

**MA. THERESA R. ALBERTO, PETITIONER, VS. COURT OF APPEALS,
INTESTATE ESTATE OF JUAN M. ALBERTO, AND YOLANDA R.
ALBERTO, RESPONDENTS.**

G.R. No. 86639, June 02, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

When a putative father manifests openly through words and deeds his recognition of a child, the courts can do no less than confirm said acknowledgment. As the immortal bard Shakespeare perspicaciously said: "Let your own discretion be your tutor; suit the action to the word, the word to the action." Herein deceased father cannot possibly be charged with indecisiveness or vacillation for he suited his action to his word and his word to his action.

In the instant case, we have, therefore, affirmed the decision of the probate court declaring petitioner as having acquired the status of a natural child of the deceased Juan M. Alberto and, as such, entitled to participate in the latter's estate.

On September 18, 1953, a child named Ma. Theresa Alberto was born out of wedlock to one Aurora Reniva with Juan M. Alberto as the alleged father. Accordingly, she used "Alberto" as her surname in all her school records and correspondences.

On September 18, 1967, Juan M. Alberto, felled by a bullet from an assassin's gun, died intestate.

His widow, Yolanda R. Alberto, filed a petition for the administration of his estate on January 10, 1968. After the publication of notices, she was appointed as the administratrix of the estate. After the Inventory and Appraisal and the Administratrix' Accounting were approved on August 1, 1970 and on April 29, 1971 respectively, the proceedings were ordered closed and terminated.

On September 15, 1978, Ma. Theresa Alberto filed a motion for leave to intervene as oppositor and to re-open the proceedings praying that she be declared to have acquired the status of a natural child and as such, entitled to share in the estate of the deceased. The motion was granted by the probate court.

Upon the presentation by the parties of their respective evidence during the trial, the probate court was convinced that indeed, Ma. Theresa Alberto had been in continuous possession of the status of a natural child. Thereupon, it rendered a decision compelling the decedent's heirs and estate to recognize her as a natural daughter and to allow her to participate in the estate proceedings. The dispositive portion of the decision reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of oppositor and against the estate of the deceased Juan M. Alberto ?

(a) Declaring oppositor Ma. Theresa R. Alberto as having acquired the status of a natural child of the late Gov. Juan M. Alberto;

(b) Ordering the administratrix and widow of the deceased and their children, namely, Mary Joy, Maria Rebecca, Juan, Jr., Juan III, Maria Yolanda and Juan IV, all surnamed Alberto, to recognize and acknowledge oppositor as an acknowledged natural child of the late Gov. Alberto;

(c) Declaring oppositor as one of the heirs of the late Gov. Juan M. Alberto;

(d) Ordering the administratrix to partition the deceased's estate and turn over to oppositor her participation therein equivalent to one-half (1/2) of the share of each legitimate child; and

(e) Ordering the administratrix to pay oppositor the sum of P10,000.00 as attorney's fees and expenses of litigation.

Costs against the administratrix.

SO ORDERED."^[1]

The probate court's findings are quoted hereunder, to wit:

"1) In the case at bar, the Court believes, and so holds, that the oppositor has been in continuous possession of the status of a child of Juan Alberto by his direct acts as well as the acts of his family, as follows:

(a) The deceased gave the oppositor sums of money for her schooling;

(b) The deceased made known to his friends and relatives that she was his daughter; and

(c) He made known to the personnel of the International School where oppositor was enrolled that she was his daughter.

2) The following incidents would show the direct acts of the family of the deceased.

(a) When the deceased's younger sister, Mrs. Aurita Alberto Solidum asked that the oppositor be sent to her house in her Sunday best to meet her father for the first time;

(b) When Fr. Arcilla brought the oppositor to the bedside of the deceased in the hospital and Fr. Arcilla asked the guard to give way to her as she was a member of the family;

(c) When the step-mother of the deceased, during the wake, introduced the oppositor to her youngest sister as an elder sister.

3) Prescinding from the foregoing, there is sufficient evidence to prove that the oppositor is the child of the deceased.

