

JUAN CASTRO AND FELICIANA CASTRO, PETITIONERS, VS. HON. COURT OF APPEALS, CIPRIANO NAVAL AND BENITA C. NAVAL, RESPONDENTS.

G.R. Nos. 50974-75. May 31, 1989

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition for review on certiorari seeks the reversal of the decision of the Court of Appeals in CA-G. R. Nos. 47262 and 47263-R, which affirmed the decision of the then Court of First Instance of Tarlac in Civil Case Nos. 3762-3763. The dispositive portion of the trial court's decision reads as follows:

"WHEREFORE, judgment is hereby rendered in favor of defendants and against plaintiffs in the above-entitled cases:

"1) Declaring defendant Benita Castro Naval a duly acknowledged and recognized illegitimate child of Eustaquio Castro;

"2) Awarding the sum of P2,000.00 to defendants by way of attorney's fee and expenses of litigation (one-half to be paid by plaintiffs, jointly and severally, in Civil Case No. 3762 and one-half by plaintiff in Civil Case No. 3763); and

"3) Pending the partition or distribution of the properties involved herein in appropriate proceedings or by mutual agreement, and so as to preserve the status quo, the writ of preliminary injunction of February 10, 1967 shall continue to remain in full force and effect.

"With costs against plaintiffs, one-half chargeable to plaintiffs in Civil Case No. 3762 and the other half to plaintiff in Civil Case No. 3763." (Record on Appeal, pp. 137-138)

Petitioners Juan Castro and Feliciano Castro are the brother and sister of the late Eustaquio Castro while respondent Benita Castro Naval is the only child of Eustaquio. Respondent Cipriano Naval is the husband of Benita Castro.

The Court of Appeals correctly summarized the facts of the case as follows:

"In Civil Case No. 3762 entitled Juan Castro and Feliciano Castro v. Benita Castro, the plaintiffs filed an action for partition of properties against the defendant alleging, among other things, that they are the forced heirs of Pedro Castro who died in Mayantoc, Tarlac on May 27, 1923 (p. 6, Record on Appeal).

"In Civil Case No. 3763 plaintiff Marcelina Bautista also filed an action for partition of properties against defendant Benita Castro Naval alleging, among other things, that they are also compulsory heirs of Eustaquio Castro who died in Mayantoc, Tarlac on August 24, 1961 and that they are entitled to the partition of the properties of said deceased (p. 32, Record on Appeal).

"The defendants in their amended answer in both cases allege that Benita Castro Naval is the only child of the

deceased Eustaquio and that said Eustaquio Castro is the son of Pedro Castro, therefore, the complaint for partition has no cause of action (p. 25, Record on Appeal).

"With leave of Court, plaintiffs filed their amended complaints whereby they converted the original action for partition into an action for quieting of title. Defendant's husband Cipriano Naval was forthwith impleaded as party-defendant (p. 32, Record on Appeal).

"In the meantime, defendant Benita Naval filed a petition for appointment as receiver and for preliminary injunction in Civil Case No. 3762. The trial court, however, denied said petition for appointment of receiver, but granted the petition for writ of preliminary injunction and also adjudged Marcelina Bautista who is the plaintiff in Civil Case No. 3762 guilty of contempt and ordering her to pay a fine of P100.00 (p. 97, Record on Appeal).

"Considering that evidence in these incidents of appointing a receiver and preliminary injunction as well as the motion for contempt were related to the merits of the case, the parties stipulated that evidence therein be considered as evidence in the trial on the merits.

"During the pre-trial the parties agreed that the main issue to be resolved in this case is as to whether or not defendant Benita Castro Naval is the acknowledged natural child of Eustaquio Castro. In view of this stipulation, defendant Benita Naval was allowed to introduce evidence to show that she was indeed the acknowledged natural child of Eustaquio Castro.

"The evidence on record shows that Juan Castro and Feliciano Castro, plaintiffs in Civil Case No. 3762 and Eustaquio Castro who was already dead were the children of the deceased spouses Pedro Castro and Cornelia Santiago. Marcelina Bautista, one of the plaintiffs in Civil Case No. 3763, is the surviving spouse of the deceased Eustaquio Castro. Eustaquio Castro died on August 23, 1961 and Pricola Maregmen died on September 11, 1924.

"It appears that defendant Benita Castro Naval, a child of Eustaquio Castro and Pricola Maregmen, was born on March 27, 1919 in San Bartolome, Tarlac (Exhibit A). Eustaquio Castro, who caused the registration of said birth gave the date indicated in the civil registry that he was the father. Benita Castro was later baptized in the Roman Catholic Church of Camiling, Tarlac, wherein the baptismal certificate appeared that her parents are deceased Eustaquio Castro and Pricola Maregmen (Exhibit C). When Eustaquio Castro died, pictures were taken wherein the immediate members of the family in mourning were present, among whom was Benita Castro Naval (Exhibits D and D-1). On this score, the plaintiffs in their complaint in Civil Case No. 3762 admitted that defendant Benita C. Naval is the forced heir of Eustaquio Castro and a compulsory heir of Eustaquio Castro in Civil Case No. 3763.

"The evidence further shows that Pricola Maregmen, the natural mother of Benita C. Naval who was a resident of Mayantoc, Tarlac, was wedded to Felix de Maya of Anoling, Camiling, Tarlac against her wishes on May 23, 1913. While the celebration of the wedding in Anoling, Camiling, Tarlac was going on, the guests soon found out that Pricola Maregmen surreptitiously left the party and went to the house of her first cousin Bernarda Pagarigan at Barrio Malacampa, also in Anoling, Camiling, Tarlac, and there she cried that she did not want to get married to Felix de Maya. That evening Pricola proceeded to Barrio San Bartolome, Mayantoc, Tarlac, where she united with her real sweetheart, Eustaquio Castro, the father of Benita Castro Naval.

"Antonio Maregmen, the brother of Pricola Maregmen who was then in the wedding party learned of the disappearance of his sister. He finally found her living with Eustaquio Castro. A few days later Eustaquio Castro accompanied by two persons went to the parents of Pricola Maregmen at Mayantoc, Tarlac and informed them that Pricola was already living with him as husband and wife. Pricola's parents merely submitted to their daughter's wishes, so Eustaquio Castro and Pricola Maregmen lived as husband and wife until the death of Pricola on September 11, 1924.

"There is no dispute that Eustaquio Castro at the time he lived with Pricola Maregmen, was a widower, and was, therefore, free to marry Pricola. As a result of their cohabitation Benita Castro Naval, herein defendant, was born on March 27, 1919. After the death of her mother, when she was only five years old, she continued to live with her father Eustaquio Castro until his death on August 22, 1961 (Exhibit 11). Moreover, when Benita Castro Naval got married to Cipriano Naval, it was Eustaquio Castro who gave her away in marriage. Even after Benita's marriage, she was taken care of by her father." (Rollo, pp. 11-13)

The trial court ruled that respondent Benita Castro Naval is the acknowledged and recognized child of Eustaquio Castro and is, therefore, entitled to participate in the partition of the properties left by him. These properties are the subject of the civil cases. As stated earlier, the Court of Appeals affirmed the trial court's decision.

The main issue raised in this petition is whether or not respondent Benita Castro Naval is the acknowledged and recognized illegitimate child of Eustaquio Castro.

The Court of Appeals justified its pronouncement that the private respondent is an acknowledged and recognized child of Eustaquio Castro in the following manner:

xxx xxx xxx

"x x x The recognition of Benita Castro as a natural child of Eustaquio Castro appears in the records of birth and partition. Recognition shall be made in the record of birth, a will, a statement before a court of record, or any authentic writing (Art. 278, Civil Code). It was a voluntary recognition already established which did not need any judicial pronouncement (Gut, 68 Phil. 385; Root v. Root, (CA), 71 O.G. 3061). In Javelona v. Onteclaro, 74 Phil. 393, the Supreme Court clarified the distinction between voluntary recognition and compulsory recognition. In the first place, a voluntary recognition is made in a public document, whereas in the indubitable writing under Article 135 is a private document. (Manresa, Vol. 1, p. 579). The father would ordinarily be more careful about what he said in a public document than in a private writing, so that even an incidental mention of the child as his in a public document deserves full faith and credit. In the second place, in an action on Article 131 (voluntary recognition) the natural child merely asks for a share in the inheritance in virtue of his having been acknowledged as such, and is not trying to compel the father or his heirs to make the acknowledgment, whereas the action based on Article 135 is to compel the father or his heirs to recognize the child. In the former case, acknowledgment has been formally and legally accomplished because the public character of the document makes judicial pronouncement unnecessary, while in the latter case, recognition is yet to be ordered by the courts because a private writing, lacking the stronger guaranty and higher authenticity of a public document, is not self-executory. A judgment in favor of the status of a natural child according to Art. 135 must therefore be based on an express recognition so found and declared by the court after hearing. At this juncture, it is to be noted that an action based on voluntary acknowledgment may be brought after the death of the father, but not an action to compel acknowledgment, as a general rule, (Art. 137, Civil Code) which shows the liberality of the law as to voluntary recognition, and its strictness toward compulsory acknowledgment.

"While it is true that Pricola Maregmen, Benita's mother was married to Naval (sic), it is the rule, however, that in case the recognition is made by only one of the parents, it will be presumed that the child is natural if the parents recognizing it had the legal capacity to contract marriage at the time of the conception (Art. 277, Civil Code; Borres and Barza v. Municipality of Panay, 42 Phil. 643; Capistrano v. Gabino, 8 Phil. 135). The presumption arises from the act of recognition.

"What is more is that plaintiffs in their amended complaint admitted that Benita Castro was the compulsory heir of Eustaquio Castro. They cannot now contradict their own allegations (Cunanan v. Amparo, 80 Phil. 232)." (Rollo, pp. 14-15)

The Court of Appeals has correctly stated the principles but the petitioners contend that it erred in applying these

principles to the facts of this case.

The law which now governs paternity and filiation is Title VI of the Family Code of the Philippines, Executive Order No. 209, July 6, 1987 as amended by Executive Order No. 227, July 17, 1987. We have to examine the earlier provisions, however, because the Family Code provides in its Article 256 that:

"This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws." (Underlining supplied)

There is no question that the private respondent is an illegitimate child of Eustaquio Castro. Her father Eustaquio was a widower when Pricola Maregmen, her mother, went to live with him. The two could not validly enter into a marriage because when Pricola fled from her own wedding party on May 23, 1913, the wedding rites to Felix de Maya had already been solemnized. In other words, the marriage was celebrated although it could not be consummated because the bride hurriedly ran away to join the man she really loved.

Under the Civil Code, whether "new" or "old", illegitimate children or those who are conceived and born out of wedlock were generally classified into two groups: (1) Natural, whether actual or by fiction, were those born outside of lawful wedlock of parents who, at the time of conception of the child, were not disqualified by any impediment to marry each other. (Article 119, old Civil Code; Article 269, new Civil Code) and (2) Spurious, whether incestuous, adulterous, or illicit, were those born of parents who, at the time of conception, were disqualified to marry each other on account of certain legal impediments.

Since Eustaquio Castro was a widower when Benita was conceived, Benita is his natural child. (See *Borres and Barza v. Municipality of Panay*, 42 Phil. 643, 647 [1922]). However, from the viewpoint of the mother who had a subsisting marriage to Felix de Maya, Benita was her spurious child.

Under the Civil Code, for an illegitimate child other than natural to inherit, she must first be recognized voluntarily or by court action. (*Berciles v. Government Service Insurance System*, 128 SCRA 53 [1984]; *Divinagracia v. Rovira*, 72 SCRA 307 [1976]; *Vda. de Clemenña v. Clemenña*, 24 SCRA 720 [1968]; *Noble v. Noble*, 18 SCRA 1104 [1966]; *Republic v. Workmen's Compensation Commission*, 13 SCRA 272 [1965]; *Paulino v. Paulino*, 3 SCRA 730 [1961]; *Barles, et al. v. Ponce Enrile*, 109 Phil. 522 [1960]; and *Reyes v. Court of Appeals*, 135 SCRA 439 [1985]). This arises from the legal principle that an unrecognized spurious child like a natural child has no rights from her parents or to their estate because her rights spring not from the filiation or blood relationship but from the child's acknowledgment by her parent. (*Alabat v. Vda. de Alabat*, 21 SCRA 1479 [1967]; *Mise v. Rodriguez*, 95 Phil. 396 [1954]; *Magallanes, et al. v. Court of Appeals, et al.*, 95 Phil. 795 [1954]; *Canales v. Arrogante, et al.*, 91 Phil. 6 [1952]; *Malonda v. Malonda*, 81 Phil. 149 [1948]; *Buenaventura v. Urbano, et al.*, 5 Phil. 1 [1905]; and *Reyes v. Court of Appeals, supra*). In other words, the rights of an illegitimate child arose not because she was the true or real child of her parents but because under the law, she had been recognized or acknowledged as such a child.

This brings us to the question whether or not the private respondent is an acknowledged and recognized illegitimate child of Eustaquio Castro.

Under the Civil Code, there are two kinds of acknowledgment -- voluntary and compulsory. The provisions on acknowledgment are applied to natural as well as spurious children (*Clemenña v. Clemenña, supra*; *Reyes v. Court of Appeals, supra*). Article 131 of the old Civil Code provides for voluntary acknowledgment by the father or mother, while Article 135 and Article 136 of the same Code provide for the compulsory acknowledgment by the father and mother respectively.

Article 131 of the old Civil Code states that "The acknowledgment of a natural child must be made in the record

of birth, in a will or in some other public document."

In these cases, the appellate court ruled that the private respondent was voluntarily recognized by her father, Eustaquio Castro through the record of birth, hence there was no need for any judicial pronouncement.

The record of birth referred to by the appellate court is actually the birth certificate of the private respondent. It appears in the certificate that Eustaquio Castro is the respondent's father.

The petitioners take exception to the respondent court's ruling on voluntary recognition.

Strictly speaking, a birth certificate to be sufficient for purposes of recognizing a child must be signed by the father and mother jointly and if the father refuses, by the mother alone otherwise she may be penalized. (Section 5, Article 3753; *Madridejo v. de Leon*, 55 Phil. 1 [1930]). What is signed is a loose form whose contents are later transferred by a municipal employee to the local registry book of births which is preserved. An examination of Exhibit F, Birth Certificate of Benita Castro, Folder of Exhibits, p. 112, shows that this "birth certificate" was in turn copied on October 17, 1961 from Book I, Page No. 28, and Registry No. 47 of the book bound records where "Eustaquio Castro" appears under the column "Remarks." There is no question that Eustaquio himself reported the birth of his daughter but this record is not determinative of whether or not he also signed the easily lost looseleaf form of the certificate from where the entry in book bound or logbook record was taken in March, 1919.

The ruling in *Roces v. Local Civil Registrar of Manila* (102 Phil. 1050 [1958]) and *Berciles v. Government Service Insurance System* (128 SCRA 53 [1984]) that if the father did not sign in the birth certificate, the placing of his name by the mother, doctor, registrar, or other person is incompetent evidence of paternity does not apply to this case because it was Eustaquio himself who went to the municipal building and gave all the data about his daughter's birth. In *Berciles* we find no participation whatsoever in the registration by Judge Pascual Berciles, the alleged father.

We likewise see no application of the statement in *Madridejo v. de Leon* (*supra*), that the father, apart from furnishing the necessary data must also sign the certificate itself. In that case, Pedro Madridejo, the father was still alive when the 1930 case was brought to court. Pedro himself testified that Melecio Madridejo was conceived and born to him, a bachelor, and Flaviana Perez, a widow. The two were validly married when Flaviana was about to die. If the situation of Benita Castro Naval were similar, there would be no need to even discuss whether or not the father signed the birth certificate. Under the present law, the subsequent wedding of a man and woman whose child was conceived when there were no legal impediments to a valid marriage gives that child the rights of a legitimate offspring. The situation is different in the present case.

We apply the more liberal provisions of the new Family Code considering the facts and equities of this case.

First, Benita Castro Naval is unquestionably the daughter of the late Eustaquio Castro who was qualified to legally marry when she was conceived and born. From her birth on March 27, 1919 until the father's death on August 22, 1961 or for 42 years, Benita lived with her father and enjoyed the love and care that a parent bestows on an only child. The private respondents, themselves, admitted in their complaint in Civil Case No. 3762 that Benita is a forced heir of Eustaquio Castro.

Second, the rule on separating the legitimate from the illegitimate family is of no special relevance here because Benita and her mother Pricola Maregmen were the only immediate family of Eustaquio. There are no legitimate children born of a legitimate wife contesting the inheritance of Benita.

Third, it was Eustaquio himself who had the birth of Benita reported and registered. There is no indication in the records that Eustaquio should have known in 1919 that apart from reporting the birth of a child, he should also

have signed the certificate and seen to it that it was preserved for 60 years. Or that he should have taken all legal steps including judicial action to establish her status as his recognized natural child during the reglementary period to do so.

Fourth, it was Eustaquio who gave away Benita during her wedding to Cipriano Naval. The couple continued to live with the father even after the wedding and until the latter's death.

Fifth, the certificate of baptism and the picture of the Castro family during the wake for Eustaquio may not be sufficient proof of recognition under the Civil Code (Reyes v. Court of Appeals, supra; People v. Villeza, 127 SCRA 349 [1984]; Cid v. Burnaman, 24 SCRA 434 [1968]; Capistrano, et al. v. Gabino, 8 Phil. 135 [1907]) but they add to the equities of this case favoring the petitioner.

To remove any possible doubts about the correctness of the findings and conclusions of the trial court and the Court of Appeals, we, therefore, apply the provision of the Family Code which states that it shall have retroactive effect since the respondents have no clear vested rights in their favor.

Under the Code's Title VI on Paternity and Filiation, there are only two classes of children – legitimate and illegitimate. The fine distinctions among various types of illegitimate children have been eliminated.

Article 175 provides that "Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children." (Underscoring supplied).

Articles 172 and 173 on establishing the filiation of legitimate children provide:

"Art. 172. The filiation of legitimate children is established by any of the following:

- (1) The record of birth appearing in the civil register or a final judgment; or
- (2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws. (265a, 266a; 267a)

Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties. (268a)"

There can be no dispute that Benita Castro enjoyed the open and continuous possession of the status of an illegitimate child of Eustaquio Castro and that the action of Benita in defending her status in this case is similar to an "action to claim legitimacy" brought during her lifetime.

WHEREFORE, the petition is hereby DISMISSED for lack of merit. The questioned decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Fernan, C.J., (Chairman), Feliciano, Bidin, and Cortes, JJ., concur.

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