

ISABEL DE LA PUERTA, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND CARMELITA DE LA PUERTA, RESPONDENTS.

G.R. No. 77867. February 06, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

The basic issue involved in this case is the filiation of private respondent Carmelita de la Puerta, who claims successional rights to the estate of her alleged grandmother.

Dominga Revuelta died on July 3, 1966, at the age of 92, with a will leaving her properties to her three surviving children, namely, Alfredo, Vicente and Isabel, all surnamed de la Puerta. Isabel was given the free portion in addition to her legitime and was appointed executrix of the will.[1]

The petition for the probate of the will filed by Isabel was opposed by her brothers, who averred that their mother was already senile at the time of the execution of the will and did not fully comprehend its meaning. Moreover, some of the properties listed in the inventory of her estate belonged to them exclusively.[2]

Meantime, Isabel was appointed special administratrix by the probate court.[3] Alfredo subsequently died, leaving Vicente the lone oppositor.[4]

On August 1, 1974, Vicente de la Puerta filed with the Court of First Instance of Quezon a petition to adopt Carmelita de la Puerta. After hearing, the petition was granted.[5] However, the decision was appealed by Isabel to the Court of Appeals. During the pendency of the appeal, Vicente died, prompting her to move for the dismissal of the case.[6]

On November 20, 1981, Carmelita, having been allowed to intervene in the probate proceedings, filed a motion for the payment to her of a monthly allowance as the acknowledged natural child of Vicente de la Puerta.[7] At the hearing on her motion, Carmelita presented evidence to prove her claimed status to which Isabel was allowed to submit counter-evidence.

On November 12, 1982, the probate court granted the motion, declaring that it was satisfied from the evidence at hand that Carmelita was a natural child of Vicente de la Puerta and was entitled to the amounts claimed for her support. The court added that "the evidence presented by the petitioner against it (was) too weak to discredit the same." [8]

On appeal, the order of the lower court was affirmed by the respondent court,[9] which is now in turn being challenged in this petition before us.

The petitioner's main argument is that Carmelita was not the natural child of Vicente de la Puerta, who was married to Genoveva de la Puerta in 1938 and remained his wife until his death in 1978. Carmelita's real parents are Juanito Austrial and Gloria Jordan.

Invoking the presumption of legitimacy, she argues that Carmelita was the legitimate child of Juanito Austrial and

Gloria Jordan, who were legally or presumably married. Moreover, Carmelita could not have been a natural child of Vicente de la Puerta because he was already married at the time of her birth in 1962.

To prove her point, Isabel presented Amado Magpantay, who testified that he was a neighbor of Austrial and Jordan. According to him, the two were living as husband and wife and had three children, including a girl named "Puti," presumably Carmelita. He said though that he was not sure if the couple was legally married.[10]

Another witness, Genoveva de la Puerta, identified herself as Vicente de la Puerta's wife but said they separated two years after their marriage in 1938 and were never reconciled. In 1962, Gloria Jordan started living with Vicente de la Puerta in his house, which was only five or six houses away from where she herself was staying. Genoveva said that the relationship between her husband and Gloria was well known in the community.[11]

In finding for Carmelita, the lower court declared that:

... By her evidence, it was shown to the satisfaction of the Court that she was born on December 18, 1962 per her birth certificate (Exh. A); that her father was Vicente de la Puerta and her mother is Gloria Jordan who were living as common law husband and wife until his death on June 14, 1978; that Vicente de la Puerta was married to, but was separated from, his legal wife Genoveva de la Puerta; that upon the death of Vicente de la Puerta on June 14, 1978 without leaving a last will and testament, she was the only child who survived him together with his spouse Genoveva de la Puerta with whom he did not beget any child; that she was treated by Vicente de la Puerta as a true child from the time of her birth until his father died; that the fact that she was treated as a child of Vicente de la Puerta is shown by the family pictures showing movant with Vicente de la Puerta (Exhs. D, D-1 and D-2) and school records wherein he signed the report cards as her parent (Exh. E and E-1); that during the hearing of her adoption case in Special Proceeding No. 0041 in Branch V of this Court at Mauban Quezon, Vicente de la Puerta categorically stated in court that Carmelita de la Puerta is his daughter with Gloria Jordan (Exhs. B and B-1); that it was Vicente de la Puerta during his lifetime who spent for her subsistence, support and education; x x x.[12]

This is a factual finding that we do not see fit to disturb, absent any of those circumstances we have laid down in a long line of decisions that will justify reversal.[13] Among these circumstances are: (1) the conclusion is a finding grounded entirely on speculation, surmise conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) the findings of fact are conflicting; (6) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of both appellant and appellees; (7) the findings of fact of the Court of Appeals are contrary to those of the trial court; (8) said findings of facts are conclusions without citation of specific evidence on which they are based; (9) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) the findings of fact of the Court of Appeals are premised on the supposed absence of evidence and contradicted by the evidence on record.

