

FIRST DIVISION

[G.R. No. 181258, March 18, 2010]

BEN-HUR NEPOMUCENO, PETITIONER, VS. ARHBENCEL ANN LOPEZ, REPRESENTED BY HER MOTHER ARACELI LOPEZ, RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Respondent Arhbencel Ann Lopez (Arhbencel), represented by her mother Araceli Lopez (Araceli), filed a Complaint^[1] with the Regional Trial Court (RTC) of Caloocan City for recognition and support against Ben-Hur Nepomuceno (petitioner).

Born on June 8, 1999, Arhbencel claimed to have been begotten out of an extramarital affair of petitioner with Araceli; that petitioner refused to affix his signature on her Certificate of Birth; and that, by a handwritten note dated August 7, 1999, petitioner nevertheless obligated himself to give her financial support in the amount of P1,500 on the 15th and 30th days of each month beginning August 15, 1999.

Arguing that her filiation to petitioner was established by the handwritten note, Arhbencel prayed that petitioner be ordered to: (1) recognize her as his child, (2) give her support *pendente lite* in the increased amount of P8,000 a month, and (3) give her adequate monthly financial support until she reaches the age of majority.

Petitioner countered that Araceli had not proven that he was the father of Arhbencel; and that he was only forced to execute the handwritten note on account of threats coming from the National People's Army.^[2]

By Order of July 4, 2001,^[3] Branch 130 of the Caloocan RTC, on the basis of petitioner's handwritten note which it treated as "contractual support" since the issue of Arhbencel's filiation had yet to be determined during the hearing on the merits, granted Arhbencel's prayer for support *pendente lite* in the amount of P3,000 a month.

After Arhbencel rested her case, petitioner filed a demurrer to evidence which the trial court granted by Order dated June 7, 2006,^[4] whereupon the case was dismissed for insufficiency of evidence.

The trial court held that, among other things, Arhbencel's Certificate of Birth was not *prima facie* evidence of her filiation to petitioner as it did not bear petitioner's signature; that petitioner's handwritten undertaking to provide support did not contain a categorical acknowledgment that Arhbencel is his child; and that there was no showing that petitioner performed any overt act of acknowledgment of Arhbencel as his illegitimate child after the execution of the note.

On appeal by Arhbencel, the Court of Appeals, by Decision of July 20, 2007,^[5] *reversed* the trial court's decision, declared Arhbencel to be petitioner's illegitimate daughter and accordingly ordered petitioner to give Arhbencel financial support in the increased amount of P4,000 every 15th and 30th days of the month, or a total of P8,000 a month.

The appellate court found that from petitioner's payment of Araceli's hospital bills when she gave birth to Arhbencel and his subsequent commitment to provide monthly financial support, the only logical conclusion to be drawn was that he was Arhbencel's father; that petitioner merely acted in bad faith in omitting a statement of paternity in his handwritten undertaking to provide financial support; and that the amount of P8,000 a month was reasonable for Arhbencel's subsistence and not burdensome for petitioner in view of his income.

His Motion for Reconsideration having been denied by Resolution dated January 3, 2008,^[6] petitioner comes before this Court through the present Petition for Review on Certiorari.^[7]

Petitioner contends that nowhere in the documentary evidence presented by Araceli is an explicit statement made by him that he is the father of Arhbencel; that absent recognition or acknowledgment, illegitimate children are not entitled to support from the putative parent; that the supposed payment made by him of Araceli's hospital bills was neither alleged in the complaint nor proven during the trial; and that Arhbencel's claim of paternity and filiation was not established by clear and convincing evidence.

Arhbencel avers in her Comment that petitioner raises questions of fact which the appellate court had already addressed, along with the issues raised in the present petition.^[8]

The petition is impressed with merit.

The relevant provisions of the Family Code^[9] that treat of the right to support are Articles 194 to 196, thus:

Article 194. Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work.

Article 195. Subject to the provisions of the succeeding articles, the following are obliged to support each other to the whole extent set forth in the preceding article:

1. The spouses;
2. Legitimate ascendants and descendants;
3. Parents and their legitimate children and the legitimate and illegitimate children of the latter;
4. Parents and their illegitimate children and the legitimate and illegitimate children of the latter; and
5. Legitimate brothers and sisters, whether of the full or half-blood.

Article 196. Brothers and sisters not legitimately related, whether of the full or half-blood, are likewise bound to support each other to the full extent set forth in Article 194, except only when the need for support of the brother or sister, being of age, is due to a cause imputable to the claimant's fault or negligence. (emphasis and underscoring supplied)

Arhbencel's demand for support, being based on her claim of filiation to petitioner as his illegitimate daughter, falls under Article 195(4). As such, her entitlement to support from petitioner is dependent on the determination of her filiation.

Herrera v. Alba^[10] summarizes the laws, rules, and jurisprudence on establishing filiation, discoursing in relevant part as follows:

*Laws, Rules, and Jurisprudence
Establishing Filiation*

The relevant provisions of the Family Code provide as follows:

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

x x x x

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.

The Rules on Evidence include provisions on pedigree. The relevant sections of Rule 130 provide: