]

III

Illegitimate children establish their filiation "in the same way and on the same evidence as legitimate children," [36] that is, by:

- (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.[37]

In the absence of these, illegitimate filiation, as with legitimate filiation, may be established 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.[38]

In keeping with these, the recognition of an illegitimate child through a birth certificate, a will, a statement before

a court of record, or in any authentic writing, has been held to be "in itself, a consummated act of acknowledgment of the child, and no further court action is required." [39]

IV

Having thus far only presented her child's birth certificate, which made no reference to respondent as the child's father, the Court of Appeals correctly noted that the necessary condition of filiation had yet to be established. The Court of Appeals later affirmed the dismissal of petitioner's Complaint, insisting that separate filiation proceedings and their termination in petitioner's daughter's favor were imperative.

While ably noting that filiation had yet to be established, the Court of Appeals' discussion and final disposition are not in keeping with jurisprudence.

Dolina v. Vallecera [40] clarified that since an action for compulsory recognition may be filed ahead of an action for support, the direct filing of an action for support, "where the issue of compulsory recognition may be integrated and resolved," [41] is an equally valid alternative:

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. The child's remedy is to file through her mother a judicial action against Vallecera for compulsory recognition. If filiation is beyond question, support follows as matter of obligation. In short, illegitimate children are entitled to support and successional rights but their filiation must be duly proved.

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. [42] (Emphasis supplied, citations omitted)

Agustin v. Court of Appeals [43] extensively discussed the deep jurisprudential roots that buttress the validity of this alternative.

Agustin concerned an action for support and support pendente lite filed by a child, represented by his mother. The putative father, Arnel Agustin, vehemently denied paternal relations with the child. He disavowed his apparent signature on the child's birth certificate, which indicated him as the father. Agustin "moved to dismiss the complaint for lack of cause of action, considering that his signature on the birth certificate was a forgery and that, under the law, an illegitimate child is not entitled to support if not recognized by the putative father." [44] The Regional Trial Court denied Agustin's motion to dismiss; it was subsequently affirmed by the Court of Appeals.

In sustaining the lower courts' decisions, this Court noted that enabling the mother and her child to establish paternity and filiation in the course of an action for support was merely a permission "to prove their cause of action against [Agustin,] who had been denying the authenticity of the documentary evidence of acknowledgement." [45]

This Court added that an action to compel recognition could very well be integrated with an action for support. This Court drew analogies with extant jurisprudence that sustained the integration of an action to compel recognition with an action to claim inheritance and emphasized that "the basis or rationale for integrating them remains the same," [46] This Court explained:

[Petitioner] claims that the order and resolution . . . effectively converted the complaint for support to a petition for recognition, which is supposedly proscribed by law. According to petitioner, Martin, as an unrecognized

child, has no right to ask for support and must first establish his filiation in a separate suit. . .

The petitioner's contentions are without merit.

The assailed resolution and order did not convert the action for support into one for recognition but merely allowed the respondents to prove their cause of action against petitioner who had been denying the authenticity of the documentary evidence of acknowledgement. But even if the assailed resolution and order effectively integrated an action to compel recognition with an action for support, such was valid and in accordance with jurisprudence. In *Tayag v. Court of Appeals*, we allowed the integration of an action to compel recognition with an action to claim one's inheritance:

... In *Paulino*, we held that an illegitimate child, to be entitled to support and successional rights from the putative or presumed parent, must prove his filiation to the latter. We also said that it is necessary to allege in the complaint that the putative father had acknowledged and recognized the illegitimate child because such acknowledgment is essential to and is the basis of the right to inherit. There being no allegation of such acknowledgment, the action becomes one to compel recognition which cannot be brought after the death of the putative father. The ratio decidendi in *Paulino*, therefore, is not the absence of a cause of action for failure of the petitioner to allege the fact of acknowledgment in the complaint, but the prescription of the action.

Applying the foregoing principles to the case at bar, although petitioner contends that the complaint filed by herein private respondent merely alleges that the minor Chad Cuyugan is an illegitimate child of the deceased and is actually a claim for inheritance, from the allegations therein the same may be considered as one to compel recognition. Further, that, the two causes of action, one to compel recognition and the other to claim inheritance, may be joined in one complaint is not new in our jurisprudence.

As early as [1922] we had occasion to rule thereon in *Briz vs. Briz, et al.* . . . wherein we said:

The question whether a person in the position of the present plaintiff can in any event maintain a complex action to compel recognition as a natural child and at the same time to obtain ulterior relief in the character of heir, is one which in the opinion of this court must be answered in the affirmative, provided always that the conditions justifying the joinder of the two distinct causes of action are present in the particular case. In other words, there is no absolute necessity requiring that the action to compel acknowledgment should have been instituted and prosecuted to a successful conclusion prior to the action in which that same plaintiff seeks additional relief in the character of heir. Certainly, there is nothing so peculiar to the action to compel acknowledgment as to require that a rule should be here applied different from that generally applicable in other cases . . .

The conclusion above stated, though not heretofore explicitly formulated by this court, is undoubtedly to some extent supported by our prior decisions. Thus, we have held in numerous cases, and the doctrine must be considered well settled, that a natural child having a right to compel acknowledgment, but who has not been in fact legally acknowledged, may maintain partition proceedings for the division of the inheritance against his coheirs . . .; and the same person may intervene in proceedings for the distribution of the estate of his deceased natural father, or mother ... In neither of these situations has it been thought necessary for the plaintiff to show a prior decree compelling acknowledgment. The obvious reason is that in partition suits and distribution proceedings the other persons who might take by inheritance are before the court; and the declaration of heirship is appropriate to such proceedings.

Although the instant case deals with support rather than inheritance, as in *Tayag*, the basis or rationale for integrating them remains the same. Whether or not respondent Martin is entitled to support depends completely on the determination of filiation. A separate action will only result in a multiplicity of suits, given how intimately related the main issues in both cases are. To paraphrase *Tayag*, the declaration of filiation is entirely appropriate to these proceedings.[47] (Citations omitted)

Indeed, an integrated determination of filiation is "entirely appropriate"[48] to the action for support filed by petitioner Richelle for her child. An action for support may very well resolve that ineluctable issue of paternity if it involves the same parties, is brought before a court with the proper jurisdiction, prays to impel recognition of paternal relations, and invokes judicial intervention to do so. This does not run afoul of any rule. To the contrary, and consistent with *Briz v. Briz*,[49] this is in keeping with the rules on proper joinder of causes of action.[50] This also serves the interest of judicial economy—avoiding multiplicity of suits and cushioning litigants from the vexation and costs of a protracted pleading of their cause.

Thus, it was improper to rule here, as the Court of Appeals did, that it was impossible to entertain petitioner's child's plea for support without her and petitioner first surmounting the encumbrance of an entirely different judicial proceeding. Without meaning to lend credence to the minutiae of petitioner's claims, it is quite apparent that the rigors of judicial proceedings have been taxing enough for a mother and her daughter whose claim for support amounts to a modest P3,000.00 every month. When petitioner initiated her action, her daughter was a toddler; she is, by now, well into her adolescence. The primordial interest of justice and the basic dictum that procedural rules are to be "liberally construed in order to promote their objective of securing a just, speedy and inexpensive disposition of every action and proceeding"[51] impel us to grant the present Petition.

WHEREFORE, the Petition for Review on Certiorari is GRANTED. The assailed August 25, 2011 Decision and January 15, 2013 Resolution of the Court of Appeals in CA-G.R. SP No. 02687 are REVERSED and SET ASIDE. The case is REMANDED to Branch 12, Regional Trial Court, San Jose, Antique for it to settle in Civil Case No. 2005-4-3496 the matter of Marl Jhorylle Abella's purported paternal relation with respondent Policarpio Cabañero and, in the event of a favorable determination on this, to later rule on the matter of support.

SO ORDERED.

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

[1] *Dolina v. Vallecera*, 653 Phil. 391, 394 (2010) [Per J. Abad, Second Division] citing *Tayag v. Tayag-Gallor*, 572 Phil. 545, 551-552 (2008) [Per J. Tinga, Second Division] and *Montefalcon v. Vasquez*, 577 Phil. 383, 398 (2008) [Per J. Quisumbing, Second Division].

[2] *Id.* citing *Agustin v. Court of Appeals*, 499 Phil. 307, 317 (2005) [Per J. Corona, Third Division].

[3] *Rollo*, pp. 10-19.

[4] *Id.* at 49-59. The Decision was penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Pampio A. Abarintos and Nina G. Antonio-Valenzuela of the Special Nineteenth Division, Court of Appeals, Cebu City.

[5] *Id.* at 66-67. The Resolution was penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Pampio A. Abarintos and Pamela Ann Abella Maxino of the Special Former Special Nineteenth Division, Court of Appeals, Cebu City.

[6] *Id.* at 37-40. The Decision was penned by Judge Rudy P. Castrojas.

[7] *Id.* at 41-43.

[8] *Id.* at 20-23.

[9] *Id.* at 20.

[10] Id. at 20-21.

[11] Id. at 21.

[[12]] Id.

[13] Id. at 50.

[14] Id.

[15] Id. at 50-51.

[16] Id. at 37-40.

[17] Id. at 49.

[18] Id. at 49-59.

[19] Id. at 57.

[20] Id. at 58.

[21] 710 Phil. 211 (2013) [Per J. Villarama, Jr., First Division].

[22] FAMILY CODE, art. 201 provides:

Article 201. The amount of support, in the cases referred to in Articles 195 and 196, shall be in proportion to the resources or means of the giver and to the necessities of the recipient.

[23] *Lim-Lua v. Lua*, 710 Phil. 211, 221 (2013) [Per J. Villarama, Jr., First Division] citing FAMILY CODE, art. 201, *Lacson v. Lacson*, 531 Phil. 277, 287 (2006) [Per J. Garcia, Second Division].

[24] FAMILY CODE, art. 202.

[25] FAMILY CODE, art. 203 provides:

Article 203. The obligation to give support shall be demandable from the time the person who has a right to receive the same needs it for maintenance, but it shall not be paid except from the date of judicial or extrajudicial demand.

Support pendente lite may be claimed in accordance with the Rules of Court.

Payment shall be made within the first five days of each corresponding month. When the recipient dies, his heirs shall not be obliged to return what he has received in advance.

[26] FAMILY CODE, art. 203.

[27] FAMILY CODE, art. 176, as amended by Rep. Act No. 9255 provides:

Article 176. Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. However, illegitimate children may use the surname of their father if their filiation has been expressly recognized by the father through the record of birth appearing in the civil register, or when an admission in a public document or private handwritten instrument is made by the father. Provided, the father has the right to institute an action before the regular courts to prove non-filiation during his lifetime. The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child.

[28] *Dolina v. Vallecera*, 653 Phil. 391, 394 (2010) [Per J. Abad, Second Division] citing FAMILY CODE, art.

195.

[29] Id.

[30] Id.

[31] Estate of Rogelio Ong v. Diaz, 565 Phil. 215, 224 (2007) [Per J. Chico-Nazario, Third Division].

[32] Dela Cruz v. Gracia, 612 Phil. 167, 180 (2009) [Per J. Carpio-Morales, Second Division] citing Concepcion v. Court of Appeals, 505 Phil. 529 (2005) [Per J. Corona, Third Division].

[33] Herrera v. Alba, 499 Phil. 185, 205 (2005). [Per J. Carpio, First Division].

[34] Estate of Rogelio Ong v. Diaz, 565 Phil. 215, 224 (2007) [Per J. Chico-Nazario, Third Division].

[35] Herrera v. Alba, 499 Phil. 185, 205-206 (2005) [Per J. Carpio, First Division].

[36] FAMILY CODE, art. 175:

Article 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.

[37] FAMILY CODE, art. 172.

[38] FAMILY CODE, art. 172.

[39] De Jesus v. Estate of Dizon, 418 Phil. 768, 773 (2001) [Per J. Vitug, Third Division] citing Gono-Javier v. Court of Appeals, 309 Phil. 544 (1994) [Per J. Vitug, Third Division].

[40] 653 Phil. 391 (2010) [Per J. Abad, Second Division].

[41] Id. at 394 citing Agustin v. Court of Appeals, 499 Phil. 307, 317 (2005) [Per J. Corona, Third Division].

[42] Dolina v. Vallecera, 653 Phil. 391, 394-395 (2010) [Per J. Abad, Second Division].

[43] 499 Phil. 307 (2005) [Per J. Corona, Third Division]

[44] Id. at 314.

[45] Id. at 316-317.

[46] Id. at 318.

[47] Id. at 316-318.

[48] Id. at 318.

[49] 43 Phil. 763 (1922). [Per J. Street, En Banc], as quoted in Agustin v. Court of Appeals, 499 Phil. 307, 317-318 (2005) [Per J. Corona, Third Division].

[50] On joinder of causes of action, RULES OF COURT, Rule 2, sec. 5 provides:

Section 5. Joinder of causes of action. — A party may in one pleading assert, in the alternative or otherwise, as many causes of action as he may have against an opposing party, subject to the following conditions:

- (a) The party joining the causes of action shall comply with the rules on joinder of parties;
- (b) The joinder shall not include special civil actions or actions governed by special rules;
- (c) Where the causes of action are between the same parties but pertain to different venues or jurisdictions, the joinder may be allowed in the Regional Trial Court provided one of the causes of action falls within the jurisdiction of said court and the venue lies therein; and
- (d) Where the claims in all the causes of action are principally for recovery of money, the aggregate amount claimed shall be the test of jurisdiction.

As to joinder of parties, RULES OF COURT, Rule 3, sec. 6 provides:

Section 6. Permissive joinder of parties. — All persons in whom or against whom any right to relief in respect to or arising out of the same transaction or series of transactions is alleged to exist, whether jointly, severally, or in the alternative, may, except as otherwise provided in these Rules, join as plaintiffs or be joined as defendants in one complaint, where any question of law or fact common to all such plaintiffs or to all such defendants may arise in the action; but the court may make such orders as may be just to prevent any plaintiff or defendant from being embarrassed or put to expense in connection with any proceedings in which he may have no interest.

[51] RULES of COURT, Rule 1, sec. 6.

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