



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

ANTONIO PERLA,  
*Petitioner,*

G.R. No. 172471

Present:

- versus -

CARPIO, *Chairperson,*  
BRION,  
DEL CASTILLO,  
PEREZ, *and*  
PERLAS-BERNABE, *JJ.*

MIRASOL BARING and  
RANDY PERLA,  
*Respondents.*

Promulgated:

NOV 12 2012 *HT Cabalag Perfecto*

X

X

DECISION

DEL CASTILLO, J.:

"An order for x x x support x x x must be issued only if paternity or filiation is established by clear and convincing evidence."<sup>1</sup>

Assailed in this Petition for Review on *Certiorari*<sup>2</sup> is the March 31, 2005 Decision<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 79312 which dismissed petitioner Antonio Perla's (Antonio) appeal from the February 26, 2003 Decision<sup>4</sup> of the Regional Trial Court (RTC) of Antipolo City, Branch 71 in Civil Case No. 96-3952, ordering him to give monthly support to respondent Randy Perla (Randy). Likewise assailed is the CA's May 5, 2006 Resolution<sup>5</sup> denying the motion for reconsideration thereto.

*Medina*

<sup>1</sup> *Cabatania v. Court of Appeals*, 484 Phil. 42, 50 (2004).  
*Rollo*, pp. 19-26.

<sup>2</sup> *CA rollo*, pp. 91-97; penned by Associate Justice Roberto A. Barrios and concurred in by Associate Justices Amelita G. Tolentino and Vicente S.E. Veloso.

<sup>3</sup> *Records*, pp. 188-190; penned by Presiding Judge Felix S. Caballes.

<sup>4</sup> *CA rollo*, pp. 124-126.

***Factual Antecedents***

Respondent Mirasol Baring (Mirasol) and her then minor son, Randy (collectively respondents), filed before the RTC a Complaint<sup>6</sup> for support against Antonio.

They alleged in said Complaint that Mirasol and Antonio lived together as common-law spouses for two years. As a result of said cohabitation, Randy was born on November 11, 1983. However, when Antonio landed a job as seaman, he abandoned them and failed to give any support to his son. Respondents thus prayed that Antonio be ordered to support Randy.

In his Answer with Counterclaim,<sup>7</sup> Antonio, who is now married and has a family of his own, denied having fathered Randy. Although he admitted to having known Mirasol, he averred that she never became his common-law wife nor was she treated as such. And since Mirasol had been intimidating and pestering him as early as 1992 with various suits by insisting that Randy is his son, Antonio sought moral and exemplary damages by way of counterclaim from respondents.

During trial, Mirasol testified that from 1981 to 1983, she lived in Upper Bicutan, Taguig where Antonio was a neighbor.<sup>8</sup> In the first week of January 1981, Antonio courted her<sup>9</sup> and eventually became her first boyfriend.<sup>10</sup> Antonio would then visit her everyday until 1982.<sup>11</sup> Upon clarificatory question by the court whether she and Antonio eventually lived together as husband and wife, Mirasol answered that they were just sweethearts.<sup>12</sup>

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<sup>6</sup> Records, pp. 1-3.

<sup>7</sup> Id. at 35-38.

<sup>8</sup> TSN, April 7, 1999, pp. 6-7.

<sup>9</sup> Id. at 10-11, 25.

<sup>10</sup> Id. at 25.

<sup>11</sup> Id. at 25-26.

<sup>12</sup> Id. at 10.

When Mirasol became pregnant in 1983, Antonio assured her that he would support her.<sup>13</sup> Eventually, however, Antonio started to evade her.<sup>14</sup> Mirasol last saw Antonio in 1983 but could not remember the particular month.<sup>15</sup>

On November 11, 1983, Mirasol gave birth to Randy.<sup>16</sup> She presented Randy's Certificate of Live Birth<sup>17</sup> and Baptismal Certificate<sup>18</sup> indicating her and Antonio as parents of the child. Mirasol testified that she and Antonio supplied the information in the said certificates.<sup>19</sup> Antonio supplied his name and birthplace after Erlinda Balmori (Erlinda), the "*hilot*" who assisted in Mirasol's delivery of Randy, went to his house to solicit the said information.<sup>20</sup> Mirasol also claimed that it was Erlinda who supplied the date and place of marriage of the parents so that the latter can file the birth certificate.<sup>21</sup> Mirasol likewise confirmed that she is the same "Mirasol Perla" who signed as the informant therein.<sup>22</sup>

