

JOSE A. VALLARTA, PLAINTIFF AND APPELLANT, VS. ESPERANZA ALIWALAS ET AL., DEFENDANTS AND APPELLEES.

G. R. No. 32051. February 25, 1930

Ponente: MALCOLM, J.

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MALCOLM, J.:

<!--This is an action brought by "one claiming to be the natural child of a priest to obtain a declaration of nullity of a donation, of a parcel of land containing twenty-seven hectares, made by the priest before his death, in favor of the defendants. By a process of elimination, the prime issue is found to concern the legal right of a priest ordained in sacris to recognize as a natural son one born to the, priest and a single woman prior to the promulgation of the Civil Code of Spain in the Philippines.

The learned decision of Judge Ed. Gutierrez David of the Court of First Instance of Nueva Ecija absolved the defendants from the complaint, with costs against the plaintiff. Appealing from this judgment, the losing party alleges that the court erred in the following particulars:

"1. For having declared that the plaintiff does not have the character of natural child, for, at the time of his conception, his father was a priest ordained in sacris.

"2. For having sustained that article 119 of the Civil Code is not applicable to the instant case.

"3. For having interpreted literally rule one of the transitory provisions of the said Code.

"4. For having sustained that the breakable impediment of the sacerdotal order is not dispensable for the purpose of contracting marriage.

"5. For the undue application of Law 11 of Toro.

"6. For not having declared that the donation of the land in question to the defendants is void; and

"7. For having absolved the defendants from the complaint."

The controlling facts are conceded. The disputed facts need not be taken into consideration. The record discloses that Catalino Reyes was ordained a priest on June 6, 1868. On December 13, 1871, a child was born of the parentage of the priest and one Carmen Vallarta. The child was christened with the name of Jose A. Vallarta. At the time of conception, Carmen Vallarta was an unmarried woman and Father Reyes was an unmarried man. Long after, as Father Reyes was approaching the sunset of his life, he made a donation in favor of Maria Jurado and her children, the exact date being May 21, 1926. On November 26th of the same year, Father Reyes, while a priest, executed a public document recognizing Jose A. Vallarta as his natural child had through amorous relations with a girl whose name he did not care to reveal. Father Reyes died on December 14, 1926.

The law applicable to the legal status of a natural child born prior to the enforcement of the Civil Code in the Philippine islands is Law 11 of Toro, and Law 1, title 5, book 10 of the Novisima, Recopilacion. (Civil Code, Transitory Provisions 1 and 4; Capistrano vs. Gabino [1907], 8 Phil., 135; Requejo vs. Rabalo [1916], 34 Phil,

14.) The cited law provided:

"And for the purpose of avoiding doubt as to who are natural children, we order and decree that natural children are those, who, at the time of their birth or conception were of fathers who could have married their mothers properly and justly and without dispensation; provided that the father acknowledged such issue as his child, although he would not have had the woman with whom he had had such relations in his house, or any other one. We decree that the child having the qualifications above mentioned is a natural child."

The Canon Law, which in those days was exclusively controlling on marriages, as found in the Council of Trent, canon 9, prohibited marriages by priests. The law was liberalized somewhat in the Civil Code of Spain for therein in article 119 it was provided that "Natural children are those born out of wedlock of parents who, at the time of the conception of such children, could have married with or without dispensation." But as previously stated, the case is not governed by the provisions of the Civil Code but by the Law of Toro.

It is contended that a dispensation from the Pope could be obtained to permit a priest to contract marriage. The old law by making use of the qualifying phrase "and without dispensation" nullifies the force of this argument. Also instances of dispensation are so rare as practically to prove the impossibility of, securing the same. The researches of counsel have disclosed no case of a priest in the Philippines ever having been granted this privilege.

The case of Enriquez and Garcia vs. Aquino and Aquino ([1915], 29 Phil., 167), while not on all fours with the case at bar, contains indications of the true rule. It was agreed by and between the parties in this case that the child Vicente Atanasio Enriquez was the son of Aurea Enriquez begotten by a Catholic priest. The child was born in 1905. Addressing itself to this branch of the case, the court, through Justice Trent, said:

"Two conditions are necessary to the status of an acknowledged natural child: They are (1) that the child is born out of wedlock of parents who, at the time of conception of the child could have married (Civil Code, art. 119); and (2) that the child is legally acknowledged. (*Id.*, arts. 129-138.)

"It is insisted by counsel for the appellants that the fact that the father of Vicente Atanasio Enriquez was a Roman Catholic priest prevents him from fulfilling the first requirement. In so far as this case is concerned, we accept without discussion his conclusion that under the laws in force in this country prior to the promulgation of General Orders No. 68, the fact that a man was a priest . in sacris was an impediment to his marriage. Hence, if that law still prevails, Vicente Atanasio Enriquez cannot, under the circumstances as developed by the record, qualify as a natural child of Aurea Enriquez. This, then, is the crux of the whole inquiry.

"The birth of the child Vicente Atanasio Enriquez occurring in 1905, several years subsequent to the promulgation of General Orders No. 68 and the consequent revocation of the impediment of priesthood to marriage, it results that the child's parents could have consummated a legal marriage at the time of its conception, and, hence, that the child is a natural child within the terms of article 119 of. the Civil Code,"

We reach the conclusion that, applying the proper legal provisions to the admitted facts, the trial judge was right in holding that Catalino Reyes, a priest in sacris, was incapacitated to contract marriage at the time a son was conceived by a single woman, and that accordingly the attempt years later of the priest to acknowledge the child was. a nullity. This being true, the plaintiff is without standing, to contest the validity of the donation. None of the remaining questions need be decided.

Overruling the errors assigned, the result will be to affirm the judgment of the lower court, with the costs against the appellant.

Johnson, Villamor, Ostrand, Johns and Villa-Real, JJ., concur.

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