

**MARIA ALICIA LEUTERIO, PETITIONER, VS. COURT OF APPEALS  
AND HEIRS OF BENITO LEUTERIO, RESPONDENTS.***G.R. No. 84647. May 23, 1991*

Ponente: NARVASA, J.

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Petitioner Maria Alicia Leuterio claims that she is the natural daughter of Ana Maglanque and Pablo Leuterio, having been conceived at the time when her parents were not disqualified by any impediment to marry each other; that the evidence presented by her before the Probate court after her natural father's death, was adequate basis for a judicial declaration of the compulsory recognition of her status as said Pablo Leuterio's natural child; and that, therefore, she must be deemed to have been legitimated by the marriage of her parents some nine years after her birth. However, neither the Trial Court nor the Court of Appeals accorded credit to the proofs submitted by her to prove that she had indeed been recognized by Pablo Leuterio in his lifetime as his daughter. Indeed, not only did the former pronounce Maria Alicia's evidence as insufficient to establish her cause, "unhesitatingly" rejecting in the process certain documents introduced by Maria Alicia Leuterio as "being forged . . . and incompetent . . .," it also declared that "there are facts and circumstances established by the evidence on record which consistently and clearly indicate that the late Pablo Leuterio desisted to acknowledge Maria Alicia Leuterio as his own child with Ana Maglanque." [1]

Maria Alicia is now before this Court in a third attempt to persuade acceptance of her theory.

The antecedents are largely undisputed.

Pablo Leuterio died in San Luis, Pampanga on June 15, 1950, leaving a large estate consisting of several parcels of land in Pampanga.[2] His widow, Ana Maglanque -- who had been one of his domestic servants and later his mistress, and whom he had married a few months before his death, more precisely, on February 25, 1950 -- took possession of his estate and administered it.[3]

On July 23, 1957, Patrocinio Apostol, a niece of Pablo Leuterio, filed a petition in the Court of First Instance of Pampanga for her appointment as guardian of Maria Alicia Leuterio, then 16 years of age, alleged to be the legitimated daughter of said Pablo Leuterio.[4]

On November 20, 1957, Benito Leuterio, a brother of Pablo Leuterio of the full blood, instituted proceedings for the settlement of the decedent's intestate estate in the same Court of First Instance of Pampanga, praying for his appointment as administrator.[5] Benito Leuterio's petition pertinently alleged that Pablo Leuterio had died without leaving a will; that he was survived, not only by said Benito Leuterio, but also by:

a) the children of Elena Leuterio, deceased, sister of the full blood of the decedent, namely:

- 1) Consolacion Apostol
- 2) Jose Apostol
- 3) Patrocinio Apostol

- 4) Consejo Apostol
- 5) Luis Apostol
- 6) Jesus Apostol and
- 7) Margarito Apostol;

b) Vicente D. Leuterio, the son of Gregoria Leuterio, also deceased, and also a sister of the full blood of Pablo Leuterio;

that Pablo Leuterio died a widower; and that the claim of Patrocinio Apostol, a niece of the decedent, that the latter had left a legitimate daughter, supra, was "without foundation in fact and in law."

The petition was opposed by Ana Maglanque and Maria Alicia Leuterio (the latter being represented by the above named Patrocinio Apostol). After hearing, the Probate Court appointed Ana Maglanque administratrix of Pablo Leuterio's estate.

The event leading directly to the appellate proceedings at bar was the filing in the settlement proceeding by Maria Alicia Leuterio on October 19, 1962 of a pleading entitled "Assertion of Rights," in which she averred that she was the only forced heir of Pablo Leuterio and therefore entitled to succeed to the latter's entire estate, subject only to the rights accorded by law to her mother, Ana Maglanque.[6]

In respect of this claim, the parties entered into a stipulation of facts and issues, as regards the celebration and the validity of the marriage of Pablo Leuterio and Ana Maglanque; the identity of the decedent's relatives by consanguinity, supra; the character of the decedent's estate as being "his own separate, exclusive properties and, therefore, his capital;" and that the only issues left for determination were:

- 1) "whether Vicente Leuterio is the legitimate child of Gregoria Leuterio," and
- 2) "whether Maria Alicia Leuterio is the legitimated daughter of the late Pablo Leuterio and Ana Maglanque . . ."[7]

Maria Alicia Leuterio thereafter filed an "Amended Petition for Confirmation of Acknowledgment and Legitimation," under date of December 4, 1962, in which she claimed that since her birth up to the death of Pablo Leuterio, she "was in the uninterrupted possession of the status of a natural child of the decedent and her mother," and detailed the facts that she considered as "confirming or establishing her possession of said status . . .," including the existence of "indubitable writings . . . discovered only a month ago, wherein the decedent expressly acknowledged his being . . . (her) father . . ."[8]

The first issue was mooted by the withdrawal by Vicente Leuterio of his application as a prospective heir. Hence it was only as regards the second issue that trial was had and evidence presented by the parties.

The issue was resolved by the Probate Court adversely to Maria Alicia Leuterio. By Order dated March 10, 1971,[9] the Court dismissed "the petition for confirmation of acknowledgment and legitimation of Maria Alicia Leuterio . . . for lack of basis and merit." [10] As already stated, the Probate Court disbelieved Maria Alicia's evidence, after lengthy and extensive analysis thereof, considering it to be largely incompetent, spurious and unpersuasive.[11]

Maria Alicia's appeal from this Order of March 10, 1971 to the Court of Appeals met with failure. In a Decision promulgated on November 12, 1986, the Appellate Tribunal affirmed "the appealed order . . . in all respects (as) being in full accord with the evidence and the laws." [12] It overruled Maria Alicia's contentions that the Probate Court had erred -

- 1) in rejecting (as spurious) Exhibit D, "which is the certificate of the record of birth of Maria Alicia Leuterio in

the Civil Registry of San Luis, Pampanga;"

2) "in not giving full faith and credence to the testimonies of Gervacio Bagtas and Paula Punzalan who are disinterested witnesses and who are school teachers at the San Luis Elementary School where appellant Maria Alicia Leuterio was studying;"

3) "in holding that the testimony of Don Sotero Baluyut given in the form of a deposition appears to be in the form of an accommodation;"

4) "in not declaring (on the basis of the evidence) that Maria Alicia Leuterio has been in the possession of the status of a natural child before and after the marriage of her parents . . . ."

The Court of Appeals said in part:

"In this case, the Court is not inclined to conclude that there was an express desire on the part of Pablo to recognize Maria Alicia as his natural child. As previously adverted to, the birth certificate, baptismal certificate and the photographs do not bear the signatures of Pablo expressing his acknowledgment of Maria Alicia as his natural daughter with Ana Maglanque. Indeed, Maria Alicia is said to have been born, reared and raised in the house of Pablo. Appellees explain this by stating that Ana was a househelp in the house of Pablo. Pablo has no child with his previous wife, and it is not unusual if he looked upon Maria Alicia as if she were his own daughter in or outside his residence. Upon these considerations, the court a quo was correct in rejecting the testimonies of Dar Juan, Paula Punzalan and Gervacio Bagtas, and the deposition of Sotero Baluyut. With respect to Dar Juan, Punzalan and Bagtas, the lower court saw and observed their demeanor in the witness stand and objected to their vital claims. With respect to the testimony of Sotero Baluyut, petitioners admit that he and Pablo were very close friends.

"What clinches the case in favor of appellees, to Our mind, is the absolute lack of a document or writing, such as receipts of payment of school fees in the name of Pablo, signatures in school cards, or a letter to relatives or friends naming Maria Alicia as his daughter, despite the lapse of 9 years from the birth of Maria Alicia in 1941 up to his death in 1950.

