

REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND ZENAIDA C. BOBILES, RESPONDENTS.

G.R. No. 92326. January 24, 1992

Ponente: REGALADO, J.

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REGALADO, J.:

Dissatisfied With The Decision Of Respondent Court Of Appeals Promulgated On February 20, 1990[1] Which Affirmed In Toto The Decision Of Branch 2 Of The Regional Trial Court Of Legaspi City[2] Granting The Petition Of Herein Private Respondent To Adopt The Minor Jason Condat, Petitioner Seeks The Reversal Thereof In The Present Petition For Review On Certiorari.

On February 2, 1988, Zenaida Corteza Bobiles Filed A Petition To Adopt Jason Condat, Then Six (6) Years Old And Who Had Been Living With Her Family Since He Was Four (4) Months Old, Before The Regional Trial Court Of Legaspi City, Docketed Therein As Special Proceeding No. 1386.[3]

The Court A Quo, Finding The Petition To Be Sufficient Form And Substance, Issued An Order Dated February 15, 1988 Setting The Petition For Hearing On March 28, 1988.[4] The Order Was Duly Published, With Copies Thereof Seasonably Served On The Solicitor General; Assistant Provincial Fiscal Mediavillo, Jr. Of Albay; Salvador Condat, Father Of The Child; And The Social Worker Assigned To The Court. A Copy Of Said Order Was Posted On The Bulletin Board Of The Court And In The Other Places It Had Required For That Purpose. Nobody Appeared To Oppose The Petition.[5]

Compliance With The Jurisdictional Requirements Having Been Proved At The Hearing, The Testimonies Of Herein Private Respondent, Together With That Of Her Husband, Dioscoro Bobiles, And One Ma. Luz Salamenon Of The Department Of Social Welfare And Development Were Taken And Admitted In The Proceedings.

On March 20, 1988, The Trial Court Rendered Judgment Disposing As Follows:

Accordingly, It Is Declared That Henceforth, The Minor Child, Jason Condat, Be Freed From All Legal Obligations Of Obedience And Maintenance With Respect To His Natural Parents, And Be, To All Intents And Purposes, The Child Of The Spouses Dioscoro And Zenaida Bobiles, And The Surname Of The Child Be Changed To "Bobiles" Which Is The Surname Of The Petitioner.

Furnish The Office Of The Solicitor General, Manila, The Department Of Social Welfare And Development, Regional Office, Region V, Legaspi City, And The Local Civil Registrar Of Tiwi, Albay, With Copies Of This Decision.[6]

Herein Petitioner Appealed To The Court Of Appeals Which, As Earlier Stated, Affirmed The Aforesaid Decision Of The Court Below. Hence, This Present Petition With The Following Assignment Of Errors:

- The Honorable Court Of Appeals Erred In Ruling That The Family Code Cannot Be Applied Retroactively To The Petition For Adoption Filed By Zenaida C. Bobiles; And

- The Honorable Court Of Appeals Erred In Affirming The Trial Court's Decision Which Granted The Petition To Adopt Jason Condat In Favor Of Spouses Dioscoro Bobiles And Zenaida C. Bobiles.[7]

The Petition For Adoption Filed By Private Respondent Zenaida C. Bobiles On February 2, 1988, When The Law Applicable Was Presidential Decree No. 603, The Child And Youth Welfare Code. Under Said Code, A Petition For Adoption May Be Filed By Either Of The Spouses Or By Both Of Them. However, After The Trial Court Rendered Its Decision And While The Case Was Pending On Appeal In The Court Of Appeals, Executive Order No. 209, The Family Code, Took Effect On August 3, 1988. Under The Said New Law, Joint Adoption By Husband And Wife Is Mandatory.

On The Foregoing Considerations, Petitioner Contends That The Petition For Adoption Should Be Dismissed Outright As Was Filed Solely By Private Respondent Without Joining Her Husband, In Violation Of Article 185 Of The Family Code Which Requires Joint Adoption By The Spouses. It Argues That The Family Code Must Be Applied Retroactively To The Petition Filed By Mrs. Bobiles, As The Latter Did Not Acquire A Vested Right To Adopt Jason Condat By The Mere Filing Of Her Petition For Adoption. We Are Not Persuaded.

Preliminarily, We Observe That Petitioner's Theory Implies That The Non-Inclusion Of Dioscoro Bobiles As A Co-Petitioner Is A Jurisdictional Defect, Hence Its Prayer For An Outright Dismissal On That Score. It Could Not Be Taking Exception Only On The Ground Of Non-Joinder Since Petitioner Must Be Aware That Non-Joinder Is Not A Ground For The Dismissal Of An Action Or A Special Proceeding.[8] We Further Apprehend That This Objection Has Been Raised For The First Time On Appeal In Respondent Court. Nonetheless, We Shall Clarify Petitioner's Misgivings As Postulated In Its Aforestated Assignment Of Errors.

