



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

CHARLES GOTARDO,
Petitioner,

G.R. No. 165166

Present:

CARPIO, *J.*, Chairperson,
BRION,
VILLARAMA, JR.,*
PEREZ, and
REYES, *JJ.*

-versus -

Promulgated:

DIVINA BULING,
Respondent.

AUG 15 2012 *HM Cabalaguer Jr.*

X-----X

DECISION

BRION, *J.*:

We resolve the petition for review on *certiorari*,¹ filed by petitioner Charles Gotardo, to challenge the March 5, 2004 decision² and the July 27, 2004 resolution³ of the Court of Appeals (CA) in CA GR CV No. 76326. The CA decision ordered the petitioner to recognize and provide legal support to his minor son, Gliffze O. Buling. The CA resolution denied the petitioner's subsequent motion for reconsideration.

* Designated as Acting Member of the Second Division in lieu of Associate Justice Maria Lourdes P. A. Sereno per Special Order No. 1274 dated July 30, 2012.

¹ Filed under Rule 45 of the Rules of Court; *rollo*, pp. 10-26.

² Penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justices Delilah Vidallon-Magtolis and Hakim S. Abdulwahid; *id.* at 29-45.

³ *Id.* at 46-47.

FACTUAL BACKGROUND

On September 6, 1995, respondent Divina Buling filed a complaint with the Regional Trial Court (*RTC*) of Maasin, Southern Leyte, Branch 25, for compulsory recognition and support *pendente lite*, claiming that the petitioner is the father of her child Gliffze.⁴

In his answer, the petitioner denied the imputed paternity of Gliffze.⁵ For the parties' failure to amicably settle the dispute, the RTC terminated the pre-trial proceedings.⁶ Trial on the merits ensued.

The respondent testified for herself and presented Rodulfo Lopez as witness. Evidence for the respondent showed that she met the petitioner on December 1, 1992 at the Philippine Commercial and Industrial Bank, Maasin, Southern Leyte branch where she had been hired as a casual employee, while the petitioner worked as accounting supervisor.⁷ The petitioner started courting the respondent in the third week of December 1992 and they became sweethearts in the last week of January 1993.⁸ The petitioner gave the respondent greeting cards on special occasions, such as on Valentine's Day and her birthday; she reciprocated his love and took care of him when he was ill.⁹

Sometime in September 1993, the petitioner started intimate sexual relations with the respondent in the former's rented room in the boarding house managed by Rodulfo, the respondent's uncle, on Tomas Oppus St., Agbao, Maasin, Southern Leyte.¹⁰ The petitioner rented the room from March 1, 1993 to August 30, 1994.¹¹ The sexual encounters occurred twice a month and became more frequent in June 1994; eventually, on August 8,

⁴ Original records, pp. 1-8.

⁵ *Id.* at 22-25.

⁶ *Id.* at 54.

⁷ TSN, February 16, 1996, p. 5; TSN, May 15, 1996, p. 6.

⁸ TSN, February 16, 1996, p. 6; TSN, May 15, 1996, p. 6.

⁹ TSN, February 16, 1996, pp. 7-10; Exhibits "B" and "C," Folder of Exhibits, p. 2.

¹⁰ TSN, February 16, 1996, p. 10; TSN, May 15, 1996, p. 3; TSN, July 18, 1996, pp. 5-8.

¹¹ TSN, May 15, 1996, p. 3; TSN, July 18, 1996, p. 4.

1994, the respondent found out that she was pregnant.¹² When told of the pregnancy, the petitioner was happy and made plans to marry the respondent.¹³ They in fact applied for a marriage license.¹⁴ The petitioner even inquired about the costs of a wedding reception and the bridal gown.¹⁵ Subsequently, however, the petitioner backed out of the wedding plans.¹⁶

The respondent responded by filing a complaint with the Municipal Trial Court of Maasin, Southern Leyte for damages against the petitioner for breach of promise to marry.¹⁷ Later, however, the petitioner and the respondent amicably settled the case.¹⁸

The respondent gave birth to their son Gliffze on March 9, 1995.¹⁹ When the petitioner did not show up and failed to provide support to Gliffze, the respondent sent him a letter on July 24, 1995 demanding recognition of and support for their child.²⁰ When the petitioner did not answer the demand, the respondent filed her complaint for compulsory recognition and support *pendente lite*.²¹

The petitioner took the witness stand and testified for himself. He denied the imputed paternity,²² claiming that he first had sexual contact with the respondent in the first week of August 1994 and she could not have been pregnant for twelve (12) weeks (or three (3) months) when he was informed of the pregnancy on September 15, 1994.²³

¹² TSN, February 16, 1996, p. 11; TSN, May 15, 1996, pp. 4-5.

¹³ TSN, February 16, 1996, pp. 11-12.

¹⁴ *Id.* at 12-15; Exhibit "E," Folder of Exhibits, p. 4.

¹⁵ TSN, February 16, 1996, p. 16.

¹⁶ *Id.* at 17.

¹⁷ *Id.* at 24; Exhibit "3," Folder of Exhibits, pp. 61-64.

