

THIRD DIVISION

[G.R. No. 132223, June 19, 2001]

**BONIFACIA P. VANCIL, PETITIONER, VS. HELEN G. BELMES,
RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Petition for review on certiorari of the Decision of the Court of Appeals in CA-G.R. CV No. 45650, "In the Matter of Guardianship of Minors Valerie Vancil and Vincent Vancil - Bonifacia P. Vancil, Petitioner-Appellee, vs. Helen G. Belmes, Oppositor-Appellant," promulgated on July 29, 1997, and its Resolution dated December 18, 1997 denying the motion for reconsideration of the said Decision.

The facts of the case as summarized by the Court of Appeals in its Decision are:

"Petitioner, Bonifacia Vancil, is the mother of Reeder C. Vancil, a Navy serviceman of the United States of America who died in the said country on December 22, 1986. During his lifetime, Reeder had two (2) children named Valerie and Vincent by his common-law wife, Helen G. Belmes.

"Sometime in May of 1987, Bonifacia Vancil commenced before the Regional Trial Court of Cebu City a guardianship proceedings over the persons and properties of minors Valerie and Vincent docketed as Special Proceedings No. 1618-CEB. At the time, Valerie was only 6 years old while Vincent was a 2-year old child. It is claimed in the petition that the minors are residents of Cebu City, Philippines and have an estate consisting of proceeds from their father's death pension benefits with a probable value of P100,000.00.

"Finding sufficiency in form and in substance, the case was set for hearing after a 3-consecutive-weekly publications with the Sunstar Daily.

"On July 15, 1987, petitioner, Bonifacia Vancil was appointed legal and judicial guardian over the persons and estate of Valerie Vancil and Vincent Vancil Jr.

"On August 13, 1987, the natural mother of the minors, Helen Belmes, submitted an opposition to the subject guardianship proceedings asseverating that she had already filed a similar petition for guardianship under Special Proceedings No. 2819 before the Regional Trial Court of Pagadian City.

"Thereafter, on June 27, 1988, Helen Belmes followed her opposition with a motion for the Removal of Guardian and Appointment of a New One,

asserting that she is the natural mother in actual custody of and exercising parental authority over the subject minors at Maralag, Dumingag, Zamboanga del Sur where they are permanently residing; that the petition was filed under an improper venue; and that at the time the petition was filed Bonifacia Vancil was a resident of 140 Hurliman Court, Canon City, Colorado, U.S.A. being a naturalized American citizen.

"On October 12, 1988, after due proceedings, the trial court rejected and denied Belmes' motion to remove and/or to disqualify Bonifacia as guardian of Valerie and Vincent Jr. and instead ordered petitioner Bonifacia Vancil to enter the office and perform her duties as such guardian upon the posting of a bond of P50,000.00. The subsequent attempt for a reconsideration was likewise dismissed in an Order dated November 24, 1988."^[1]

On appeal, the Court of Appeals rendered its assailed Decision reversing the RTC order of October 12, 1988 and dismissing Special Proceedings No. 1618-CEB.

The Court of Appeals held:

"Stress should likewise be made that our Civil Code considers parents, the father, or in the absence, the mother, as natural guardian of her minor children. The law on parental authority under the Civil Code or P.D. 603 and now the New Family Code, (Article 225 of the Family Code) ascribe to the same legal pronouncements. Section 7 of Rule 93 of the Revised Rules of Court confirms the designation of the parents as *ipso facto* guardian of their minor children without need of a court appointment and only for good reason may another person be named. Ironically, for the petitioner, there is nothing on record of any reason at all why Helen Belmes, the biological mother, should be deprived of her legal rights as natural guardian of her minor children. To give away such privilege from Helen would be an abdication and grave violation of the very basic fundamental tenets in civil law and the constitution on family solidarity."^[2]

On March 10, 1998, Bonifacia Vancil filed with this Court the present petition, raising the following "legal points":

"1. The Court of Appeals gravely erred in ruling that the preferential right of a parent to be appointed guardian over the persons and estate of the minors is absolute, contrary to existing jurisprudence.

"2. The Court of Appeals gravely erred in ruling that Oppositor Helen G. Belmes, the biological mother, should be appointed the guardian of the minors despite the undisputed proof that under her custody, her daughter minor Valerie Vancil was raped seven times by Oppositor's live-in partner.

"3. The respondent (*sic*) Court of Appeals gravely erred when it

disqualified petitioner Bonifacia P. Vancil to be appointed as judicial guardian over the persons and estate of subject minors despite the fact that she has all the qualifications and none of the disqualifications as judicial guardian, merely on the basis of her U.S. citizenship which is clearly not a statutory requirement to become guardian."

At the outset, let it be stressed that in her "Manifestation/Motion," dated September 15, 1998, respondent Helen Belmes stated that her daughter Valerie turned eighteen on September 2, 1998 as shown by her Birth Certificate.^[3] Respondent thus prayed that this case be dismissed with respect to Valerie, she being no longer a proper subject of guardianship proceedings. The said "Manifestation/Motion" was noted by this Court in its Resolution dated November 11, 1998.

Considering that Valerie is already of major age, this petition has become moot with respect to her. Thus, only the first and third "legal points" raised by petitioner should be resolved.

The basic issue for our resolution is who between the mother and grandmother of minor Vincent should be his guardian.

We agree with the ruling of the Court of Appeals that respondent, being the natural mother of the minor, has the preferential right over that of petitioner to be his guardian. This ruling finds support in Article 211 of the Family Code which provides:

"Art. 211. The father and the mother shall jointly exercise parental authority over the persons of their common children. In case of disagreement, the father's decision shall prevail, unless there is a judicial order to the contrary. xxx."

Indeed, being the natural mother of minor Vincent, respondent has the corresponding natural and legal right to his custody. In ***Sagala-Eslao vs. Court of Appeals***,^[4] this Court held:

"Of considerable importance is the rule long accepted by the courts that 'the right of parents to the custody of their minor children is one of the natural rights incident to parenthood,' a right supported by law and sound public policy. The right is an inherent one, which is not created by the state or decisions of the courts, but derives from the nature of the parental relationship."

Petitioner contends that she is more qualified as guardian of Vincent.

Petitioner's claim to be the guardian of said minor can only be realized by way of *substitute parental authority* pursuant to Article 214 of the Family Code, thus:

"Art. 214. In case of death, absence or unsuitability of the parents, substitute parental authority shall be exercised by the surviving