In her appeal to this Court, petitioner Maria Alicia Leuterio submits that the Decision of the Court of Appeals should be reversed because it was "clear and patent error" on its part -

1) to surmise "that the action of the petitioner for legitimation is based on voluntary recognition," and

2) to hold that the "facts and the laws involved place this case squarely on all fours with the case of Colorado et al. vs. Court of Appeals, G.R. No. L-39948, February 28, 1985, although the action of herein petitioner is one for compulsory recognition and for legitimation."

The petition is without merit, and cannot be granted.

It seems to this Court that both the Court of Appeals and the Probate Court were aware of the precise nature of the petitioner's recourse: a judicial declaration of her compulsory or involuntary recognition as Pablo Leuterio's natural child. The record discloses that the Probate Court went to some lengths to stress the distinction between voluntary and compulsory recognition, and to make petitioner's counsel identify the exact character of the remedy that she was seeking -- whether it be voluntary, or compulsory, recognition -- quoting in this connection, the exchange between the Judge and petitioner's attorney, which culminated in the latter's description of the desired relief as "not voluntary acknowledgment in the sense that the decedent did not execute a public document expressly acknowledging the petitioner Maria Alicia Leuterio as his natural child. Because we believe that a public document is one of the evidence of compulsory acknowledgment." [13] It said:

"There should not be confusion in terms: one thing is the acknowledgment of a child by the father, made

voluntarily; another is the action that should be instituted by the child against the father to compel the latter to acknowledge him as a natural child. The continuous possession of the status of a natural child, tolerated by his father and justified by direct acts of the latter, does not, of itself, constitute evidence of acknowledgment that he is so in effect. It is, at most, an evidence to compel the father to acknowledge him. However, the action for this purpose should be brought within the periods of time prescribed in Article 137 of the old Civil Code (now Article 285 of the new Civil Code). (*Gitt vs. Gitt*, 68 Phil. 385)."

The Probate Court's statements correctly reflect the state of the law at the time.[14] In fact, it is consistent with the statement of the law attempted by petitioner's own distinguished counsel, citing *Concepcion vs. Untaran*, 38 Phil., 737, 738, viz.:

"The father of a natural child may recognize it in two different ways: (a) by a voluntary recognition (Art. 131, civ. code); (2) by an involuntary recognition enforced by either a civil or criminal action (Art. 135, Civ. Code; Art. 499, Pen. Code).

"A voluntary recognition of a natural child may be made: (a) in the record of births; (b) by will; and (c) by any other public instrument. (Art. 131, Civil Code).

"An involuntary recognition of a natural child is made: (a) by an incontrovertible paper written by the parent expressly recognizing his paternity; (b) by giving such child the status of a natural child of the father, justified by direct act of the child of the father or his family (art. 135, Civ. Code); and (c) by a criminal action for rape, seduction or abduction. (par. 2, art. 449, Pen. Code)."

It was in this sense, too, that the Court of Appeals appeared to have understood and applied the law to the case. As much is apparent from its declaration that "(r)ecognition under the Civil Code of 1889 'must be precise, express and solemn' (*Lim vs. Court of Appeals*, 65 SCRA 161), whether voluntary or compulsory (*Baron vs. Baron*, 63 OG No. 2, Jan. 9, 1967)." Like the Probate Court, whose judgment it affirmed, the Court of Appeals ruled that the evidence failed to prove either the existence of "an incontrovertible paper written by the parent expressly recognizing his paternity," or the "giving (to) such child (of) the status of a natural child of the father" conformably with Article 135 of the Civil Code of 1889. Hence, there was no factual basis on which to rest a declaration of involuntary recognition by Pablo Leuterio of Maria Alicia as his natural daughter.

Now, the findings of fact of the Court of Appeals are, by familiar doctrine, conclusive on this Court and are not thus subject of review, specially where those findings are the same as those made by the Trial Court. There are, of course, exceptions to this rule, but none obtains in the case at bar.