The petitioner insists on the application of the following provisions of the Civil Code to support her thesis that Carmelita is not the natural child of Vicente de la Puerta but the legitimate child of Juanito Austrial and Gloria Jordan:

Art. 255. Children born after one hundred and eighty days following the celebration of the marriage, and before three hundred days following its dissolution or the separation of the spouses shall be presumed to be legitimate.

Against this presumption no evidence shall be admitted other than that of the physical impossibility of the husband's having access to his wife within the first one hundred and twenty days of the three hundred which preceded the birth of the child.

This physical impossibility may be caused:

- (1) By the impotence of the husband;
- (2) By the fact that the husband and wife were living separately, in such a way that access was not possible;
- (3) By the serious illness of the husband.

Art. 256. The child shall be presumed legitimate, although the mother may have declared against its legitimacy or may have been sentenced as an adulteress.

These rules are in turn based on the presumption that Juanito and Gloria were married at the time of Carmelita's birth in 1962, pursuant to Rule 131, Sec. 5(bb) of the Rules of Court, providing that:

Sec. 5. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

xxx xxx xxx

(bb) That a man and woman depicting themselves as husband and wife have entered into a lawful contract of marriage;

But this last-quoted presumption is merely disputable and may be refuted with evidence to the contrary. As the Court sees it, such evidence has been sufficiently established in the case at bar.

The cases [14]cited by the petitioner are not exactly in point because they involve situations where the couples lived continuously as husband and wife and so could be reasonably presumed to be married. In the case before us, there was testimony from Vicente's own wife that her husband and Gloria lived together as a married couple, thereby rebutting the presumption that Gloria was herself the lawful wife of Juanito Austrial.

Such testimony would for one thing show that Juanito and Gloria did not continuously live together as a married couple. Moreover, it is not explained why, if he was really married to her, Juanito did not object when Gloria left the conjugal home and started openly consorting with Vicente, and in the same neighborhood at that. That was unnatural, to say the least. It was different with Genoveva for she herself swore that she had separated from Vicente two years after their marriage and had long lost interest in her husband. In fact, she even renounced in open court any claim to Vicente's estate.[15]

The presumption of marriage between Juanito and Gloria having been destroyed, it became necessary for the petitioner to submit additional proof to show that the two were legally married. She did not.

Turning now to the evidence required to prove the private respondent's filiation, we reject the petitioner's contention that Article 278 of the Civil Code is not available to Carmelita. It is error to contend that as she is not a natural child but a spurious child (if at all) she cannot prove her status by the record of birth, a will, a statement before a court of record, or any authentic writing. On the contrary, it has long been settled that:

The so-called spurious children or illegitimate children other than natural children, commonly known as bastards, include adulterous children or those born out of wedlock to a married woman cohabiting with a man other than her husband or to a married man cohabiting with a woman other than his wife. They are entitled to support and successional rights (Art. 287, CC). But their filiation must be duly proven. (Ibid, Art. 887)

How should their filiation be proven? Article 289 of the Civil Code allows the investigation of the paternity or maternity of spurious children under the circumstances specified in Articles 283 and 284 of the Civil Code. The implication is that the rules on compulsory recognition of natural children are applicable to spurious children.

Spurious children should not be in a better position than natural children. The rules on proof of filiation of

natural children or the rule on voluntary and compulsory acknowledgement for natural children may be applied to spurious children.[16]

This being so, we need not rule now on the admissibility of the private respondent's certificate of birth as proof of her filiation. That status was sufficiently established by the sworn testimony of Vicente de la Puerta at the hearing of the petition for adoption on September 6, 1976, where he categorically declared as follows:

Q - What relation if any do you have with Carmelita de la Puerta?

A - She is my daughter.[17]

Finally, we move to the most crucial question, to wit: May Carmelita de la Puerta claim support and successional rights to the estate of Dominga Revuelta?

According to Article 970 of the Civil Code:

Art. 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

The answer to the question posed must be in the negative. The first reason is that Vicente de la Puerta did not predecease his mother; and the second is that Carmelita is a spurious child.

It is settled that —

In testamentary succession, the right of representation can take place only in the following cases: first, when the person represented dies before the testator; second, when the person represented is incapable of succeeding the testator; and third, when the person represented is disinherited by the testator. In all of these cases, since there is a vacancy in the inheritance, the law calls the children or descendants of the person represented to succeed by right of representation.[18]

x x x

The law is clear that there is representation only when relatives of a deceased person try to succeed him in his rights which he would have had if still living. In the present case, however, said deceased had already succeeded his aunt, the testatrix herein, x x x It is a fact that at the time of the death of the testatrix, Reynaldo Cuison was still alive. He died two months after her (testatrix's) death. And upon his death, he transmitted to his heirs, the petitioners herein Elisa Cuison et al., the legacy or the right to succeed to the legacy. x x x In other words, the herein petitioners-appellants are not trying to succeed to the right to the property of the testatrix, but rather to the right of the legatee Reynaldo Cuison in said property.[19]

Not having predeceased Dominga Revuelta, her son Vicente had the right to inherit from her directly or in his own right. No right of representation was involved, nor could it be invoked by Carmelita upon her father's death, which came after his own mother's death. It would have been different if Vicente was already dead when Dominga Revuelta died. Carmelita could then have inherited from her in representation of her father Vicente, assuming the private respondent was a lawful heir.