Next to take the witness stand was Randy who at that time was just 15 years old.<sup>23</sup> Randy claimed that he knew Antonio to be the husband of her mother and as his father.<sup>24</sup> He recounted having met him for the first time in 1994 in the house of his Aunt Lelita, Antonio's sister, where he was vacationing.<sup>25</sup> During their encounter, Randy called Antonio "Papa" and kissed his hand while the latter hugged him.<sup>26</sup> When Randy asked him for support, Antonio promised that he would support him.<sup>27</sup> Randy further testified that during his one-week stay in his Aunt Lelita's place, the latter treated him as member of the family.<sup>28</sup>

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<sup>13</sup> Id. at 11.

<sup>14</sup> Id. at 26.

<sup>15</sup> Id.

<sup>16</sup> Id. at 13.

<sup>17</sup> Id. at 14; See the certified true copy of said birth certificate which was issued by the National Statistics Office, records, p. 122.

<sup>18</sup> Id. at 16-17; id. at 123.

<sup>19</sup> TSN, April 21, 1999, p. 4.

<sup>20</sup> Id. at 4-5.

<sup>21</sup> Id. at 5.

<sup>22</sup> Id. at 4-5.

<sup>23</sup> TSN, September 8, 1999, p. 3.

<sup>24</sup> Id. at 4-5.

<sup>25</sup> Id. at 6-10.

<sup>26</sup> Id. at 8.

<sup>27</sup> Id. at 8-9.

<sup>28</sup> Id. at 10-11.

For her part, Aurora Ducay testified that she knew both Mirasol and Antonio as they were neighbors in Upper Bicutan, Taguig. Presently, Antonio is still her neighbor in the said place.<sup>29</sup> According to her, she knew of Mirasol's and Antonio's relationship because aside from seeing Antonio frequenting the house of Mirasol, she asked Antonio about it.<sup>30</sup> She further narrated that the two have a son named Randy<sup>31</sup> and that Antonio's mother even tried to get the child from Mirasol.<sup>32</sup>

Testifying as an adverse witness for the respondents, Antonio admitted having sexual intercourse with Mirasol in February and August<sup>33</sup> of 1981.<sup>34</sup> When shown with Randy's Certificate of Live Birth and asked whether he had a hand in the preparation of the same, Antonio answered in the negative.<sup>35</sup>

Testifying for himself, Antonio denied having courted Mirasol on January 5, 1981 because during that time, he was studying in Iloilo City. He graduated from the Iloilo Maritime Academy in March of 1981<sup>36</sup> as shown by his diploma.<sup>37</sup> It was only in May 1981 or after his graduation that he came to Manila. Further, he denied having any relationship with Mirasol.<sup>38</sup> He claimed that he had sexual intercourse with Mirasol only once which happened in the month of September or October of 1981.<sup>39</sup>

Antonio came to know that he was being imputed as the father of Randy only when Mirasol charged him with abandonment of minor in 1994, which was

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<sup>29</sup> TSN, October 7, 1999, pp. 3-4.

<sup>30</sup> Id. at 4-5.

<sup>31</sup> Id. at 5.

<sup>32</sup> Id. at 5-6.

<sup>33</sup> TSN, February 10, 2000, p. 13.

<sup>34</sup> Id. at 16.

<sup>35</sup> Id. at 15.

<sup>36</sup> TSN, August 1, 2001, p. 6.

<sup>37</sup> Id. at 7; records, p. 168.

<sup>38</sup> Id. at 5.

<sup>39</sup> Id. at 6.

also the first time he saw Randy.<sup>40</sup> Prior to that, neither Mirasol nor her sister, Norma, whom he met a few times told him about the child.<sup>41</sup>

Anent Randy's Certificate of Live Birth, Antonio testified as to several inaccuracies in the entries thereon. According to him, his middle initial is "E" and not "A" as appearing in the said certificate of live birth.<sup>42</sup> Also, he is not a protestant and a laborer as indicated in said certificate.<sup>43</sup> Antonio likewise alleged that Mirasol only made up the entries with respect to their marriage on October 28, 1981.<sup>44</sup>

