

ANSELMA DIAZ, GUARDIAN OF VICTOR, RODRIGO, ANSELMINA AND MIGUEL, ALL SURNAMED SANTERO, AND FELIXBERTA PACURSA, GUARDIAN OF FEDERICO SANTERO, ET AL., PETITIONERS, VS. INTERMEDIAT...

G.R. No. 66574. February 21, 1990

Ponente: PARAS, J.

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PARAS, J.:

The decision of the Second Division of this Court in the case of Anselma Diaz, et al. vs. Intermediate Appellate Court, et al., G.R. No. 66574, promulgated June 17, 1987 declaring Felisa Pamuti-Jardin to be the sole legitimate heir to the intestate estate of the late Simona Pamuti Vda. de Santero, and its Resolution of February 24, 1988 denying the Motion for Reconsideration dated July 2, 1987, are being challenged in this Second Motion for Reconsideration dated July 5, 1988. After the parties had filed their respective pleadings, the Court, in a resolution dated October 27, 1988, resolved to grant the request of the petitioners for oral argument before the court en banc, and the case was set for hearing on November 17, 1988 to resolve the question: Does the term "relatives" in Article 992 of the New Civil Code which reads:

"An illegitimate child has no right to inherit ab intestato from the legitimate children or relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child."

include the legitimate parents of the father or mother of the illegitimate children? Invited to discuss as amici curiae during the hearing were the following: Justice Jose B.L. Reyes, former Justice Minister Ricardo C. Puno, Dr. Arturo Tolentino, former Justice Eduardo Caguioa, and Professor Ruben Balane.

The facts of the case, as synthesized in the assailed decision, are as follows:

"It is undisputed: 1) that Felisa Pamuti Jardin is a niece of Simona Pamuti Vda. de Santero who together with Felisa's mother Juliana were the only legitimate children of the spouses Felipe Pamuti and Petronila Asuncion; 2) that Juliana married Simon Jardin and out of their union were born Felisa Pamuti and another child who died during infancy; 3) that Simona Pamuti Vda. de Santero is the widow of Pascual Santero and the mother of Pablo Santero; 4) that Pablo Santero was the only legitimate son of his parents Pascual Santero and Simona Pamuti Vda. de Santero; 5) that Pascual Santero died in 1970; Pablo Santero in 1973 and Simona Santero in 1976; 6) that Pablo Santero, at the time of his death was survived by his mother Simona Santero and his six minor natural children to wit: four minor children with Anselma Diaz and two minor children with Felixberta Pacursa."

(pp. 1-2, Decision; pp. 190-191, Rollo)

Briefly stated, the real issue in the instant case is this — who are the legal heirs of Simona Pamuti Vda. de Santero — her niece Felisa Pamuti-Jardin or her grandchildren (the natural children of Pablo Santero)?

The present controversy is confined solely to the intestate estate of Simona Pamuti Vda. de Santero. In connection

therewith, We are tasked with determining anew whether petitioners as illegitimate children of Pablo Santero could inherit from Simona Pamuti Vda. de Santero, by right of representation of their father Pablo Santero who is a legitimate child of Simona Pamuti Vda. de Santero.

Petitioners claim that the amendment of Articles 941 and 943 of the old Civil Code (Civil Code of Spain) by Articles 990 and 992 of the new Civil Code (Civil Code of the Philippines) constitute a substantial and not merely a formal change, which grants illegitimate children certain successional rights. We do not dispute the fact that the New Civil Code has given illegitimate children successional rights, which rights were never before enjoyed by them under the Old Civil Code. They were during that time merely entitled to support. In fact, they are now considered as compulsory primary heirs under Article 887 of the new Civil Code (no. 5 in the order of intestate succession). Again, We do not deny that fact. These are only some of the many rights granted by the new Code to illegitimate children. But that is all. A careful evaluation of the New Civil Code provisions, especially Articles 902, 982, 989, and 990, claimed by petitioners to have conferred illegitimate children the right to represent their parents in the inheritance of their legitimate grandparents, would in point of fact reveal that such right to this time does not exist.

Let Us take a closer look at the above-cited provisions.

"Art. 902. The rights of illegitimate children set forth in the preceding articles are transmitted upon their death to their descendants, whether legitimate or illegitimate.

Art. 982. The grandchildren and other descendants shall inherit by right of representation, and if any one of them should have died, leaving several heirs, the portion pertaining to him shall be divided among the latter in equal portions. (933)

Art. 989. If, together with illegitimate children, there should survive descendants of another illegitimate child who is dead, the former shall succeed in their own right and the latter by right of representation. (940a)

Art. 990. The hereditary rights granted by the two preceding articles to illegitimate children shall be transmitted upon their death to their descendants, who shall inherit by right of representation from their deceased grandparent. (941a)" (Italics supplied).

Articles 902, 989, and 990 clearly speak of successional rights of illegitimate children, which rights are transmitted to their descendants upon their death. The descendants (of these illegitimate children) who may inherit by virtue of the right of representation may be legitimate or illegitimate. In whatever manner, one should not overlook the fact that the persons to be represented are themselves illegitimate. The three named provisions are very clear on this matter. The right of representation is not available to illegitimate descendants of legitimate children in the inheritance of a legitimate grandparent. It may be argued, as done by petitioners, that the illegitimate descendant of a legitimate child is entitled to represent by virtue of the provisions of Article 982, which provides that "the grandchildren and other descendants shall inherit by right of representation." Such a conclusion is erroneous. It would allow intestate succession by an illegitimate child to the legitimate parent of his father or mother, a situation which would set at naught the provisions of Article 992. Article 982 is inapplicable to instant case because Article 992 prohibits absolutely a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother. It may not be amiss to state that Article 982 is the general rule and Article 992 the exception.

"The rules laid down in Article 982 that 'grandchildren and other descendants shall inherit by right of representation' and in Article 902 that 'the rights of illegitimate children x x x are transmitted upon their death to their descendants, whether legitimate or illegitimate' are subject to the limitation prescribed by Article 992 to the end that 'an illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his

father or mother." (Amicus Curiae's Opinion by former Justice Minister Ricardo C. Puno, p. 12).

"Article 992 of the New Civil Code provides a barrier or iron curtain in that it prohibits absolutely a succession ab intestato between the illegitimate child and the legitimate children and relatives of the father or mother of said illegitimate child. They may have a natural tie of blood, but this is not recognized by law for the purpose of Article 992. Between the legitimate family and the illegitimate family there is presumed to be an intervening antagonism and incompatibility. The illegitimate child is disgracefully looked down upon by the legitimate family; the family is in turn, hated by the illegitimate child; the latter considers the privileged condition of the former, and the resources of which it is thereby deprived; the former, in turn, sees in the illegitimate child nothing but the product of sin, palpable evidence of a blemish broken in life; the law does no more than recognize this truth, by avoiding further ground of resentment." (7 Manresa 110 cited in *Grey v. Fabie*, 40 OG (First S) No. 3, p. 196).

According to petitioners, the commentaries of Manresa as above-quoted are based on Articles 939 to 944 of the old Civil Code and are therefore inapplicable to the New Civil Code and to the case at bar. Petitioners further argue that the consistent doctrine adopted by this Court in the cases of *Llorente vs. Rodriguez*, et al., 10 Phil.; 585; *Centeno vs. Centeno*, 52 Phil. 322, and *Oyao vs. Oyao*, 94 Phil. 204, cited by former Justice Minister Justice Puno, Justice Caguioa, and Prof. Balane, which identically held that an illegitimate child has no right to succeed ab intestato the legitimate father or mother of his natural parent (also a legitimate child himself), is already abrogated by the amendments made by the New Civil Code and thus cannot be made to apply to the instant case.

Once more, We decline to agree with petitioner. We are fully aware of certain substantial changes in our law of succession, but there is no change whatsoever with respect to the provision of Article 992 of the Civil Code. Otherwise, by the said substantial change, Article 992, which was a reproduction of Article 943 of the Civil Code of Spain, should have been suppressed or at least modified to clarify the matters which are now the subject of the present controversy. While the New Civil Code may have granted successional rights to illegitimate children, those articles, however, in conjunction with Article 992, prohibit the right of representation from being exercised where the person to be represented is a legitimate child. Needless to say, the determining factor is the legitimacy or illegitimacy of the person to be represented. If the person to be represented is an illegitimate child, then his descendants, whether legitimate or illegitimate, may represent him; however, if the person to be represented is legitimate, his illegitimate descendants cannot represent him because the law provides that only his legitimate descendants may exercise the right of representation by reason of the barrier imposed in Article 992. In this wise, the commentaries of Manresa on the matter in issue, even though based on the old Civil Code, are still very much applicable to the New Civil Code because the amendment, although substantial, did not consist of giving illegitimate children the right to represent their natural parents (legitimate) in the intestate succession of their grandparents (legitimate). It is with the same line of reasoning that the three aforecited cases may be said to be still applicable to the instant case.

