

**ROMEO S. AMURAO, PETITIONER, VS. HON. COURT OF APPEALS AND
ROMUEL JEROME BUENAVENTURA, REPRESENTED BY HER
NATURAL MOTHER AND GUARDIAN AD LITEM FE ROSARIO
BUENAVENTURA, RESPONDENTS.**

G.R. No. 83942. December 29, 1988

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

The petitioner was sued for support by the offspring of his illicit relations with a 19-year old college student. The petitioner denied paternity and refused to give support.

At the commencement of the trial on July 25, 1977, the trial court made a last-minute effort to simplify the issues by calling the parties and their counsel to a conference in her chambers. The result was an agreement of the parties, a gist of which was written down in the minutes of the hearing, duly signed by the parties and their counsel, attested by the Deputy Clerk of Court, and embodied in the court's order of September 26, 1977 as follows:

"When this case was called for trial this morning, parties jointly moved for a conference in chambers. The same was granted. After said conference, parties agreed to submit themselves to a blood-grouping test to determine the paternity of plaintiff before the National Bureau of Investigation; and to be bound by the results of the said government agency in the following manner: a) if the finding is to the effect that herein plaintiff may be the offspring of defendant, paternity shall be admitted and this case will proceed for trial only on the issue of amount of support; and b) if the finding is negative, then this case shall be dismissed without further trial. The Court finds the same well taken.

"WHEREFORE, plaintiff-minor, his natural mother and defendant are hereby ordered to submit themselves to a blood-grouping test before the National Bureau of Investigation on or before October 17, 1977 at 10:00 o'clock in the morning for a determination of plaintiff's paternity." (Emphasis supplied.) (pp. 29-30, Original Records; p. 20, Rollo.)

On the basis of the blood-grouping tests performed by the National Bureau of Investigation (NBI), the NBI submitted to the Court Report No. 77-100 dated October 17, 1977, finding that:

"The said child (Romuel Jerome Buenaventura) is a possible offspring of the alleged father Romeo Amurao with Fe Rosario Buenaventura as the natural mother." (p. 20, Rollo.)

Exactly one year later, on September 26, 1978, the petitioner filed a motion for reconsideration of the court's order dated September 26, 1977, impugning its validity. The motion was denied by the trial court. The petitioner sought a review of the order by the Supreme Court through a petition for certiorari (G. R. No. 51407). The petition was denied by this Court on May 4, 1980.

A motion to declare the petitioner in contempt of court for failure to pay support pendente lite was filed by the

private respondent minor. At the hearing of the contempt motion the parties presented evidence on the petitioner's capability to give support. After the hearing on the contempt motion, the case was set for trial on July 8, 1983, with due notice to both parties, for the presentation of further evidence by the petitioner (defendant) on the main case. However, neither the petitioner, nor his counsel, appeared at the hearing. The court declared the case submitted for decision. On August 8, 1985, it rendered judgment for the private respondent ordering the petitioner to pay the former support of P500 per month plus attorney's fees of P3, 000, and costs.

Petitioner appealed to the Court of Appeals (CA-G.R. No. CV 07645) which rendered judgment on March 7, 1988, as follows:

"WHEREFORE, judgment appealed from is hereby AFFIRMED with the modification that the support fixed in the judgment appealed from is increased to One Thousand Five Hundred (P1,500.00) Pesos, payable within the first five days of each month at the plaintiff's residence. Defendant-appellant is hereby ordered to pay support pendente lite of P200.00 in arrears since October 1978 up to the termination of appeal. Costs against defendant-appellant." (p. 24, Rollo.)

Once more, the case is before Us for review upon a petition alleging that the Court of Appeals erred:

- in finding that the petitioner had admitted his paternity in relation to the minor Romuel Jerome Buenaventura and that hence said minor is entitled to receive support from him;
- in upholding the trial court's decision based on the evidence (consisting among others of the petitioner's balance sheets, audit reports and admissions regarding his income) presented by the parties at the hearing of the plaintiff's contempt motion;
- in increasing the amount of support granted by the trial court; and
- in applying Article 290 of the Civil Code instead of Articles 290 and 297 of the same Code.

The petition for review is devoid of merit.

The first, second, third, and fourth issues raised by the petition are factual issues which this Court may not review under Rule 45 of the Rules of Court.

Whether or not the petitioner made an admission of paternity under the terms of the trial court's order dated September 26, 1977, thereby binding himself to give support to his child, the private respondent herein, is a finding of fact.

So is the Court's determination of the amount of support payable to the private respondent. It was perfectly proper for the Court to consider the evidence presented by the parties at the hearing of the plaintiff's contempt motion against the defendant, as evidence also on the merits of the main case. The parties did not have to repeat the ritual of presenting the same evidence all over again to the court. The defendant (herein petitioner), by failing to appear at the hearing of the main case on July 8, 1983 (p. 17, Rollo), waived his right to adduce additional evidence. Hence, he may not be heard to complain that he was denied due process.

Whether or not the Court of Appeals correctly determined that the minor, who filed his action for support in 1977 when he was only an infant five (5) months old, is now (as an 11-year old student) entitled to an increase in the amount of support awarded to him by the trial court, is also a factual issue which We may not re-examine and review.

In any event, We find no reversible error in the decision of the Court of Appeals. The increase in the child's support is proper and is sanctioned by the provisions of Articles 290, 298 and 297 of the Civil Code.

WHEREFORE, the petition is denied for lack of merit. This decision is immediately executory.

SO ORDERED.

Cruz, Gancayco, and Medialdea, JJ., concur.

Narvasa, J., on leave.

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