The petitioner also contests the Appellate Court's holding that Article 283 of the present (1950) Civil Code has no retroactive effect. That conclusion was no doubt based on the fact that Article 2260 of the same Code expressly accords such effect only to voluntary recognition thus by inference excluding compulsory recognition for the causes or under the circumstances enumerated in Article 283, with its "catch-all" provision that recognition may be compelled if the child has in his favor "any evidence or proof that the defendant is his father." [15] While a contrary view, i.e., in favor of retroactivity, may find support in the excepting clause of Article 2253, also of the Civil Code, which gives effect to rights declared for the first time therein, though arising from acts done or events occurred under prior law provided no vested or acquired rights of the same origin are prejudiced thereby, there is little point in pursuing that question insofar as the resolution of this appeal is concerned.

Whether Article 283 has retroactive effect or it operates only prospectively, the fact is that both the Probate Court and the Court of Appeals rejected in its entirety -- as variously, insufficient, unpersuasive and spurious -- petitioner's evidence both oral and documentary bearing on her alleged status as a natural child of Pablo Leuterio. That rejection forecloses the claim of petitioner to either voluntary or compulsory recognition, be it made under the Civil Code of 1889 which was in force at the time of her asserted birth or, in the case of compulsory

recognition, under the more liberal Article 283 of the present Code. It can hardly be disputed that in opening the door to "any evidence" of paternity in an action to compel acknowledgment, Article 283 by no means did away with the usual tests of competence, sufficiency and credibility to which such evidence is subject when offered in a court of law, or strip the courts of their function and prerogative of passing upon its acceptability after applying such tests. Such evidence here having been found wanting after due assessment as already stated, petitioner's claim was properly denied.

WHEREFORE, the petition for review on certiorari is DENIED, and the challenged judgment of the Court of Appeals, upholding that of the Probate Court, is AFFIRMED, with costs against the petitioner. SO ORDERED.

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

Griño-Aquino, J., no part. Concurred in judgment subject of appeal.

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[1] SEE pp. 54, 73-88, Record on Appeal in CA-GR. No. 19316-R (Annex C of petition) (Rollo, p. 50)

[2] Rollo, p. 6

[3] Id., pp. 6, 12. N.B. When Pablo Leuterio married Ana Maglanque, he had been a widower for sixteen years or so, his first wife, Pasionaria Tizon, having died on September 2, 1934.

[4] Id., p. 7

[5] The proceedings were docketed as Sp. Proc. No. 1316. SEE pp. 2-6, Record on Appeal in CA-G.R. No. 19316-R (Annex C of petition) (Rollo, p. 50)

[6] Rollo, p. 8

[7] Id., pp. 8-9

[8] Id., pp. 9-11

[9] Rendered by Hon. Andres C. Aguilar. The petitioner states that the case "was tried . . . by three judges: (1) by Judge Pasicolan who received the evidence and heard the witnesses for petitioner Maria Alicia Leuterio; (2) Judge Minerva Piguig who heard and ruled on some motions concerning the petition and (3) Judge Andres Aguilar who received and heard the witnesses for the oppositor Benito Leuterio . . . " (Rollo, p. 14).

[10] SEE pp. 54-96, Rec. on App. (Annex C, petition) (Rollo, p. 50)

[11] SEE footnote 1

[12] The decision was written for the Sixth Division by Luciano, J., with whom concurred Griño-Aquino and Cui, JJ.

[13] Rollo, pp. 19-20; pp. 68-70, Rec. on Appeal (Annex C, petition) (Rollo, p. 50)

[14] Among the more recent restatements of the relevant legal principles, embodied in the present Civil Code (cf, the Family Code) is this Court's decision in *Gapusan-Chua v. Court of Appeals*, G.R. No. L-46746, March 15, 1990.

[15] Art. 283 reads as follows: "In any of the following cases, the father is obliged to recognize the child as his natural child: (1) In cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception; (2) When the child is in continuous possession of the status of a child of the alleged father by the direct acts of the latter or of his family; (3) When the child was conceived during the time when the

mother cohabited with the supposed father; (4) When the child has in his favor any evidence or proof that the defendant is his father. (n)" (*Italics supplied.*)

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