

## FIRST DIVISION

**[ G.R. No. 180284, September 11, 2013 ]**

**NARCISO SALAS, PETITIONER, VS. ANNABELLE MATUSALEM,  
RESPONDENT.**

### D E C I S I O N

**VILLARAMA, JR., J.:**

Before the Court is a petition for review on certiorari which seeks to reverse and set aside the Decision<sup>[1]</sup> dated July 18, 2006 and Resolution<sup>[2]</sup> dated October 19, 2007 of the Court of Appeals (CA) in CA-G.R. CV No. 64379.

The factual antecedents:

On May 26, 1995, Annabelle Matusalem (respondent) filed a complaint for Support/Damages against Narciso Salas (petitioner) in the Regional Trial Court (RTC) of Cabanatuan City (Civil Case No. 2124-AF).

Respondent claimed that petitioner is the father of her son Christian Paulo Salas who was born on December 28, 1994. Petitioner, already 56 years old at the time, enticed her as she was then only 24 years old, making her believe that he is a widower. Petitioner rented an apartment where respondent stayed and shouldered all expenses in the delivery of their child, including the cost of caesarian operation and hospital confinement. However, when respondent refused the offer of petitioner's family to take the child from her, petitioner abandoned respondent and her child and left them to the mercy of relatives and friends. Respondent further alleged that she attempted suicide due to depression but still petitioner refused to support her and their child.

Respondent thus prayed for support *pendente lite* and monthly support in the amount of P20,000.00, as well as actual, moral and exemplary damages, and attorney's fees.

Petitioner filed his answer<sup>[4]</sup> with special and affirmative defenses and counterclaims. He described respondent as a woman of loose morals, having borne her first child also out of wedlock when she went to work in Italy. Jobless upon her return to the country, respondent spent time riding on petitioner's jeepney which was then being utilized by a female real estate agent named Felicisima de Guzman. Respondent had seduced a senior police officer in San Isidro and her charge of sexual abuse against said police officer was later withdrawn in exchange for the quashing of drug charges against respondent's brother-in-law who was then detained at the municipal jail. It was at that time respondent introduced herself to petitioner whom she pleaded for charity as she was pregnant with another child. Petitioner denied paternity of the child Christian Paulo; he was motivated by no other reason except genuine altruism when he agreed to shoulder the expenses for

the delivery of said child, unaware of respondent's chicanery and deceit designed to "scandalize" him in exchange for financial favor.

At the trial, respondent and her witness Grace Murillo testified. Petitioner was declared to have waived his right to present evidence and the case was considered submitted for decision based on respondent's evidence.

Respondent testified that she first met petitioner at the house of his "kumadre" Felicisima de Guzman at Bgy. Malapit, San Isidro, Nueva Ecija. During their subsequent meeting, petitioner told her he is already a widower and he has no more companion in life because his children are all grown-up. She also learned that petitioner owns a rice mill, a construction business and a housing subdivision (petitioner offered her a job at their family-owned Ma. Cristina Village). Petitioner at the time already knows that she is a single mother as she had a child by her former boyfriend in Italy. He then brought her to a motel, promising that he will take care of her and marry her. She believed him and yielded to his advances, with the thought that she and her child will have a better life. Thereafter, they saw each other weekly and petitioner gave her money for her child. When she became pregnant with petitioner's child, it was only then she learned that he is in fact not a widower. She wanted to abort the baby but petitioner opposed it because he wanted to have another child.<sup>[5]</sup>

On the fourth month of her pregnancy, petitioner rented an apartment where she stayed with a housemaid; he also provided for all their expenses. She gave birth to their child on December 28, 1994 at the Good Samaritan Hospital in Cabanatuan City. Before delivery, petitioner even walked her at the hospital room and massaged her stomach, saying he had not done this to his wife. She filled out the form for the child's birth certificate and wrote all the information supplied by petitioner himself. It was also petitioner who paid the hospital bills and drove her baby home. He was excited and happy to have a son at his advanced age who is his "look-alike," and this was witnessed by other boarders, visitors and Grace Murillo, the owner of the apartment unit petitioner rented. However, on the 18<sup>th</sup> day after the baby's birth, petitioner went to Baguio City for a medical check-up. He confessed to her daughter and eventually his wife was also informed about his having sired an illegitimate child. His family then decided to adopt the baby and just give respondent money so she can go abroad. When she refused this offer, petitioner stopped seeing her and sending money to her. She and her baby survived through the help of relatives and friends. Depressed, she tried to commit suicide by drug overdose and was brought to the hospital by Murillo who paid the bill. Murillo sought the help of the Cabanatuan City Police Station which set their meeting with petitioner. However, it was only petitioner's wife who showed up and she was very mad, uttering unsavory words against respondent.<sup>[6]</sup>