Article 246 Of The Family Code Provides For Retroactive Effect Of Appropriate Relevant Provisions Thereof, Subject To The Qualification That Such Retrospective Application Will Not Prejudice Or Impair Vested Or Acquired Rights In Accordance With The Civil Code Or Other Laws.

A Vested Right Is One Whose Existence, Effectivity And Extent Does Not Depend Upon Events Foreign To The Will Of The Holder.[9] The Term Expresses The Concept Of Present Fixed Interest Which In Right Reason And Natural Justice Should Be Protected Against Arbitrary State Action, Or An Innately Just And Imperative Right Which Enlightened Free Society, Sensitive To Inherent And Irrefragable Individual Rights, Cannot Deny.[10] Vested Rights Include Not Only Legal Or Equitable Title To The Enforcement Of A Demand, But Also An Exemption From New Obligations Created After The Right Has Vested.[11]

Under The Child And Youth Welfare Code, Private Respondent Had The Right To File A Petition For Adoption By Herself, Without Joining Her Husband Therein. When Mrs. Bobiles Filed Her Petition, She Was Exercising Her Explicit And Unconditional Right Under Said Law. Upon Her Filing Thereof, Her Right To File Such Petition Alone And To Have The Same Proceed To Final Adjudication, In Accordance With The Law In Force At The Time, Was Already Vested And Cannot Be Prejudiced Or Impaired By The Enactment Of A New Law.

When Private Respondent Filed Her Petition In Special Proceeding No. 1386, The Trial Court Acquired Jurisdiction Thereover In Accordance With The Governing Law. Jurisdiction Being A Matter Of Substantive Law, The Established Rule Is That The Jurisdiction Of The Court Is Determined By The Statute In Force At The Time Of The Commencement Of The Action.[12] We Do Not Find In The Present Case Such Facts As Would Constitute It As An Exception To The Rule.

The First Error Assigned By Petitioner Warrants A Review Of Applicable Local And Foreign Jurisprudence. For That Purpose, We Start With The Premise That Article 185 Of The Family Code Is Remedial In Nature. Procedural Statutes Are Ordinarily Accorded A Retrospective Construction In The Sense That They May Be

Applied To Pending Actions And Proceedings, As Well As To Future Actions. However, They Will Not Be So Applied As To Defeat Procedural Steps Completed Before Their Enactment.[13]

Procedural Matters Are Governed By The Law In Force When They Arise, And Procedural Statutes Are Generally Retroactive In That They Apply To Pending Proceedings And Are Not Confined To Those Begun After Their Enactment Although, With Respect To Such Pending Proceedings, They Affect Only Procedural Steps Taken After Their Enactment.[14]

The Rule That A Statutory Change In Matters Of Procedure Will Affect Pending Actions And Proceedings, Unless The Language Of The Act Excludes Them From Its Operation, Is Not So Extensive That It May Be Used To Validate Or Invalidate Proceedings Taken Before It Goes Into Effect, Since Procedure Must Be Governed By The Law Regulating It At The Time The Question Of Procedure Arises.[15]

The Jurisdictional, As Distinguished From The Purely Procedural, Aspect Of A Case Is Substantive In Nature And Is Subject To A More Stringent Rule. A Petition Cannot Be Dismissed By Reason Of Failure To Comply With A Law Which Was Not Yet In Force And Effect At The Time. As Long As The Petition For Adoption Was Sufficient In Form And Substance In Accordance With The Law In Governance At The Time It Was Filed, The Court Acquires Jurisdiction And Retains It Until It Fully Disposes Of The Case.[16] To Repeat, The Jurisdiction Of The Court Is Determined By The Statute In Force At The Time Of The Commencement Of The Action. Such Jurisdiction Of A Court, Whether In Criminal Or Civil Cases, Once It Attaches Cannot Be Ousted By Subsequent Happenings Or Events, Although Of A Character Which Would Have Prevented Jurisdiction From Attaching In The First Instance.[17]

On The Second Issue, Petitioner Argues That, Even Assuming That The Family Code Should Not Apply Retroactively, The Court Of Appeals Should Have Modified The Trial Court's Decision By Granting The Adoption In Favor Of Private Respondent Zenaida C. Bobiles Only, Her Husband Not Being A Petitioner. We Do Not Consider This As A Tenable Position And, Accordingly, Reject The Same.