1. Oppositor's mother, Aurora Reniva, testified:

(a) of an indiscretion that led to the conception of and giving birth to the oppositor;

(b) that Mrs. Aurita Solidum arranged the meeting between the oppositor and the deceased at the MOPC; (This particular testimony was corroborated by Cristeta Andaya, former maid of Mrs. Solidum, and by the oppositor) and

(c) that Juan Alberto had been sending her money from time to time.

2) Oppositor also testified that:

(a) She had her first meeting with her father at the MOPC where he gave her P500.00 personally and two telephone numbers where he could be contacted and where they talked about her name, age and other matters.

- (b) She had other meetings with her father at the MOPC on which occasions her father also gave her money.
- (c) The deceased visited her two times at the International School whose rules on visitors were strict and when her father visited her; the secretary of the principal told her that her father was waiting for her. This showed that the deceased had identified himself to the personnel of the school that he was the father of the oppositor.
- (d) He promised to see her in her school during her birthday on September 18, 1968 but was not able to do so because of his untimely death.
- (e) The deceased promised to bring the oppositor to Catanduanes but failed likewise because of his death.
- (f) When oppositor and her mother went to the PGH on the occasion of her father's death, Fr. Arcilla held her by the hand and asked the guard to make way for her because she was a child of Juan Alberto.
- (g) After the wake for her deceased father, the deceased's step-mother, Saturnina Alberto, introduced her as a sister to Joy Alberto her half-sister.
- (h) Congressman Jose Alberto allowed her associates, upon her representations, to use the ballroom of the Regent of Manila for practice purposes. Congressman Alberto was the owner of the Regent of Manila.
- (i) Her uncles and aunts, i.e., brothers and sisters of her father, regarded her as their niece and introduced her to others as the eldest daughter of Juan Alberto.
- (j) The children of the brothers and sisters of Juan Alberto recognized her as their cousin.

3) Jose Tablizo testified that:

- (a) There was a strong physical resemblance between the deceased and the oppositor.
- (b) The deceased and the oppositor wrote similarly.
- (c) It was known among the friends of the deceased, particularly the Breeze Gang, composed of the witness, Jose Tablizo, the deceased and 4 others.
- (d) Sometime in 1967, the deceased showed him the report card of the Oppositor and boasted of her high grades.
- (e) The friends of the deceased had a party in Virac, Catanduanes for the oppositor whom they considered as the deceased's daughter. (This was corroborated by Silverio Taberara.)

4) Atty. Martiniano Vivo testified that Commissioner of Immigration Edmundo Reyes, as lawyer for the deceased, made an appointment with him (Atty. Vivo) for a conference, at which they discussed the latter's letter to the deceased regarding the oppositor. In said conference, Com. Reyes said that the deceased was not denying that he was the father of the oppositor. And because of his marital status and the fact that he was a public official, he wanted to avoid public scandal with the promise to support the oppositor quietly through a cousin, Fr. Arcilla."[2]

The Court of Appeals reversed the above decision of the probate court on the strength of the following observations:

"Assuming the foregoing to be true, we do not believe they satisfy the degree of proof to establish that oppositor was in continuous possession of the status of a natural child of the deceased.

'In one case, the following facts were proved; that two nurses took care of the children at the expense of the defendant; that said defendant kissed the children, called them sons, and ordered that they be taken care of very well; that he gave the money for the necessities of the mother and the six children, the oldest of whom called the father; that he visited the mother, complained of his big family, and was publicly regarded as the father of the

children. It was held that these were not sufficient to be a basis for a declaration of paternity. They may show that the defendant was convinced of his paternity in relation to the children; but they do not show any intent on his part to place such children in the possession of status of natural children. The continued possession of such status cannot be founded on conjectures and presumption. So, also, the mere fact that defendant's mother used to visit the child, cannot be considered as conduct of his family sufficient to confer the uninterrupted possession of the status of a natural child.' (1 Tolentino, Civil Code of the Philippines, 1983 ed., pp. 604-605, citing, *Sentencia*, 12 October 1907; *Gustilo vs. Gustilo, et al.*, 14 SCRA 149; *Sentencia*, 9 May 1921; *Potot vs. Ycong*, No. 6651, 22 March 1941, 40 O.G. No. 4, 26 July 1941, p. 748)

