

CANUTO JOAQUIN AND ALEJANDRO E. JOAQUIN, PLAINTIFFS AND APPELLANTS, VS. ROBERTA JOAQUIN AND HER HUSBAND EMILIO RAYMUNDO ET AL., DEFENDANTS AND APPELLEES.*G. R. No. 41045. August 25, 1934*

Ponente: GODDARD, J.

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This action was instituted in the Court of First Instance of Bulacan against the legitimate children of the deceased Elias Joaquin to compel the acknowledgment of the plaintiffs as the natural children of said deceased and to declare them entitled to a share in the property left by said deceased in the proportion fixed by law.

The evidence shows that the deceased Elias Joaquin, who died December, 1929, married twice. The first wife was Victoriana Ramos and the second, Victorina San Jose, with both of whom he had children, the defendants in this case. During the four years interval between the death of his first wife and his second marriage, he had amorous relations with one Rufina Enriquez, a widow, as a result of which the two plaintiffs were born. It was also established that in their childhood they were attended by Dr. Pio Valenzuela at the request of Elias Joaquin, who sometimes rode with the doctor, leaving him to go on alone as they approached the house of Rufina Enriquez and that certain expenses of the plaintiffs, during their school age, were paid by Elias Joaquin. On Exhibit D, the monthly report card of the plaintiff Alejandro E. Joaquin corresponding to the school years 1924 and 1925, there appears one unquestioned signature of Elias Joaquin in the space provided for the signature of the parent or guardian. It was also shown that Elias Joaquin asked Flaviano Palileo to become the godfather of Canuto Joaquin when the latter was baptized.

On the other hand it was established that the plaintiffs were baptized as natural children of their mother; that they were recorded in the public registry of births as Canuto and Alejandro Enriquez (father unknown); that they never lived with the relatives of Elias Joaquin; that shortly after the birth of Alejandro E. Joaquin, Elias Joaquin married for the second time and never, thereafter, visited Rufina Enriquez nor the plaintiffs; that plaintiffs never visited their father and that no affectionate nor intimate relations existed between them. Oral evidence was presented to show that Elias Joaquin paid Damaso Enriquez, the uncle of Rufina Enriquez, for the board and lodging of Canuto Enriquez while the latter was studying in Manila; but there is no evidence to show that Canuto received any letters from his father during that time. As aptly observed by counsel for the appellees, "considering that no less than seventeen years elapsed from the birth of the appellant Alejandro in 1912 to the death of Elias Joaquin in 1929, the scantiness of the facts proven for the appellants to show that they enjoyed during all that time the status of natural children is extremely remarkable. The fact testified to by Dr. Valenzuela, a witness for the appellants, that Elias Joaquin when calling him to attend to appellants would leave him before reaching the house of Rufina Enriquez would indicate that it could not have been the intention of the deceased to grant to the appellants the status they claim."

The trial court in dismissing the complaint of the plaintiffs stated the following:

"* * * Queda el otro extremo de si los demandantes, como hijos de dicho Elias Joaquin, han gozado de la condicion de posesion continua del estado de hijos naturales suyos. Acerca de este punto, las pruebas revelan ciertos actos ejecutados por Elias que demuestran su afeccion y reconocimiento a los demandantes como hijos suyos, pero no son de tal naturaleza que sean tan extensibles, abiertos y repetidos que demuestran su intencion de reconocerles. Tales actos pudieron haber sido suficientes para obligar al reconocimiento de acuerdo con las disposiciones legales anteriormente vigentes (Ley 11 de Toro), pues, bajo el imperio de dicha ley, bastaba sin limitation alguna un reconocimiento implicito del padre natural; pero bajo las disposiciones delCodigo Civil, actualmente vigentes al tiempo del nacimiento de los demandantes y aplicables a la accion de autos, la ley limita las circunstancias y hechos especificos por los cuales debe concederse el reconocimiento de hijos naturales."

Article 135 of the Civil Code provides that:

"The father may be compelled to acknowledge his natural child in the following cases:

"1. When an indubitable writing of his exists in which he expressly acknowledges his paternity.

"2. When the child is in the uninterrupted possession of the status of a natural child of the defendant father, justified by the conduct of the father himself or that of his family.

"In cases of rape, seduction, or abduction, the provisions of the Penal Code with regard to the acknowledgment of the issue, shall be observed:"

In the case of *Buenaventura vs. Urbano* (5 Phil., 1), this court laid the following test:

"* * * It is not sufficient that the father recognize the child as his. * * * It must appear that it was the intention of the father to so recognize the child as to give him that status, and that the acts performed by him were done with that intention.

"* * * The acts performed by him for the purpose of giving such status must be such as to make plain to the public that the child possesses such a condition."

In view of all the evidence of record this court would not be justified in holding that the plaintiffs have enjoyed the "uninterrupted possession of the status of a natural child of the defendant father, justified by the conduct of the father himself or that of his family" as provided in paragraph 2 of article 135 of the Civil Code.

There is, however, a question as to whether the monthly report card of Alejandro E. Joaquin, whereon the signature of Elias Joaquin as father or guardian appears, may be considered as an "indubitable writing" as contemplated by paragraph 1 of article 135 of the Civil Code, cited above. Manresa commenting on this particular point says:

"En cuanto al otro requisito de ser expreso el reconocimiento, te"ngase presente que no basta hacerlo por incidencia; es indispensable que se consigne en el escrito la voluntad indubitada, clara y terminante del padre, de reconocer por suyo al hijo, deliberadamente expresada con este fin, como se ordena en la base 5.ª antes citada, de las aprobadas por la ley de 11 de mayo de 1888; de suerte que el escrito, aunque contenga otros particulares, como sucede en los testamentos, ha de tener por objeto el reconocimiento deliberado y expreso del hijo natural. No llena, pues, ese objeto la manifestation que incidentalmente haga el padre de ser hijo natural suyo la persona a quien se refiera, y mucho mas el dar a una persona el titulo y tratamiento de hijo en cartas familiares." (Manresa, Comentarios alCodigo Civil, Tomo 1, pdg. 580, 3ª ed.)

It is evident from the above that the monthly report card is not the indubitable writing contemplated by paragraph 1 of article 135 of the Civil Code. This court would not be justified in holding that Elias Joaquin signed that card with the deliberate intention of recognizing Alejandro Joaquin as his natural son.

The facts proven in this case are quite different from those in the case of *De Jesus vs. Syquia* (58 Phil., 866). In that case there were four letters signed by Cesar Syquia and this court held:

"The acknowledgment of paternity required in No. 1 of article 135 of the Civil Code is satisfied by the production of more than one document of indubitable authenticity, containing, all together, the admission of the father recognizing a particular child as of his paternity, the admissions of one writing being supplemented by those of another."

The judgment of the trial court is affirmed, with costs in this instance against the appellants.

Malcolm, Villa-Real, Imperial, and Butte, JJ., concur.

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