Although Dioscoro Bobiles Was Not Named As One Of The Petitioners In The Petition For Adoption Filed By His Wife, His Affidavit Of Consent, Attached To The Petition As Annex "B" And Expressly Made An Integral Part Thereof, Shows That He Himself Actually Joined His Wife In Adopting The Child. The Pertinent Parts Of His Written Consent Read As Follows:

X X X

2. That My Wife, Zenaida O. Corteza Bobiles And I Mutually Desire To Adopt As Our Child, A Boy Named Jason Condat, Still A Minor Being Six (6) Years Old, Likewise Residing At 18 C. Imperial Street, Legaspi City, Albay, Also In The Philippines;

3. That We Are Filing The Corresponding Petition For Adoption Of Said Minor Child, Jason Condat, Before The Juvenile And Domestic Relations Court, Now The Regional Trial Court In Legaspi City, Albay In The Philippines;

4. That I, Dioscoro C. Bobiles As The Husband And Father, Am Giving My Lawful Consent To This Adoption Of Said Minor Child, Jason Condat;

5. That Further, My Wife Zenaida O. Corteza Bobiles, And I Have Continuously Reared And Cared For This Minor Child, Jason Condat Since Birth;

6. That As A Result Thereof, My Wife And I Have Developed A Kind Of Maternal And Paternal Love For The Boy As Our Very Own, Exercising Therein The Care, Concern And Diligence Of A Good Father Toward Him;

7. That I Am Executing This Document, An Affidavit Of Consent For Whatever It Is Worth In The Premises As To The Matter Of Adoption Of This Minor Child, Jason Condat, By My Wife Zenaida O. Corteza Bobiles And By Me, Dioscoro C. Bobiles, In Any Court Of Justice; (Emphasis Supplied.)[18]

X X X

The Foregoing Declarations, And His Subsequent Confirmatory Testimony In Open Court, Are Sufficient To Make Him A Co-Petitioner. Under The Circumstances Then Obtaining, And By Reason Of His Foreign Residence, He Must Have Yielded To The Legal Advice That An Affidavit Of Consent On His Part Sufficed To Make Him A Party To The Petition. This Is Evident From The Text Of His Affidavit. Punctiliousness In Language And Pedantry In The Formal Requirements Should Yield To And Be Eschewed In The Higher Considerations Of Substantial Justice. The Future Of An Innocent Child Must Not Be Compromised By Arbitrary Insistence On Rigid Adherence To Procedural Rules On The Form Of Pleadings.

We See No Reason Why The Following Doctrines In American Law Should Not Apply To This Case And, For That Matter, In Our Jurisdiction. It Is A Settled Rule Therein That Adoption Statutes, As Well As Matters Of Procedure Leading Up To Adoption, Should Be Liberally Construed To Carry Out The Beneficent Purposes Of The Adoption Institution And To Protect The Adopted Child In The Rights And Privileges Coming To It As A Result Of The Adoption.[19] The Modern Tendency Of The Courts Is To Hold That There Need Not Be More Than A Substantial Compliance With Statutory Requirements To Sustain The Validity Of The Proceeding; To Refuse Would Be To Indulge In Such A Narrow And Technical Construction Of The Statute As To Defeat Its Intention And Beneficial Results Or To Invalidate Proceedings Where Every Material Requirement Of The Statute Was Complied With.

In Support Of This Rule It Is Said That It Is Not The Duty Of The Courts To Bring The Judicial Microscope To Bear Upon The Case In Order That Every Slight Defect May Be Enlarged And Magnified So That A Reason May Be Found For Declaring Invalid An Act Consummated Years Before, But Rather To Approach The Case With The Inclination To Uphold Such Acts If It Is Found That There Was A Substantial Compliance With The Statute.[20] The Technical Rules Of Pleading Should Not Be Stringently Applied To Adoption Proceedings, And It Is Deemed More Important That The Petition Should Contain Facts Relating To The Child And Its Parents, Which May Give Information To Those Interested, Than That It Should Be Formally Correct As A Pleading. Accordingly, It Is Generally Held That A Petition Will Confer Jurisdiction If It Substantially Complies With The Adoption Statute, Alleging All Facts Necessary To Give The Court Jurisdiction.[21]

In Determining Whether Or Not To Set Aside The Decree Of Adoption The Interests And Welfare Of The Child Are Of Primary And Paramount Consideration.[22] The Welfare Of A Child Is Of Paramount Consideration In Proceedings Involving Its Custody And The Propriety Of Its Adoption By Another, And The Courts To Which The Application For Adoption Is Made Is Charged With The Duty Of Protecting The Child And Its Interests And, To Bring Those Interests Fully Before It, It Has Authority To Make Rules To Accomplish That End.[23] Ordinarily, The Approval Of The Adoption Rests In The Sound Discretion Of The Court. This Discretion Should Be Exercised In Accordance With The Best Interests Of The Child, As Long As The Natural Rights Of The Parents Over The Child Are Not Disregarded. In The Absence Of A Showing Of Grave Abuse, The Exercise Of This Discretion By The Approving Official Will Not Be Disturbed.[24]

In The Case At Bar, The Rights Concomitant To And Conferred By The Decree Of Adoption Will Be For The Best Interests Of The Child. His Adoption Is With The Consent Of His Natural Parents.[25] The Representative Of The Department Of Social Welfare And Development Unqualifiedly Recommended The Approval Of The Petition For Adoption[26] And The Trial Court Dispensed With The Trial Custody For Several Commendatory Reasons, Especially Since The Child Had Been Living With The Adopting Parents Since Infancy.[27] Further,

The Said Petition Was With The Sworn Written Consent Of The Children Of The Adopters.