We find the evidence of oppositor-appellee even weaker than that proven in the aforequoted citation. As a matter of fact, oppositor's Exhibit W-1, a letter written by oppositor to Jose Tablizo after the death of the deceased, betrays a lack of association between the deceased and oppositor such as normally characterizes the relationship between father and child. It gives the impression that the deceased studiously distanced himself from the oppositor and had no intention whatsoever of recognizing oppositor as his child. The pertinent portion of the letter reads:

I have always been proud to be JMA's eldest daughter, and I feel even prouder after I heard from people like you. You were the ones that knew him most, shared his dreams as a young man, and witnessed his struggle from Palmera's slums to Forbes Park. You saw him rise from cargador to lawyer and, finally, to governor; I only heard about them through Mama. His life was a novel, and if I were to help write it, I would be able to contribute but a few pages, for I knew him only as a Big Man. It is YOU who had a part in the first adventures of that same novel and I envy you.' (p. 35, Folder of Exhibits)[3]

Hence this petition.

May the estate and heirs of deceased Juan M. Alberto be ordered to recognize petitioner as the deceased's natural daughter on the basis of the evidence presented by petitioner to establish her claim that she has been in continuous possession of the status of a natural child?

We rule in the affirmative.

In the probate court, the following have been established:

- 1) that prior to Juan M. Alberto's marriage to Yolanda Reyes, herein private respondent, Juan M. Alberto and Aurora Reniva, mother of herein petitioner, were sweethearts;
- 2) that as a consequence of an indiscretion, Aurora Reniva conceived and gave birth to herein petitioner Ma. Theresa Alberto on September 18, 1953;
- 3) that petitioner used 'Alberto' as her surname in all her school records and Juan M. Alberto was known to be her father;
- 4) that through Fr. Arcilla, a first cousin of Juan M. Alberto, money was given to Aurora Reniva;
- 5) that when petitioner was about nine (9) years old, Mrs. Aurita Solidum, the youngest sister of Juan M. Alberto, arranged the first meeting between petitioner and Juan M. Alberto at the MOPC and during said meeting, they talked about petitioner, the deceased gave petitioner P500.00 and two telephone numbers;
- 6) that Juan M. Alberto would have visited petitioner on her birthday in her school, International School, if not for his untimely death on September 18, 1967;
- 7) that when petitioner and her mother went to the PGH on the occasion of Juan M. Alberto's death, Fr. Arcilla held her by the hand and asked the guard to make way for her as she was a daughter of Juan M. Alberto;

- 8) that after the wake for deceased Juan M. Alberto, his step mother, Saturnina Alberto introduced petitioner to Joy Alberto as the latter's sister;
- 9) that the siblings of Juan M. Alberto regarded petitioner as their niece and introduced her to their children as the eldest daughter of Juan M. Alberto;
- 10) that the children of Juan M. Alberto's siblings regarded her as their cousin;
- 11) that petitioner was known by Juan M. Alberto's friends as his daughter;
- 12) that Juan M. Alberto showed Jose Tablizo the grades of petitioner and remarked that those were the grades of his daughter.

Private respondent, Yolanda Alberto, the sole witness for private respondents, denied that Juan M. Alberto ever recognized Ma. Theresa Alberto as his daughter. She presented in evidence Aurora Reniva's letters to Juan M. Alberto dated December 23, 1955, September 27, 1954 and March 15, 1960; Aurora Reniva's letter to Fr. Arcilla dated December 23, 1955; letter of Zenaida Reniva to Juan M. Alberto dated September 16, 1953, to prove that Juan M. Alberto refused to recognize Ma. Theresa Alberto as his own.[4]

However, these letters do not prove that Juan M. Alberto refused to recognize Ma. Theresa Alberto. All that the letters stated was that Aurora Reniva was having a difficult time raising a child by her own self and therefore, she was seeking the assistance of Juan M. Alberto. Private respondent quoted as Exhibit "3-B" the portion of Aurora Reniva's letter dated March 15, 1960 which says:

"x x x I am just wondering why after all those years of patient waiting, you still do not give a damn to her." [5]

The full text of the paragraph, however, reads as follows:

"On the 23rd of this month, Maria Theresa P. Alberto will graduate from the Prep School of Holy Ghost College. I am just wondering why after all those years of patient waiting, you still do not give a damn to her. I thought, as I was told before by Fr. Arcilla, that I just pray and wait because he said pretty soon you will be sending her money for support. So far, only the 300 pesos was received by us last October, 1959. For it, I am very grateful because it helped me a lot in our wants." [6]

The letter itself shows that Juan M. Alberto was not completely indifferent towards Ma. Theresa Alberto. He did provide her support whenever he could.

The latest letter that was presented in evidence was dated March 15, 1960. At the time, petitioner and Juan M. Alberto had not yet met. About two years later, when petitioner was nine years old, Mrs. Aurita Solidum arranged the first meeting between petitioner and the deceased. This initial meeting was followed by many more. Moreover, it is noteworthy that Juan M. Alberto never took any step to stop petitioner from using his surname. The testimony of Jose Tablizo established his recognition of Ma. Theresa Alberto as his daughter. He testified that Juan M. Alberto showed him two report cards of Ma. Theresa which showed straight "A's." He said "Boy! Great!" and Juan M. Alberto said that those were the grades of his daughter.[7] This testimony is now being discredited for being hearsay. This Court holds that the same falls within the exceptions to the hearsay rule. Sec. 38, Rule 130 of the Rules of Court provides as follows:

"Sec. 38. Declaration Against Interest. - The declaration made by a person deceased, or unable to testify, against the interest of the declarant, if the fact asserted at the declaration was at the time it was made so far contrary to declarant's own interest that a reasonable man in his position would not have made his declaration unless he believed it to be true, may be received in evidence against himself or his successors in interest and against third persons."

As found by the trial court, recognition of petitioner's status as a natural daughter of Juan M. Alberto was made, not only by the latter, but by his relatives as well - Fr. Cipriano Arcilla, Jose Alberto, Aurita Solidum and Saturnina Alberto, among others. Private respondent only had to present any one of those relatives to negate petitioner's testimony that she had been acknowledged by them as the eldest daughter of the deceased. Her failure to do so baffles this Court. If indeed Ma. Theresa Alberto were fabricating her testimony, the family of the deceased would have been more than willing to destroy the claims of an intruder. Under the circumstances, it is safe for us to assume that had any of the relatives mentioned by petitioner been presented as witness for private respondent, their testimonies would be detrimental to the latter's cause.

In view of the foregoing, we hold that petitioner has been in continuous possession of the status of a natural child of the deceased in accordance with Article 283 of the Civil Code which provides, *inter alia*:

"Art. 283. In any of the following cases, the father is obliged to recognize the child as his natural child:

x x x x x x x x

(2) when the child is in continuous possession of status of a child of the alleged father by the direct acts of the latter or his family."

The Court of Appeals, in reversing the decision of the probate court, stated as follows:

"We find the evidence of oppositor-appellee even weaker than that proven in the aforequoted citation. As a matter of fact, oppositor's Exhibit W-1, a letter written by oppositor to Jose Tablizo after the death of the deceased, betrays a lack of association between the deceased and oppositor such as normally characterizes the relationship between father and child. It gives the impression that the deceased studiously distanced himself from the oppositor and had no intention whatsoever of recognizing oppositor as his child. The pertinent portion of the letter reads:

I have always been proud to be JMA's eldest daughter, and I feel even prouder after I heard from people like you. You were the ones that knew him most, shared his dreams as a young man, and witnessed his struggle from, palmera's slums to Forbes Park. You saw him rise from cargador to lawyer and, finally, to governor; I only heard about them through Mama. His life was a novel, and if I were to help write it, I would be able to contribute but a few pages, for I knew him only as a Big Man. It is YOU who had a part in the first adventures of that same novel, and I envy you."[8]

What a poignant novel this daughter could well author as she now seeks to establish indubitable parental links with a father who sired her some forty-one years ago. Why he desisted from marrying the mother of this girl at a time when no impediment blocked the way is a matter one can merely conjecture at.

While he did contract marriage subsequently with another woman, it was only too clear that he had no intentions of closing definitively that chapter in his life when he begat his first-born. Of the different categories of illegitimate children under the old Civil Code, the natural child occupies the highest position, she being the child of parents who, at the time of her conception, were not disqualified by any impediment to marry each other and could, therefore, have contracted a valid marriage. Often the fruit of first love, she is ensconced firmly in her parent's hearts. No subsequent liaisons, though blessed with legitimate offspring, can completely obliterate those early memories.

A shared past intimacy between the putative parents and the clear marks of heredity stamped on the brow of their offspring are not to be denied. Thus, whether openly or furtively, a father in the situation of Juan M. Alberto could not have resisted manifesting signs of concern and care insofar as his firstborn is concerned. If, at an early age, the child shows much talent and great promise as petitioner in this case apparently did, it is understandable, and even to be expected, that the father would proudly step forward to claim paternity - either through his direct acts or

those of his family, or both, as in instant case.

In the case at bench, evidence is not wanting from which it may logically be concluded that the deceased Juan M. Alberto took no pains to conceal his paternity. No less than his younger sister, his stepmother, his priest-cousin, several relatives and close friends were categorically informed of the relationship and they accepted the same as fact.

Understandably, considering the strait-laced mores of the times and the social and political stature of Juan M. Alberto and his family, those who were privy to the relationship observed discreetness. But he himself openly visited his daughter in school, had meetings with her at the MOPC on which occasions he gave her money and introduced her proudly to his gangmates.

Where the daughter admits to envy in a letter to her father's friend because the latter played a greater role in her father's life, this is but the natural expression of a wistful longing of a child to reach out to her biological father. Far be it for us to interpret such sentiment as a betrayal of "a lack of association between the deceased and oppositor such as normally characterizes the relationship between father and child." In this instance, the lack of association cannot be helped for the relationship was far from normal.

Much less do we take it as giving the impression that the deceased "studiously distanced himself from the oppositor and had no intention whatsoever of recognizing oppositor as his child." On the contrary, during his lifetime, Juan M. Alberto acted in such a manner as to evince his intent to recognize Ma. Theresa Alberto, herein oppositor, as his flesh and blood, first, by allowing her from birth to use his family name; second, by giving her and her mother sums of money by way of support and lastly, by openly introducing her to members of his family, relatives and friends as his daughter. Supplementing such unmistakable acts of recognition were those of his kin and gangmates manifesting open acceptance of such relationship. Taken altogether, the claimed filiation would be hard to disprove.

Since the oppositor seeks a judicial declaration that she be recognized as a natural child to enable her to participate in the estate of the deceased, Article 285 of the Civil Code prescribing the period when such action should be brought governs. It provides:

"Art. 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

(1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority.

x x x x x x x x."

The oppositor's case falls clearly under the above exception.

Juan M. Alberto died during the minority of petitioner, that is, on September 18, 1967- the day petitioner turned fourteen. As such, petitioner had four years from the time she reached twenty-one on September 18, 1974, which was then the age of majority, within which to bring the aforesaid action. Thus, petitioner had until September 18, 1978 within which to file the action for recognition. Petitioner filed her motion for leave to intervene as oppositor and to re-open the proceedings with the prayer that she be declared to have acquired the status of a natural child and as such, entitled to share in the estate of the deceased, on September 15, 1978. Said motion was, therefore, seasonably filed three days before the expiration of the four-year period.

WHEREFORE, in view of the foregoing, this petition is hereby GRANTED, the decision of the Court of Appeals is REVERSED and that of the probate court AFFIRMED.

SO ORDERED.

Feliciano, (Chairman), Bidin, Melo, and Vitug, JJ., concur.

[1] Record on Appeal, pp. 107-108.

[2] Record on Appeal, pp. 100-106.

[3] Rollo, pp. 65-67.

[4] Record on Appeal, pp. 93-94.

[5] Exhibits, p. 92.

[6] Exhibits, p. 92.

[7] TSN, June 19, 1980, pp. 21-23.

[8] Rollo, p. 67.

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