Murillo corroborated respondent's testimony as to the payment by petitioner of apartment rental, his weekly visits to respondent and financial support to her, his presence during and after delivery of respondent's baby, respondent's attempted suicide through sleeping pills overdose and hospitalization for which she paid the bill, her complaint before the police authorities and meeting with petitioner's wife at the headquarters.<sup>[7]</sup>

On April 5, 1999, the trial court rendered its decision<sup>[8]</sup> in favor of respondent, the

dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant as follows:

1. Ordering the defendant to give as monthly support of TWO THOUSAND (P2,000.00) PESOS for the child Christian Paulo through the mother;
2. Directing the defendant to pay the plaintiff the sum of P20,000.00 by way of litigation expenses; and
3. To pay the costs of suit.

SO ORDERED.<sup>[9]</sup>

Petitioner appealed to the CA arguing that: (1) the trial court decided the case without affording him the right to introduce evidence on his defense; and (2) the trial court erred in finding that petitioner is the putative father of Christian Paulo and ordering him to give monthly support.

By Decision dated July 18, 2006, the CA dismissed petitioner's appeal. The appellate court found no reason to disturb the trial court's exercise of discretion in denying petitioner's motion for postponement on April 17, 1998, the scheduled hearing for the initial presentation of defendant's evidence, and the motion for reconsideration of the said order denying the motion for postponement and submitting the case for decision.

On the paternity issue, the CA affirmed the trial court's ruling that respondent satisfactorily established the illegitimate filiation of her son Christian Paulo, and consequently no error was committed by the trial court in granting respondent's prayer for support. The appellate court thus held:

Christian Paulo, in instant case, does not enjoy the benefit of a record of birth in the civil registry which bears acknowledgment signed by Narciso Salas. He cannot claim open and continuous possession of the status of an illegitimate child.

It had been established by plaintiff's evidence, however, that during her pregnancy, Annabelle was provided by Narciso Salas with an apartment at a rental of P1,500.00 which he paid for (*TSN, October 6, 1995, p. 18*). Narciso provided her with a household help with a salary of P1,500.00 a month (*TSN, October 6, 1995, ibid*). He also provided her a monthly food allowance of P1,500.00 (*Ibid, p. 18*). Narciso was with Annabelle at the hospital while the latter was in labor, "walking" her around and massaging her belly (*Ibid, p. 11*). Narciso brought home Christian Paulo to the rented apartment after Annabelle's discharge from the hospital. People living in the same apartment units were witnesses to Narciso's delight to father a son at his age which was his "look alike". It was only after the 18<sup>th</sup> day when Annabelle refused to give him Christian Paulo

that Narciso withdrew his support to him and his mother.

Said testimony of Annabelle aside from having been corroborated by Grace Murillo, the owner of the apartment which Narciso rented, was never rebutted on record. Narciso did not present any evidence, verbal or documentary, to repudiate plaintiff's evidence.

In the cases of *Lim vs. CA* (270 SCRA 1) and *Rodriguez vs. CA* (245 SCRA 150), the Supreme Court made it clear that Article 172 of the Family Code is an adaptation of Article 283 of the Civil Code. Said legal provision provides that the father is obliged to recognize the child as his natural child x x "3) when the child has in his favor any evidence or proof that the defendant is his father".

In fact, in *Ilano vs. CA* (230 SCRA 242, 258-259), it was held that—

"The last paragraph of Article 283 contains a blanket provision that practically covers all the other cases in the preceding paragraphs. 'Any other evidence or proof' that the defendant is the father is broad enough to render unnecessary the other paragraphs of this article. When the evidence submitted in the action for compulsory recognition is not sufficient to meet [the] requirements of the first three paragraphs, it may still be enough under the last paragraph. This paragraph permits hearsay and reputation evidence, as provided in the Rules of Court, with respect to illegitimate filiation."

As a necessary consequence of the finding that Christian Paulo is the son of defendant Narciso Salas, he is entitled to support from the latter (*Ilano vs. CA*, supra).

It "shall be demandable from the time the person who has the right to recover the same needs it for maintenance x x." (*Art. 203, Family Code of the Philippines*).<sup>[10]</sup>

Petitioner filed a motion for reconsideration but it was denied by the CA.

Hence, this petition submitting the following arguments:

1. THE VENUE OF THE CASE WAS IMPROPERLY LAID BEFORE THE REGIONAL TRIAL COURT OF CABANATUAN CITY CONSIDERING THAT BOTH PETITIONER AND RESPONDENT ARE ACTUAL RESIDENTS OF BRGY. MALAPIT, SAN ISIDRO, NUEVA ECIJA.

2. THE HONORABLE COURT OF APPEALS ERRED IN PRONOUNCING THAT PETITIONER WAS AFFORDED THE FULL MEASURE OF HIS RIGHT TO DUE PROCESS OF LAW AND IN UPHOLDING THAT THE TRIAL COURT DID NOT GRAVELY ABUSE ITS DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION WHEN IT DECIDED THE INSTANT CASE WITHOUT AFFORDING PETITIONER THE RIGHT TO INTRODUCE EVIDENCE IN HIS DEFENSE.

3. THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE FILIATION OF CHRISTIAN PAULO WAS DULY ESTABLISHED PURSUANT TO ARTICLE 175 IN RELATION TO ARTICLE 172 OF THE FAMILY CODE AND EXISTING JURISPRUDENCE AND THEREFORE ENTITLED TO SUPPORT FROM THE PETITIONER.<sup>[11]</sup>

We grant the petition.

It is a legal truism that the rules on the venue of personal actions are fixed for the convenience of the plaintiffs and their witnesses. Equally settled, however, is the principle that choosing the venue of an action is not left to a plaintiff's caprice; the matter is regulated by the Rules of Court.<sup>[12]</sup>

In personal actions such as the instant case, the Rules give the plaintiff the option of choosing where to file his complaint. He can file it in the place (1) where he himself or any of them resides, or (2) where the defendant or any of the defendants resides or may be found.<sup>[13]</sup> The plaintiff or the defendant must be residents of the place where the action has been instituted at the time the action is commenced.<sup>[14]</sup>

However, petitioner raised the issue of improper venue for the first time in the Answer itself and no prior motion to dismiss based on such ground was filed. Under the Rules of Court before the 1997 amendments, an objection to an improper venue must be made before a responsive pleading is filed. Otherwise, it will be deemed waived.<sup>[15]</sup> Not having been timely raised, petitioner's objection on venue is therefore deemed waived.

As to the denial of the motion for postponement filed by his counsel for the resetting of the initial presentation of defense evidence on April 17, 1998, we find that it was not the first time petitioner's motion for postponement was denied by the trial court.

Records disclosed that after the termination of the testimony of respondent's last witness on November 29, 1996, the trial court as prayed for by the parties, set the continuation of hearing for the reception of evidence for the defendant (petitioner) on January 27, February 3, and February 10, 1997. In the Order dated December 17, 1996, petitioner was advised to be ready with his evidence at those hearing dates earlier scheduled. At the hearing on January 27, 1997, petitioner's former counsel, Atty. Rolando S. Bala, requested for the cancellation of the February 3 and 10, 1997 hearings in order to give him time to prepare for his defense, which request was granted by the trial court which thus reset the hearing dates to March 3, 14 and 17, 1997. On March 3, 1997, upon oral manifestation by Atty. Bala and without objection from respondent's counsel, Atty. Feliciano Wycoco, the trial court again reset the hearing to March 14 and 17, 1997. With the non-appearance of both petitioner and Atty. Bala on March 14, 1997, the trial court upon oral manifestation by Atty. Wycoco declared their absence as a waiver of their right to present evidence and accordingly deemed the case submitted for decision.<sup>[16]</sup>

On July 4, 1997, Atty. Bala withdrew as counsel for petitioner and Atty. Rafael E. Villarosa filed his appearance as his new counsel on July 21, 1997. On the same date he filed entry of appearance, Atty. Villarosa filed a motion for reconsideration of