But herein lies the crux, for she is not. As a spurious child of Vicente, Carmelita is barred from inheriting from Dominga because of Article 992 of the Civil Code, which lays down the barrier between the legitimate and illegitimate families. This article provides quite clearly:

Art. 992. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.

Applying this rule in *Leonardo v. Court of Appeals*,^[20] this Court declared:

... even if it is true that petitioner is the child of Sotero Leonardo, still he cannot, by right of representation, claim a share of the estate left by the deceased Francisca Reyes considering that, as found again by the Court of Appeals, he was born outside wedlock as shown by the fact that when he was born, his alleged putative father and mother were not yet married, and what is more, his alleged father's first marriage was still subsisting. At most, petitioner would be an illegitimate child who has no right to inherit ab intestato from the legitimate children and relatives of his father, like the deceased Francisca Reyes.

The reason for this rule was explained in the recent case of *Diaz v. Intermediate Appellate Court*,^[21] thus:

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 legitimate 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."^[22]

Indeed, even as an adopted child, Carmelita would still be barred from inheriting from Dominga Revuelta for there would be no natural kindred ties between them and consequently, no legal ties to bind them either. As aptly pointed out by Dr. Arturo M. Tolentino:

If the adopting parent should die before the adopted child, the latter cannot represent the former in the inheritance from the parents or ascendants of the adopter. The adopted child is not related to the deceased in that case, because the filiation created by fiction of law is exclusively between the adopter and the adopted. "By adoption, the adopters can make for themselves an heir, but they cannot thus make one for their kindred."^[23]

The result is that Carmelita, as the spurious daughter of Vicente de la Puerta, has successional rights to the intestate estate of her father but not to the estate of Dominga Revuelta. Her claims for support and inheritance should therefore be filed in the proceedings for the settlement of her own father's estate^[24] and cannot be considered in the probate of Dominga Revuelta's will.

WHEREFORE, the petition is GRANTED and the appealed decision is hereby REVERSED and SET ASIDE, with costs against the private respondent. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Original records, p. 1, *Ibid.* pp. 43-44.

[2] *Ibid.*, pp. 6-7.

[3] *Ibid.*, p. 31.

[4] *Ibid.*, p. 108.

[5] Annex "E."

[6] *Ibid.*

[7] Original records, p. 7.

[8] Annex "F."

[9] Rollo, p. 48. Penned by Francisco, J. with Lombos de la Fuente and Benipayo, JJ., concurring.

[10] TSN, March 5, 1982, p. 6; Ibid., p. 9; Ibid., p. 13.

[11] TSN, January 21, 1982, pp. 3, 7; Ibid. p. 13.

[12] Rollo, p. 49.

[13] Malaysian Airline System Bernad vs. Court of Appeals, 156 SCRA 321; Baliwag Transit, Inc. vs. Court of Appeals, 147 SCRA 82; Sacay vs. Sandiganbayan, 142 SCRA 593.

[14] Umingan vs. Umingan, CA-G.R. No. 8193-R, December 16, 1952; Bell vs. Territory, 56 P 853, 8 Okl. 75; Estrada vs. Reyes, CA-G.R. No. 4835-R, February 24, 1951; Andal vs. Macaraeg, L-2474, May 30, 1951, 89 Phil. 465; Sudario vs. Acro Taxi Cab Co., Inc. CA-G.R. No. 3677-R, August 2, 1951.

[15] TSN, January 21, 1982, pp. 23-24.

[16] Pactor vs. Pestaño, 107 Phil. 685; Reyes vs. Zuzuarregui, 102 Phil. 346, 354; Paulino and Nieto vs. Paulino, 113 Phil. 697, 700.

[17] Exhibit "B-1," TSN, Vicente de la Puerta, Sept. 6, 1974, p. 7.

[18] Jurado, Comments and Jurisprudence on Succession, 7th edition, p. 424.

[19] Cuison, et al. vs. Villanueva, et al., 90 Phil. 850.

[20] 120 SCRA 890.

[21] 150 SCRA 645.

[22] 7 Manresa 110 cited in Grey v. Fabie, 40 OG [First S] No. 3, p. 196.

[23] Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, volume three, 1979, p. 464.

[24] Gutierrez, Jr. vs. Macandog, 150 SCRA 442.

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