Daisy Balmori Rodriguez (Daisy), for her part, testified that she came to know Mirasol through her mother Erlinda who was the "*hilot*" when Mirasol gave birth to Randy.<sup>45</sup> She narrated that her mother asked Mirasol the details to be entered in the child's Certificate of Live Birth such as the names of the parents, date and place of marriage, and the intended name of the child.<sup>46</sup> Her mother also told her that Mirasol's son has no acknowledged father.<sup>47</sup> Daisy likewise claimed that Mirasol later left to her care the then infant Randy until Mirasol took him away without permission when the child was almost five years old.<sup>48</sup>

### ***Ruling of the Regional Trial Court***

After trial, the RTC rendered a Decision<sup>49</sup> dated February 26, 2003 ordering Antonio to support Randy.

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<sup>40</sup> Id. at 26-27; The said charge and the counter-charges filed by Antonio against Mirasol were eventually dismissed by the Provincial Prosecution Office of Rizal on July 28, 1994, records, pp. 19-20.

<sup>41</sup> Id.

<sup>42</sup> Id. at 19.

<sup>43</sup> Id. at 20.

<sup>44</sup> Id.

<sup>45</sup> TSN, August 15, 2001, pp. 11-12.

<sup>46</sup> Id. at 14.

<sup>47</sup> Id. at 37.

<sup>48</sup> Id. at 17-20.

<sup>49</sup> Records, pp. 188-190.

The RTC ruled that Mirasol and Randy are entitled to the relief sought since Antonio himself admitted that he had sex with Mirasol. It also noted that when the 15-year old Randy testified, he categorically declared Antonio as his father. The RTC opined that Mirasol would not have gone through the trouble of exposing herself to humiliation, shame and ridicule of public trial if her allegations were untrue. Antonio's counterclaim was denied due to the absence of bad faith or ill-motive on the part of Mirasol and Randy.

The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff Randy Perla and against the defendant [Antonio Perla], ordering the latter to give a reasonable monthly support of ₱5,000.00 to Randy Perla for his sustenance and support to be given to him from the time of the filing of this Complaint.

Defendant's counterclaim is DISMISSED.

SO ORDERED.<sup>50</sup>

Antonio filed a Notice of Appeal<sup>51</sup> which was given due course by the RTC.<sup>52</sup>

### ***Ruling of the Court of Appeals***

In its Decision<sup>53</sup> of March 31, 2005, the CA upheld Randy's illegitimate filiation based on the certified true copies of his birth certificate and of his baptismal certificate identifying Antonio as his father. According to the appellate court, while these documents do not bear the signature of Antonio, they are proofs that Antonio is the known, imputed and identified father of Randy. The CA also affirmed the trial court's findings on the credibility of the witnesses and its appreciation of facts, as there was nothing to suggest that the RTC erred in such

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<sup>50</sup> Id. at 190.

<sup>51</sup> Id. at 191.

<sup>52</sup> Id., unpaginated, following p.194.

<sup>53</sup> CA *rollo*, pp. 124-126.

respects. It highlighted Antonio's vacillation in his testimony regarding the number of times he had sex with Mirasol and concluded that the same is a clear badge of his lack of candor - a good reason to disregard his denials. Thus:

WHEREFORE, the appeal is DISMISSED and the appealed Decision is AFFIRMED.

SO ORDERED.<sup>54</sup>

Antonio filed a Motion for Reconsideration<sup>55</sup> which was denied by the CA in its Resolution<sup>56</sup> of May 5, 2006.

Hence, this Petition for Review on *Certiorari*.

### **Issue**

The pivotal issue to be resolved in this case is whether the lower courts correctly ordered Antonio to support Randy.

### **Our Ruling**

There is merit in the petition.

*A re-examination of the factual findings of the RTC and the CA is proper in this case.*

“Generally, factual findings of trial courts, when affirmed by the CA, are binding on this Court.”<sup>57</sup> However, this rule admits of certain exceptions such as when the finding is grounded entirely on speculations, surmises or conjectures or

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<sup>54</sup> Id. at 96.

<sup>55</sup> Id. at 98-107.

<sup>56</sup> Id. at 124-126.

<sup>57</sup> *Navales v. Navales*, G.R. No. 167523, June 27, 2008, 556 SCRA 272, 285.

when the judgment of the CA is based on misapprehension of facts.<sup>58</sup> As this case falls under these exceptions, the Court is constrained to re-examine the factual findings of the lower courts.

*Since respondents' complaint for support is anchored on Randy's alleged illegitimate filiation to Antonio, the lower courts should have first made a determination of the same.*

Respondents' Complaint for support is based on Randy's alleged illegitimate filiation to Antonio. Hence, for Randy to be entitled for support, his filiation must be established with sufficient certainty. A review of the Decision of the RTC would show that it is bereft of any discussion regarding Randy's filiation. Although the appellate court, for its part, cited the applicable provision on illegitimate filiation, it merely declared the certified true copies of Randy's birth certificate and baptismal certificate both identifying Antonio as the father as good proofs of his filiation with Randy and nothing more. This is despite the fact that the said documents do not bear Antonio's signature. "Time and again, this Court has ruled that a high standard of proof is required to establish paternity and filiation. An order for x x x support may create an unwholesome situation or may be an irritant to the family or the lives of the parties so that it must be issued only if paternity or filiation is established by clear and convincing evidence."<sup>59</sup>

*Respondents failed to establish Randy's illegitimate filiation to Antonio.*

The rules for establishing filiation are found in Articles 172 and 175 of the Family Code which provide as follows:

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<sup>58</sup> *Dimaranan v. Heirs of Spouses Hermogenes Arayata and Flaviana Arayata*, G.R. No. 184193, March 29, 2010, 617 SCRA 101, 113.

<sup>59</sup> *Cabatania v. Court of Appeals*, supra note 1.



Article 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.

x x x x

Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

x x x x

Respondents presented the Certificate of Live Birth of Randy identifying Antonio as the father. However, said certificate has no probative value to establish Randy's filiation to Antonio since the latter had not signed the same.<sup>60</sup> It is settled that "[a] certificate of live birth purportedly identifying the putative father is not competent evidence of paternity when there is no showing that the putative father had a hand in the preparation of said certificate."<sup>61</sup> We also cannot lend credence to Mirasol's claim that Antonio supplied certain information through Erlinda. Aside from Antonio's denial in having any participation in the preparation of the document as well as the absence of his signature thereon, respondents did not present Erlinda to confirm that Antonio indeed supplied certain entries in Randy's birth certificate. Besides, the several unexplained discrepancies in Antonio's personal circumstances as reflected in the subject birth certificate are manifestations of Antonio's non-participation in its preparation. Most important, it was Mirasol who signed as informant thereon which she confirmed on the witness stand.

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<sup>60</sup> *Nepomuceno v. Lopez*, G.R. No. 181258, March 18, 2010, 616 SCRA 145, 153.

<sup>61</sup> *Cabatanian v. Court of Appeals*, *supra* note 1 at 51.

Neither does the testimony of Randy establish his illegitimate filiation. That during their first encounter in 1994 Randy called Antonio “Papa” and kissed his hand while Antonio hugged him and promised to support him; or that his Aunt Lelita treated him as a relative and was good to him during his one-week stay in her place, cannot be considered as indications of Randy’s open and continuous possession of the status of an illegitimate child under the second paragraph of Article 172(1). “[T]o prove open and continuous possession of the status of an illegitimate child, there must be evidence of the manifestation of the permanent intention of the supposed father to consider the child as his, by continuous and clear manifestations of parental affection and care, which cannot be attributed to pure charity. Such acts must be of such a nature that they reveal not only the conviction of paternity, but also the apparent desire to have and treat the child as such in all relations in society and in life, not accidentally, but continuously.”<sup>62</sup> Here, the single instance that Antonio allegedly hugged Randy and promised to support him cannot be considered as proof of continuous possession of the status of a child. To emphasize, “[t]he father’s conduct towards his son must be spontaneous and uninterrupted for this ground to exist.”<sup>63</sup> Here, except for that singular occasion in which they met, there are no other acts of Antonio treating Randy as his son.<sup>64</sup> Neither can Antonio’s paternity be deduced from how his sister Lelita treated Randy. To this Court, Lelita’s actuations could have been done due to charity or some other reasons.

Anent Randy’s baptismal certificate, we cannot agree with the CA that the same is a good proof of Antonio’s paternity of Randy. Just like in a birth certificate, the lack of participation of the supposed father in the preparation of a baptismal certificate renders this document incompetent to prove paternity.<sup>65</sup> And “while a baptismal certificate may be considered a public document, it can only serve as evidence of the administration of the sacrament on the date specified but

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<sup>62</sup> *Jison v. Court of Appeals*, 350 Phil. 138, 172 (1998).

