

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HONORABLE
RODOLFO TOLEDANO, IN HIS CAPACITY AS PRESIDING JUDGE OF
THE REGIONAL TRIAL COURT, THIRD JUDICIAL REGION, BRANCH
69, IBA, Z...**

G.R. No. 94147. June 08, 1994

Ponente: PUNO, J.

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PUNO, J.:

Before us is a petition for review on certiorari of the decision[1] of the Regional Trial Court of Iba, Zambales, Branch 69, in Special Proceeding No. RTC-140-I, entitled, "In the Matter of the Adoption of the Minor named Solomon Joseph Alcala", raising a pure question of law.

The sole issue for determination concerns the right of private respondents spouses Alvin A. Clouse and Evelyn A. Clouse who are aliens to adopt under Philippine Law.

There is no controversy as to the facts.

On February 21, 1990, in a verified petition filed before the Regional Trial Court of Iba, Zambales, private respondents spouses Clouse sought to adopt the minor, Solomon Joseph Alcala, the younger brother of private respondent Evelyn A. Clouse. In an Order issued on March 12, 1990, the petition was set for hearing on April 18, 1990. The said Order was published in a newspaper of general circulation in the province of Zambales and City of Olongapo for three (3) consecutive weeks.

The principal evidence disclose that private respondent Alvin A. Clouse is a natural born citizen of the United States of America. He married Evelyn, a Filipino on June 4, 1981 at Olongapo City. On August 19, 1988, Evelyn became a naturalized citizen of the United States of America in Guam. They are physically, mentally, morally, and financially capable of adopting Solomon, a twelve (12) year old minor.

Since 1981 to 1984, then from November 2, 1989 up to the present, Solomon Joseph Alcala was and has been under the care and custody of private respondents. Solomon gave his consent to the adoption. His mother, Nery Alcala, a widow, likewise consented to the adoption due to poverty and inability to support and educate her son.

Mrs. Nila Corazon Pronda, the social worker assigned to conduct the Home and Child Study, favorably recommended the granting of the petition for adoption.

Finding that private respondents have all the qualifications and none of the disqualifications provided by law and that the adoption will redound to the best interest and welfare of the minor, respondent judge rendered a decision on June 20, 1990, disposing as follows:

"WHEREFORE, the Court grants the petition for adoption filed by Spouses Alvin A. Clouse and Evelyn A. Clouse and decrees that the said minor be considered as their child by adoption. To this effect, the Court gives the minor the rights and duties as the legitimate child of the petitioners. Henceforth, he shall be known as

SOLOMON ALCALA CLOUSE.

The Court dissolves parental authority bestowed upon his natural parents and vests parental authority to the herein petitioners and makes him their legal heir. Pursuant to Article 36 of P.D. 603 as amended, the decree of adoption shall be effective as of the date when the petition was filed. In accordance with Article 53 of the same decree, let this decree of adoption be recorded in the corresponding government agency, particularly the Office of the Local Civil Registrar of Merida, Leyte where the minor was born. The said office of the Local Civil Registrar is hereby directed to issue an amended certificate of live birth to the minor adopted by the petitioners.

Let copies of this decision be furnished (sic) the petitioners, DSWD, Zambales Branch, Office of the Solicitor General and the Office of the Local Civil Registrar of Merida, Leyte.

SO ORDERED."[2]

Petitioner, through the Office of the Solicitor General appealed to us for relief, contending:

"THE LOWER COURT ERRED IN GRANTING THE PETITION FOR ADOPTION OF ALVIN AND EVELYN CLOUSE, BECAUSE THEY ARE NOT QUALIFIED TO ADOPT UNDER PHILIPPINE LAW."

We rule for petitioner.

Under Articles 184 and 185 of Executive Order (E.O.) No. 209, otherwise known as "The Family Code of the Philippines", private respondents spouses Clouse are clearly barred from adopting Solomon Joseph Alcala.

Article 184, paragraph (3) of Executive Order No. 209 expressly enumerates the persons who are not qualified to adopt, viz:

"(3) An alien, except:

- (a) A former Filipino citizen who seeks to adopt a relative by consanguinity;
- (b) One who seeks to adopt the legitimate child of his or her Filipino spouse; or
- (c) One who is married to a Filipino citizen and seeks to adopt jointly with his or her spouse a relative by consanguinity of the latter.

Aliens not included in the foregoing exceptions may adopt Filipino children in accordance with the rules on inter-country adoption as may be provided by law."

There can be no question that private respondent Alvin A. Clouse is not qualified to adopt Solomon Joseph Alcala under any of the exceptional cases in the aforequoted provision. In the first place, he is not a former Filipino citizen but a natural born citizen of the United States of America. In the second place, Solomon Joseph Alcala is neither his relative by consanguinity nor the legitimate child of his spouse. In the third place, when private respondents spouses Clouse jointly filed the petition to adopt Solomon Joseph Alcala on February 21, 1990, private respondent Evelyn A. Clouse was no longer a Filipino citizen. She lost her Filipino citizenship when she was naturalized as a citizen of the United States in 1988.

Private respondent Evelyn A. Clouse, on the other hand, may appear to qualify pursuant to paragraph 3(a) of Article 184 of E.O. 209. She was a former Filipino citizen. She sought to adopt her younger brother. Unfortunately, the petition for adoption cannot be granted in her favor alone without violating Article 185 which mandates a joint adoption by the husband and wife. It reads:

"Article 185. Husband and wife must jointly adopt, except in the following cases:

- (1) When one spouse seeks to adopt his own illegitimate child; or

(2) When one spouse seeks to adopt the legitimate child of the other."

Article 185 requires a joint adoption by the husband and wife, a condition that must be read along together with Article 184.[3]

The historical evolution of this provision is clear. Presidential Decree 603 (The Child and Youth Welfare Code), provides that husband and wife "may" jointly adopt.[4] Executive Order No. 91 issued on December 17, 1986 amended said provision of P.D. 603. It demands that both husband and wife "shall" jointly adopt if one of them is an alien.[5] It was so crafted to protect Filipino children who are put up for adoption. The Family Code reiterated the rule by requiring that husband and wife "must" jointly adopt, except in the cases mentioned before. Under the said new law, joint adoption by husband and wife is mandatory.[6] This is in consonance with the concept of joint parental authority over the child, which is the ideal situation.[7] As the child to be adopted is elevated to the level of a legitimate child, it is but natural to require the spouses to adopt jointly. The rule also insures harmony between the spouses.[8]

In a distinctly similar case, we held:

As amended by Executive Order 91, Presidential Decree No. 603, had thus made it mandatory for both the spouses to jointly adopt when one of them was an alien. The law was silent when both spouses were of the same nationality.

The Family Code has resolved any possible uncertainty. Article 185 thereof expresses the necessity for a joint adoption by the spouses except in only two instances -

- (1) When one spouse seeks to adopt his own illegitimate child; or
- (2) When one spouse seeks to adopt the legitimate child of the other.

It is in the foregoing cases when Article 186 of the Code, on the parental authority, can aptly find governance.

Article 186. In case husband and wife jointly adopt or one spouse adopts the legitimate child of the other, joint parental authority shall be exercised by the spouses in accordance with this Code."[9]

Article 185 is all too clear and categorical and there is no room for its interpretation. There is only room for application.[10]

We are not unaware that the modern trend is to encourage adoption and every reasonable intendment should be sustained to promote that objective.[11] Adoption is geared more towards the promotion of the welfare of the child and enhancement of his opportunities for a useful and happy life.[12] It is not the bureaucratic technicalities but the interest of the child that should be the principal criterion in adoption cases.[13] Executive Order 209 likewise upholds that the interest and welfare of the child to be adopted should be the paramount consideration. These considerations notwithstanding, the records of the case do not evince any fact as would justify us in allowing the adoption of the minor, Solomon Joseph Alcala, by private respondents who are aliens.

WHEREFORE, the petition is GRANTED. The decision of the lower court is REVERSED and SET ASIDE. No costs.

SO ORDERED.

Narvasa, C.J., Padilla, and Regalado, JJ., concur.

[1] Honorable Rodolfo V. Toledano, Presiding Judge.

[2] Rollo, RTC Decision, pp. 28-29.

[3] Republic of the Philippines vs. The Honorable Court of Appeals, et al., G.R. No. 100835, October 26, 1993.

[4] P.D. 603, Article 29. Husband and wife may jointly adopt. In such case, parental authority shall be exercised as if the child were their own by nature.

[5] E.O. No. 91, Article 29. Husband and wife may jointly adopt. In such case, parental authority shall be exercised as if the child were their own by nature.

If one of the spouses is an alien, both husband and wife shall jointly adopt. Otherwise, the adoption shall not be allowed.

[6] Republic vs. Court of Appeals, G.R. No. 92326, 205 SCRA 356, January 24, 1992.

[7] Sempio-Dy, Alicia V., Handbook on the Family Code of the Philippines, 1991, p. 262.

[8] Vitug, Jose C., J., Compendium of Civil Law and Jurisprudence, 1993 Edition, p. 234.

[9] Supra., pp. 4-5.

[10] Cebu Portland Cement Company vs. Municipality of Naga, Cebu, Nos. 24116-17, 24 SCRA 708, August 22, 1968.

[11] Santos, et al., vs. Aranzanso, et al., No. L--23828, 16 SCRA 344, February 28, 1966.

[12] Daoang vs. Municipal Judge of San Nicolas, Ilocos Norte, No. L-34568, 159 SCRA 369, March 28, 1988.

[13] De Tavera vs. Cacdac, Jr., No. L-76290, 167 SCRA 636, November 23, 1988.

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