Equally important are the reflections of the Illustrious Hon. Justice Jose B.L. Reyes which also find support from other civilists. We quote:

"In the Spanish Civil Code of 1889 the right of representation was admitted only within the legitimate family; so much so that Article 943 of that Code prescribed that an illegitimate child can not inherit ab intestato from the legitimate children and relatives of his father and mother. The Civil Code of the Philippines apparently adhered to this principle since it reproduced Article 943 of the Spanish Code in its own Art. 992, but with fine inconsistency, in subsequent articles (990, 995 and 998) our Code allows the hereditary portion of the illegitimate child to pass to his own descendants, whether legitimate or illegitimate. So that while Art. 992 prevents the illegitimate issue of a legitimate child from representing him in the intestate succession of the grandparent, the illegimates of an illegitimate child can now do so. This difference being indefensible and

unwarranted, in the future revision of the Civil Code we shall have to make a choice and decide either that the illegitimate issue enjoys in all cases the right of representation, in which case Art. 992 must be suppressed; or contrariwise maintain said article and modify Articles 992 and 998. The first solution would be more in accord with an enlightened attitude vis-a-vis illegitimate children. (Reflections on the Reform of Hereditary Succession, JOURNAL of the Integrated Bar of the Philippines, First Quarter, 1976, Volume 4, Number 1, pp. 40-41). (p. 7, Decision; p. 196, Rollo)

It is therefore clear from Article 992 of the New Civil Code that the phrase "legitimate children and relatives of his father or mother" includes Simona Pamuti Vda. de Santero as the word "relative" is broad enough to comprehend all the kindred of the person spoken of. (Comment, p. 139 Rollo citing p. 2862 Bouvier's Law Dictionary vol. II, Third Revision, Eight Edition) The record reveals that from the commencement of this case the only parties who claimed to be the legitimate heirs of the late Simona Pamuti Vda. de Santero are Felisa Pamuti Jardin and the six minor natural or illegitimate children of Pablo Santero. Since petitioners herein are barred by the provisions of Article 992, the respondent Intermediate Appellate Court did not commit any error in holding Felisa Pamuti Jardin to be the sole legitimate heir to the intestate estate of the late Simona Pamuti Vda. de Santero.

It is Our shared view that the word "relatives" should be construed in its general acceptance. Amicus curiae Prof. Ruben Balane has this to say:

"The term relatives, although used many times in the Code, is not defined by it. In accordance therefore with the canons of statutory interpretation, it should be understood to have a general and inclusive scope, inasmuch as the term is a general one. *Generalia verba sunt generaliter intelligenda*. That the law does not make a distinction prevents us from making one: *Ubi lex non distinguit, nec nos distinguere debemus*. Escriche, in his *Diccionario de Legislacion y Jurisprudencia*, defines *parientes* as "los que estan relacionados por los vinculos de la sangre, ya sea por proceder unos de otros, como los descendientes y ascendientes, ya sea por proceder de una misma raiz o tronco, como los colaterales. (cited in Scaevola, op. cit., p. 457).

(p. 377, Rollo)

According to Prof. Balane, to interpret the term relatives in Article 992 in a more restrictive sense than it is used and intended is not warranted by any rule of interpretation. Besides, he further states that when the law intends to use the term in a more restrictive sense, it qualifies the term with the word collateral, as in Articles 1003 and 1009 of the New Civil Code.

Thus, the word "relatives" is a general term and when used in a statute it embraces not only collateral relatives but also all the kindred of the person spoken of, unless the context indicates that it was used in a more restrictive or limited sense - which, as already discussed earlier, is not so in the case at bar.

To recapitulate, We quote this:

"The lines of this distinction between legitimates and illegitimates, which goes back very far in legal history, have been softened but not erased by present law. Our legislation has not gone so far as to place legitimate and illegitimate children on exactly the same footing. Even the Family Code of 1987 (EO 209) has not abolished the gradation between legitimate and illegitimate children (although it has done away with the subclassification of illegitimates into natural and 'spurious'). It would thus be correct to say that illegitimate children have only those rights which are expressly or clearly granted to them by law (vide Tolentino, Civil Code of the Philippines, 1973 ed., vol. III, p. 291). (Amicus Curiae's Opinion by Prof. Ruben Balane, p. 12).

In the light of the foregoing, We conclude that until Article 992 is suppressed or at least amended to clarify the term "relatives", there is no other alternative but to apply the law literally. Thus, We hereby reiterate the decision of June 17, 1987 and declare Felisa Pamuti-Jardin to be the sole heir to the intestate estate of Simona Pamuti Vda.

de Santero, to the exclusion of petitioners.

WHEREFORE, the second Motion for Reconsideration is DENIED, and the assailed decision is hereby AFFIRMED.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Feliciano, Gancayco, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Gutierrez, Jr., J., see dissenting opinion.