¹⁸ TSN, February 16, 1996, p. 24; Exhibit "I," Folder of Exhibits, pp. 9-10.

¹⁹ TSN, February 16, 1996, p. 20; Exhibit "A," Folder of Exhibits, p. 1.

²⁰ TSN, February 16, 1996, p. 20; Exhibit "F," Folder of Exhibits, p. 5.

²¹ TSN, February 16, 1996, p. 25.

²² TSN, September 5, 2000, pp. 3-4.

²³ TSN, September 5, 2000, pp. 7, 10, 11.

During the pendency of the case, the RTC, on the respondent's motion,²⁴ granted a ₱2,000.00 monthly child support, retroactive from March 1995.²⁵

THE RTC RULING

In its June 25, 2002 decision, the RTC dismissed the complaint for insufficiency of evidence proving Gliffze's filiation. It found the respondent's testimony inconsistent on the question of when she had her first sexual contact with the petitioner, *i.e.*, "September 1993" in her direct testimony while "last week of January 1993" during her cross-testimony, and her reason for engaging in sexual contact even after she had refused the petitioner's initial marriage proposal. It ordered the respondent to return the amount of support *pendente lite* erroneously awarded, and to pay ₱10,000.00 as attorney's fees.²⁶

The respondent appealed the RTC ruling to the CA.²⁷

THE CA RULING

In its March 5, 2004 decision, the CA departed from the RTC's appreciation of the respondent's testimony, concluding that the latter merely made an honest mistake in her understanding of the questions of the petitioner's counsel. It noted that the petitioner and the respondent had sexual relationship even before August 1994; that the respondent had only one boyfriend, the petitioner, from January 1993 to August 1994; and that the petitioner's allegation that the respondent had previous relationships with other men remained unsubstantiated. The CA consequently set aside the RTC decision and ordered the petitioner to recognize his minor son Gliffze. It also reinstated the RTC order granting a ₱2,000.00 monthly child support.²⁸

²⁴ Original records, pp. 58-59.

²⁵ August 1, 1996 order; *id.* at 60.

²⁶ *Id.* at 143-158.

²⁷ *Id.* at 159.

²⁸ *Supra* note 2.

When the CA denied²⁹ the petitioner's motion for reconsideration,³⁰ the petitioner filed the present petition for review on *certiorari*.

THE PETITION

The petitioner argues that the CA committed a reversible error in rejecting the RTC's appreciation of the respondent's testimony, and that the evidence on record is insufficient to prove paternity.

THE CASE FOR THE RESPONDENT

The respondent submits that the CA correctly explained that the inconsistency in the respondent's testimony was due to an incorrect appreciation of the questions asked, and that the record is replete with evidence proving that the petitioner was her lover and that they had several intimate sexual encounters during their relationship, resulting in her pregnancy and Gliffze's birth on March 9, 1995.

THE ISSUE

The sole issue before us is whether the CA committed a reversible error when it set aside the RTC's findings and ordered the petitioner to recognize and provide legal support to his minor son Gliffze.

OUR RULING

We do not find any reversible error in the CA's ruling.

We have recognized that "[f]iliation proceedings are usually filed not just to adjudicate paternity but also to secure a legal right associated with paternity, such as citizenship, support (as in this case) or inheritance. [In

²⁹ *Supra* note 3.

³⁰ *CA rollo*, pp. 144-152.

paternity cases, the burden of proof] is on the person who alleges that the putative father is the biological father of the child.”³¹

One can prove filiation, either legitimate or illegitimate, through the record of birth appearing in the civil register or a final judgment, an admission of filiation in a public document or a private handwritten instrument and signed by the parent concerned, or the open and continuous possession of the status of a legitimate or illegitimate child, or any other means allowed by the Rules of Court and special laws.³² We have held that such other proof of one's filiation may be a “baptismal certificate, a judicial admission, a family bible in which [his] name has been entered, common reputation respecting [his] pedigree, admission by silence, the [testimonies] of witnesses, and other kinds of proof [admissible] under Rule 130 of the Rules of Court.”³³

In *Herrera v. Alba*,³⁴ we stressed that there are four significant procedural aspects of a traditional paternity action that parties have to face: a *prima facie* case, affirmative defenses, presumption of legitimacy, and physical resemblance between the putative father and the child.³⁵ We explained that a *prima facie* case exists if a woman declares — supported by corroborative proof — that she had sexual relations with the putative father; at this point, the burden of evidence shifts to the putative father.³⁶ We explained further that the two affirmative defenses available to the putative father are: (1) incapability of sexual relations with the mother due to either physical absence or impotency, or (2) that the mother had sexual relations with other men at the time of conception.³⁷

³¹ *Estate of Rogelio G. Ong v. Diaz*, G.R. No. 171713, December 17, 2007, 540 SCRA 480, 490. See also *Herrera v. Alba*, 499 Phil. 185, 191 (2005).

³² FAMILY CODE OF THE PHILIPPINES, Articles 172 and 175.