The Trial Court And Respondent Court Acted Correctly In Granting The Petition For Adoption And We Find No Reason To Disturb The Same. As Found And Aptly Stated By Respondent Court: "Given The Facts And Circumstances Of The Case And Considered In The Light Of The Foregoing Doctrine.[28] We Are Of The Opinion And So Hold That The Decree Of Adoption Issued By The Court A Quo Would Go Along Way Towards Promoting The Welfare Of The Child And The Enhancement Of His Opportunities For A Useful And Happy Life." [29]

Adoption Statutes, Being Humane And Salutary, Hold The Interests And Welfare Of The Child To Be Of Paramount Consideration. They Are Designed To Provide Homes, Parental Care And Education For Unfortunate, Needy Or Orphaned Children And Give Them The Protection Of Society And Family In The Person Of The Adopted, As Well As To Allow Childless Couples Or Persons To Experience The Joys Of Parenthood And Give Them Legally A Child In The Person Of The Adopted For The Manifestation Of Their Natural Parental Instincts. Every Reasonable Intendment Should Be Sustained To Promote And Fulfill These Noble And Compassionate Objectives Of The Law.[30]

Wherefore, The Instant Petition Is Hereby Denied.

So Ordered.

Melencio-Herrera, (Chairman), Paras, Padilla, And Nocon, Jj., Concur.

[1] Penned By Justice Oscar M. Herrera, With Justices Jose C. Campos, Jr. And Asaali S. Isnani Concurring, In Ca-G.R. Cv No. 17911.

[2] Per Judge Angel M. Alegre In Sp. Proc. No. 1386.

[3] Rollo, 15.

[4] Original Record, 8.

[5] Rollo, 18.

[6] Ibid., 25-26.

[7] Ibid., 6.

[8] Sec. 11, Rule 3, In Relation To Sec. 2, Rule 72, Rules Of Court.

[9] J.B.L. Reyes And R.C. Puno, Outline Of Philippine Civil Law, 15 (1964).

[10] Ayog, Et Al., Vs, Cusi, Etc., Et Al., 118 Scra 492, 499 (1982).

[11] 16A Am Jur 2D, Constitutional Law, 651.

[12] People Vs. Paderna, 22 Scra 271 (1968); People Vs. Mariano, Et Al., 71 Scra 600 (1976); Lee, Et Al. Vs. Presiding Judge, Etc., Et Al., 145 Scra 408 (1986); Atlas Fertilizer Corp. Vs. Navarro, Etc., Et Al. 149 Scra 432 (1987).

[13] 82 C.J.S., Statutes, 998.

[14] Cohen Vs. Reckseit, 53 N.Y.S. 2D 365, 184 Misc. 107.

[15] People Ex Rel. Central New England Ry. Co. Vs. State Tax Commission, 26 N.Y.S. 2D 425, 261 App. Div.

416; Mich.- Clugston Vs. Rogers, 169 N.W. 9, 10, 203 Mich. 339.

[16] Republic Vs. Pielago, G.R. No. 72218, Resolution, July 21, 1986.

[17] Ramos, Et Al., Vs. Central Bank Of The Philippines, 41 Scra 565 (1971), And Cases Therein Cited.

[18] Original Record, 4. This Was Executed On October 17, 1987 In Chicago, Illinois, U.S.A. Where He Was Then Residing Due To His Employment In The Saint Francis Hospital There, And Was Duly Authenticated In The Philippine Consulate General In That City.

[19] 2 Am Jur 2D, Adoption, 865.

[20] Ibid., Id., 900.

[21] 2 C.J.S., Adoption Of Children, 418.

[22] 2 Am Jur 2D, Adoption, 910.

[23] Ibid., Id. 907.

[24] 2 C.J.S., Adoption Of Children, 412.

[25] Original Record, 3.

[26] Tsn, March 28, 1988, 7.

[27] Rollo, 21-22.

[28] Citing Daoang Vs. Municipal Judge Of San Nicolas. Ilocos Norte, 159 Scra 369 (1988).

[29] Rollo, 29.

[30] Bobanovic, Et Al. Vs. Montes, Etc., Et Al., 142 Scra 485 (1986).

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