<sup>63</sup> *Ong v. Court of Appeals*, 339 Phil. 109, 119 (1997).

<sup>64</sup> *Id.*

<sup>65</sup> *Jison v. Court of Appeals*, *supra* at 176.

not the veracity of the entries with respect to the child's paternity. Thus, x x x baptismal certificates are *per se* inadmissible in evidence as proof of filiation and they cannot be admitted indirectly as circumstantial evidence to prove the same."<sup>66</sup>

This Court cannot likewise agree with the RTC's conclusion that Antonio fathered Randy merely on the basis of his admission that he had sexual encounters with Mirasol. Neither does it agree with the CA that the inconsistencies in Antonio's testimony with regard to the number of times he had sexual intercourse with Mirasol are good reasons to disregard his denials and uphold the respondents' claims. It is well to stress that as plaintiff, Mirasol has the burden of proving her affirmative allegation that Antonio is the father of her son Randy.<sup>67</sup> She must rely on the strength of her evidence and not on the weakness of the defense.<sup>68</sup> As Randy was born on November 11, 1983, it was incumbent upon Mirasol to prove that she had sexual intercourse with Antonio prior to the usual period of pregnancy or nine months before the birth of Randy. This crucial period therefore is during the early part of the first quarter of 1983. However, nothing from Mirasol's testimony indicates that she had sexual intercourse with Antonio during that time. She merely testified that she last met with Antonio in 1983 but could not remember the particular month.<sup>69</sup> Plainly, this hardly means anything not only because it was not established that the said meeting took place during that crucial period but also because Mirasol never mentioned that they had sexual contact during their meeting.

Antonio's admission of sexual intercourse with Mirasol does not likewise by any means strengthen respondents' theory that he fathered Randy. When Antonio testified as an adverse witness for the respondents, he stated that he had sexual intercourse with Mirasol in February and August of 1981. Later testifying as witness for his own behalf, he mentioned that he had a one night affair with

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<sup>66</sup> *Cabatania v. Court of Appeals*, supra note 1 at 51.

<sup>67</sup> *Spouses Angeles v. Spouses Tan*, 482 Phil. 635, 646 (2004).

<sup>68</sup> *Ek Lee Steel Works Corporation v. Manila Castor Oil Corporation*, G.R. No. 119033, July 9, 2008, 557 SCRA 339, 352.

<sup>69</sup> TSN, April 7, 1999, p. 26.

Mirasol which happened in the month of September or October of 1981. Assuming that he indeed had sexual contact with Mirasol on the dates mentioned, still, none of these sexual congresses could have led to the conception of Randy who was born two years later in 1983.


All told, it is clear that respondents failed to establish Randy's illegitimate filiation to Antonio. Hence, the order for Antonio to support Randy has no basis.

**WHEREFORE**, the Petition for Review on *Certiorari* is **GRANTED**. The assailed Decision dated March 31, 2005 and Resolution dated May 5, 2006 of the Court of Appeals in CA-G.R. CV No. 79312 are **REVERSED** and **SET ASIDE** and the Decision dated February 26, 2003 of the Regional Trial Court of Antipolo City, Branch 71, in Civil Case No. 96-3952 is **VACATED**. A new one is entered **DISMISSING** the Complaint for Support filed by Mirasol Baring and Randy Perla against Antonio Perla.

**SO ORDERED.**


  
MARIANO C. DEL CASTILLO  
*Associate Justice*

WE CONCUR:

  
ANTONIO T. CARPIO  
*Associate Justice*  
*Chairperson*

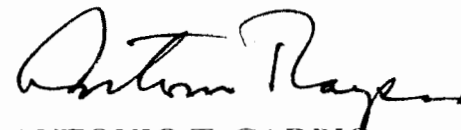
  
ARTURO D. BRION  
*Associate Justice*

  
JOSE PORTUGAL PEREZ  
*Associate Justice*

  
ESTELA M. PERLAS-BERNABE  
*Associate Justice*

### ATTESTATION

I attest 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.



ANTONIO T. CARPIO

*Associate Justice*

*Chairperson*

### 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.



MARIA LOURDES P. A. SERENO

*Chief Justice*