

THIRD DIVISION

[G.R. No. 138493, June 15, 2000]

TEOFISTA BABIERA, PETITIONER, VS. PRESENTACION B. CATOTAL, RESPONDENT.

DECISION

PANGANIBAN, J.:

A birth certificate may be ordered cancelled upon adequate proof that it is fictitious. Thus, void is a certificate which shows that the mother was already fifty-four years old at the time of the child's birth and which was signed neither by the civil registrar nor by the supposed mother. Because her inheritance rights are adversely affected, the legitimate child of such mother is a proper party in the proceedings for the cancellation of the said certificate.

Statement of the Case

Submitted for this Court's consideration is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court, seeking reversal of the March 18, 1999 Decision^[2] of the Court of Appeals^[3] (CA) in CA-GR CV No. 56031. Affirming the Regional Trial Court of Lanao del Norte in Special Proceedings No. 3046, the CA ruled as follows:

"IN VIEW HEREOF, the appealed decision is hereby AFFIRMED. Accordingly, the instant appeal is DISMISSED for lack of merit. Costs against the defendant-appellant, TEOFISTA BABIERA, a.k.a. Teofista Guinto."^[4]

The dispositive portion of the affirmed RTC Decision reads:

"WHEREFORE, in view of the foregoing findings and pronouncements of the Court, judgment is hereby rendered, to wit[:]

- 1) Declaring the Certificate of Birth of respondent Teofista Guinto as null and void 'ab initio';
- 2) Ordering the respondent Local Civil Registrar of Iligan to cancel from the registry of live birth of Iligan City BIRTH CERTIFICATE recorded as Registry No. 16035;

Furnish copies of this decision to the Local Civil Registrar of Iligan City, the City Prosecutor, counsel for private respondent Atty. Tomas Cabili and to counsel for petitioner.

SO ORDERED."

The Facts

The undisputed facts are summarized by the Court of Appeals in this wise:

"Presentacion B. Catotal (hereafter referred to as PRESENTACION) filed with the Regional Trial Court of Lanao del Norte, Branch II, Iligan City, a petition for the cancellation of the entry of birth of Teofista Babiera (hereafter referred to as TEOFISTA) in the Civil Registry of Iligan City. The case was docketed as Special Proceedings No. 3046.

"From the petition filed, PRESENTACION asserted 'that she is the only surviving child of the late spouses Eugenio Babiera and Hermogena Cariñosa, who died on May 26, 1996 and July 6, 1990 respectively; that on September 20, 1996 a baby girl was delivered by 'hilot' in the house of spouses Eugenio and Hermogena Babiera and without the knowledge of said spouses, Flora Guinto, the mother of the child and a housemaid of spouses Eugenio and Hermogena Babiera, caused the registration/recording of the facts of birth of her child, by simulating that she was the child of the spouses Eugenio, then 65 years old and Hermogena, then 54 years old, and made Hermogena Babiera appear as the mother by forging her signature x x x; that petitioner, then 15 years old, saw with her own eyes and personally witnessed Flora Guinto give birth to Teofista Guinto, in their house, assisted by 'hilot'; that the birth certificate x x x of Teofista Guinto is void ab initio, as it was totally a simulated birth, signature of informant forged, and it contained false entries, to wit: a) The child is made to appear as the legitimate child of the late spouses Eugenio Babiera and Hermogena Cariñosa, when she is not; b) The signature of Hermogena Cariñosa, the mother, is falsified/forged. She was not the informant; c) The family name BABIERA is false and unlawful and her correct family name is GUINTO, her mother being single; d) Her real mother was Flora Guinto and her status, an illegitimate child; The natural father, the carpenter, did not sign it; that the respondent Teofista Barbiera's birth certificate is void ab initio, and it is patently a simulation of birth, since it is clinically and medically impossible for the supposed parents to bear a child in 1956 because: a) Hermogena Cariñosa Babiera, was already 54 years old; b) Hermogena's last child birth was in the year 1941, the year petitioner was born; c) Eugenio was already 65 years old, that the void and simulated birth certificate of Teofista Guinto would affect the hereditary rights of petitioner who inherited the estate of cancelled and declared void and theretofore she prays that after publication, notice and hearing, judgment [be] render[ed] declaring x x x the certificate of birth of respondent Teofista Guinto as declared void, invalid and ineffective and ordering the respondent local civil registrar of Iligan to cancel from the registry of live birth of Iligan City BIRTH CERTIFICATE recorded as Registry No. 16035.

"Finding the petition to be sufficient in form and substance, the trial court issued an order directing the publication of the petition and the date of hearing thereof 'in a newspaper, the Local Civil Registrar of Iligan City, the office of the City Prosecutor of Iligan City and TEOFISTA.

"TEOFISTA filed a motion to dismiss on the grounds that 'the petition states no cause of action, it being an attack on the legitimacy of the respondent as the child of the spouses Eugenio Babiera and Hermogena Cariñosa Babiera; that plaintiff has no legal capacity to file the instant petition pursuant to Article 171 of the Family Code; and finally that the instant petition is barred by prescription in accordance with Article 170 of the Family Code.' The trial court denied the motion to dismiss.

"Subsequently, 'Attys. Padilla, Ulindang and Padilla appeared and filed an answer/opposition in behalf of private respondent Teofista Babiera, [who] was later on substituted by Atty. Cabili as counsel for private respondent.'

"In the answer filed, TEOFISTA averred 'that she was always known as Teofista Babiera and not Teofista Guinto; that plaintiff is not the only surviving child of the late spouses Eugenio Babiera and Hermogena C. Babiera, for the truth of the matter [is that] plaintiff Presentacion B. V. Catotal and [defendant] Teofista Babiera are sisters of the full-blood. Her Certificate of Birth, signed by her mother Hermogena Babiera, x x x Certificate of Baptism, x x x Student's Report Card x x x all incorporated in her answer, are eloquent testimonies of her filiation. By way of special and affirmative defenses, defendant/respondent contended that the petition states no cause of action, it being an attack on the legitimacy of the respondent as the child of the spouses Eugenio Babiera and Hermogena Cariñoza Babiera; that plaintiff has no legal capacity to file the instant petition pursuant to Article 171 of the Family Code; and finally that the instant petition is barred by prescription in accordance with Article 170 of the Family Code.'" [5]

Ruling of the Court of Appeals

The Court of Appeals held that the evidence adduced during trial proved that petitioner was not the biological child of Hermogena Babiera. It also ruled that no evidence was presented to show that Hermogena became pregnant in 1959. It further observed that she was already 54 years old at the time, and that her last pregnancy had occurred way back in 1941. The CA noted that the supposed birth took place at home, notwithstanding the advanced age of Hermogena and its concomitant medical complications. Moreover, petitioner's Birth Certificate was not signed by the local civil registrar, and the signature therein, which was purported to be that of Hermogena, was different from her other signatures.

The CA also deemed inapplicable Articles 170 and 171 of the Family Code, which stated that only the father could impugn the child's legitimacy, and that the same was not subject to a collateral attack. It held that said provisions contemplated a situation wherein the husband or his heirs asserted that the child of the wife was not his. In this case, the action involved the cancellation of the child's Birth Certificate for being void *ab initio* on the ground that the child did not belong to either the father or the mother.

Hence, this appeal. [6]

Issues

Petitioner presents the following assignment of errors:

"1) Respondent (plaintiff in the lower court a quo) does not have the legal capacity to file the special proceeding of appeal under CA GR No. CV-56031 subject matter of this review on certiorari;

2) The special proceeding on appeal under CA GR No. CV-56031 is improper and is barred by [the] statute of limitation (prescription); [and]

3) The Honorable Court of Appeals, the fifteenth division utterly failed to hold, that the ancient public record of petitioner's birth is superior to the self-serving oral testimony of respondent."^[7]

The Court's Ruling

The Petition is not meritorious.

First Issue: **Subject of the Present Action**

Petitioner contends that respondent has no standing to sue, because Article 171^[8] of the Family Code states that the child's filiation can be impugned only by the father or, in special circumstances, his heirs. She adds that the legitimacy of a child is not subject to a collateral attack.

This argument is incorrect. Respondent has the requisite standing to initiate the present action. Section 2, Rule 3 of the Rules of Court, provides that a real party in interest is one "who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit."^[9] The interest of respondent in the civil status of petitioner stems from an action for partition which the latter filed against the former.^[10] The case concerned the properties inherited by respondent from her parents.

Moreover, Article 171 of the Family Code is not applicable to the present case. A close reading of this provision shows that it applies to instances in which the father impugns the legitimacy of his wife's child. The provision, however, presupposes that the child was the undisputed offspring of the mother. The present case alleges and shows that Hermogena did not give birth to petitioner. In other words, the prayer herein is not to declare that petitioner is an illegitimate child of Hermogena, but to establish that the former is not the latter's child at all. Verily, the present action does not impugn petitioner's filiation to Spouses Eugenio and Hermogena Babiera, because there is no blood relation to impugn in the first place.

In *Benitez-Badua v. Court of Appeals*,^[11] the Court ruled thus:

"Petitioner's insistence on the applicability of Articles 164, 166, 170 and 171 of the Family Code to the case at bench cannot be sustained. These articles provide:

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