Padilla, J., no part; related to petitioners' lead counsel.

Bidin, J., no part. He participated in the appealed decision.

Sarmiento, J., no part. He was a lawyer of some parties in a case pending still in the Court involving the same legal issue.

DISSENTING OPINION

GUTIERREZ, JR., J.:

The ponente, Mr. Justice Edgardo L. Paras, is a noted teacher of Civil Law subjects and a well-known author of many Commentaries on the Civil Code. The amicus curiae — former Justice Jose B.L. Reyes, former Justice Ricardo C. Puno, former Senator Arturo Tolentino, former Justice Eduardo Coquia, and Professor Ruben Balane — together with the ponente read like a veritable Who's Who in Civil Law in the Philippines.

It is, therefore, with trepidation that I venture to cast a discordant vote on the issue before the Court. But it is perhaps because I am not as deeply steeped in the civil law tradition and in the usually tidy and methodical neatness characterizing its ancient precepts that I discern a change effected by our own version of the Civil Code. The orthodox rules which earlier inflexibly separated the legitimate from the illegitimate families have been relaxed a little. The opprobrium cast on illegitimate children and the disadvantages they suffer in law are no longer as overwhelming as before. The wall is no longer as rigid as it used to be. The efforts of the Code Commission and the Congress to make our civil law conform "with the customs, traditions, and idiosyncracies of the Filipino people and with modern trends in legislation and the progressive principles of law" have resulted in deviations from the strict and narrow path followed by Manresa and other early glossators. I, therefore, do not feel bound to follow the ancient interpretations in the presence of absurd and unjust results brought about by amendments in the new Civil Code.

We have here a case of grandchildren who cannot inherit from their direct ascendant, their own grandmother, simply because their father (who was a legitimate son) failed to marry their mother. There are no other direct heirs. Hence, the properties of their grandmother goes to a collateral relative — her niece. If the niece is no longer alive, an even more distant group of grandnieces and grandnephews will inherit as against the grandmother's own direct flesh and blood.

As pointed out by the petitioners, the decision of the Intermediate Appellate Court disregards the order of intestate succession in Arts. 978 to 1014 of the Civil Code and the right of representation in Art. 970 of descendants, whether legitimate or illegitimate as provided by Arts. 902, 993, and 995.

I agree that a clear and precise amendment is needed if collateral relatives such as illegitimate children and legitimate uncles, aunts, or cousins or illegitimate siblings and their legitimate half-brothers or half-sisters are to

inherit from one another. But I must stress that the barrier is between the legitimate and illegitimate families. I see no reason why we should include a grandmother or grandfather among those where a firm wall of separation should be maintained. She cannot be a separate "family" from her own grandchildren.

The ancient wall was breached by our Code Commission and Congress in Art. 902 of the Code which provides:

"The rights of illegitimate children set forth in the preceding articles are transmitted upon their death to their descendants, whether legitimate or illegitimate. (843a)"

The illegitimate children of an illegitimate child have the right to represent him in the circumstances given in preceding articles. Before the Code was amended, that right was reserved to the illegitimate child's legitimate offspring.

I find it absurd why the petitioners could have represented their father Pablo if their grandparents Simona and Pascual had not been legally married. Senator Tolentino, while supporting the majority view of this Court states:

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"In the present article, the Code Commission took a step forward by giving an illegitimate child the right of representation, which he did not have under the old Code. But in retaining without change provisions of the old Code in article 992, it created an absurdity and committed an injustice, because while the illegitimate descendant of an illegitimate child can represent, the illegitimate descendant of a legitimate child cannot. The principle that the illegitimate child should succeed by operation of law only to persons with the same status of illegitimacy has thus been preserved. And this is unfair to the illegitimate descendants of legitimate children. *Dura lex, sed lex.*" (Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. III, 1987 ed., p. 330)

The adoption of a harsh and absurd interpretation, pending an amendment of the law, does not impress me as correct. Precisely, the word "relatives" in Art. 992 calls for reinterpretation because the Code has been amended. The meaning of "relatives" must follow the changes in various provisions upon which the word's effectivity is dependent.

My dissent from the majority opinion is also premised on a firm belief that law is based on considerations of justice. The law should be interpreted to accord with what appears right and just. Unless the opposite is proved, I will always presume that a grandmother loves her grandchildren — legitimate or illegitimate — more than the second cousins of said grandchildren or the parents of said cousins. The grandmother may be angry at the indiscretions of her son but why should the law include the innocent grandchildren as objects of that anger. "Relatives" can only refer to collateral relatives, to members of a separate group of kins but not to one's own grandparents.

I, therefore, vote to grant the motion for reconsideration.

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