³³ *Cruz v. Cristobal*, 529 Phil. 695, 710-711 (2006). See also *Heirs of Ignacio Conti v. Court of Appeals*, 360 Phil. 536, 549 (1998); and *Trinidad v. CA*, 352 Phil. 12, 32-33 (1998).

³⁴ *Supra* note 31.

³⁵ *Id.* at 192.

³⁶ *Ibid.*

³⁷ *Ibid.*

In this case, the respondent established a *prima facie* case that the petitioner is the putative father of Gliffze through testimony that she had been sexually involved only with one man, the petitioner, at the time of her conception.³⁸ Rodulfo corroborated her testimony that the petitioner and the respondent had intimate relationship.³⁹

On the other hand, the petitioner did not deny that he had sexual encounters with the respondent, only that it occurred on a much later date than the respondent asserted, such that it was physically impossible for the respondent to have been three (3) months pregnant already in September 1994 when he was informed of the pregnancy.⁴⁰ However, the petitioner failed to substantiate his allegations of infidelity and insinuations of promiscuity. His allegations, therefore, cannot be given credence for lack of evidentiary support. The petitioner's denial cannot overcome the respondent's clear and categorical assertions.

The petitioner, as the RTC did, made much of the variance between the respondent's direct testimony regarding their first sexual contact as "sometime in September 1993" and her cross-testimony when she stated that their first sexual contact was "last week of January 1993," as follows:

ATTY. GO CINCO:

When did the defendant, according to you, start courting you?

A Third week of December 1992.

Q And you accepted him?

A Last week of January 1993.

Q And by October you already had your sexual intercourse?

A Last week of January 1993.

COURT: What do you mean by accepting?

A I accepted his offer of love.⁴¹

We find that the contradictions are for the most part more apparent than real, having resulted from the failure of the respondent to comprehend

³⁸ TSN, May 15, 1996, pp. 15-16.

³⁹ TSN, July 18, 1996, p. 8.

⁴⁰ TSN, September 5, 2000, pp. 7, 10, 11.

⁴¹ TSN, May 15, 1996, p. 6.

the question posed, but this misunderstanding was later corrected and satisfactorily explained. Indeed, when confronted for her contradictory statements, the respondent explained that that portion of the transcript of stenographic notes was incorrect and she had brought it to the attention of Atty. Josefino Go Cinco (her former counsel) but the latter took no action on the matter.⁴²

Jurisprudence teaches that in assessing the credibility of a witness, his testimony must be considered in its entirety instead of in truncated parts. The technique in deciphering a testimony is not to consider only its isolated parts and to anchor a conclusion based on these parts. "In ascertaining the facts established by a witness, everything stated by him on direct, cross and redirect examinations must be calibrated and considered."⁴³ Evidently, the totality of the respondent's testimony positively and convincingly shows that no real inconsistency exists. The respondent has consistently asserted that she started intimate sexual relations with the petitioner sometime in September 1993.⁴⁴

Since filiation is beyond question, support follows as a matter of obligation; a parent is obliged to support his child, whether legitimate or illegitimate.⁴⁵ Support consists of everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.⁴⁶ Thus, the amount of support is variable and, for this reason, no final judgment on the amount of support is made as the amount shall be in proportion to the resources or means of the giver and the necessities of the recipient.⁴⁷ It may be reduced or increased proportionately according to the reduction or increase of the necessities of the recipient and the resources or means of the person obliged to support.⁴⁸

⁴² TSN, May 30, 2000, pp. 4-5.

⁴³ *Northwest Airlines, Inc. v. Chiong*, G.R. No. 155550, January 31, 2008, 543 SCRA 308, 324; and *Leyson v. Lawa*, 535 Phil. 153, 167 (2006).

⁴⁴ TSN, February 16, 1996, p. 10; TSN, May 15, 1996, p. 3.

⁴⁵ FAMILY CODE OF THE PHILIPPINES, Article 195.

⁴⁶ *Id.*, Article 194.

⁴⁷ *Id.*, Article 201.

⁴⁸ *Id.*, Article 202.

In this case, we sustain the award of ₱2,000.00 monthly child support, without prejudice to the filing of the proper motion in the RTC for the determination of any support in arrears, considering the needs of the child, Gliffze, during the pendency of this case.

WHEREFORE, we hereby **DENY** the petition for lack of merit. The March 5, 2004 decision and the July 27, 2004 resolution of the Court of Appeals in CA GR CV No. 76326 are hereby **AFFIRMED**. Costs against the petitioner.

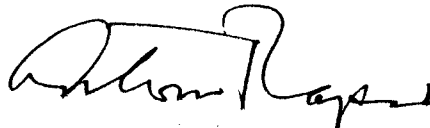
SO ORDERED.



ARTURO D. BRION

Associate Justice

WE CONCUR:



ANTONIO T. CARPIO

Senior Associate Justice
Chairperson



MARTIN S. VILLARAMA, JR.

Associate Justice



JOSE PORTUGAL PEREZ

Associate Justice



BIENVENIDO L. REYES

Associate Justice

CERTIFICATION

I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

A handwritten signature in black ink, appearing to read 'Antonio T. Carpio', with a stylized flourish at the end.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)