

FIRST DIVISION

[G.R. No. 114742, July 17, 1997]

**CARLITOS E. SILVA, PETITIONER, VS. HON. COURT OF APPEALS
AND SUZANNE T. GONZALES, RESPONDENTS.**

D E C I S I O N

VITUG, J.:

Parents have the natural right, as well as the moral and legal duty, to care for their children, see to their proper upbringing and safeguard their best interest and welfare. This authority and responsibility may not be unduly denied the parents; neither may it be renounced by them. Even when the parents are estranged and their affection for each other is lost, the attachment and feeling for their offsprings invariably remain unchanged. Neither the law nor the courts allow this affinity to suffer absent, of course, any real, grave and imminent threat to the well-being of the child.

The petition bears upon this concern.

Carlitos E. Silva, a married businessman, and Suzanne T. Gonzales, an unmarried local actress, cohabited without the benefit of marriage. The union saw the birth of two children: Ramon Carlos and Rica Natalia. Not very long after, a rift in their relationship surfaced. It began, according to Silva, when Gonzales decided to resume her acting career over his vigorous objections. The assertion was quickly refuted by Gonzales who claimed that she, in fact, had never stopped working throughout their relationship. At any rate, the two eventually parted ways.

The instant controversy was spawned, in February 1986, by the refusal of Gonzales to allow Silva, in apparent contravention of a previous understanding, to have the children in his company on weekends. Silva filed a petition for custodial rights over the children before the Regional Trial Court ("RTC"), Branch 78, of Quezon City. The petition was opposed by Gonzales who averred that Silva often engaged in "gambling and womanizing" which she feared could affect the moral and social values of the children.

In an order, dated 07 April 1989, the trial court adjudged:

"WHEREFORE, premises considered, judgment is rendered directing respondent to allow herein petitioner visitorial rights to his children during Saturdays and/or Sundays, but in no case should he take out the children without the written consent of the mother or respondent herein.

No pronouncement as to costs."^[1]

Silva appeared somehow satisfied with the judgment for only Gonzales interposed an appeal from the RTC's order to the Court of Appeals.

In the meantime, Gonzales got married to a Dutch national. The newlyweds emigrated to Holland with Ramon Carlos and Rica Natalia.

On 23 September 1993, the appellate tribunal ruled in favor of Gonzales; it held:

"In all questions, regarding the care, custody, education and property of the child, his welfare shall be the paramount consideration' - not the welfare of the parents (Art. 8, PD 603). Under the predicament and/or status of both petitioner-appellee and respondent-appellant, We find it more wholesome morally and emotionally for the children if we put a stop to the rotation of custody of said children. Allowing these children to stay with their mother on weekdays and then with their father and the latter's live-in partner on weekends may not be conducive to a normal upbringing of children of tender age. There is no telling how this kind of set-up, no matter how temporary and/or remote, would affect the moral and emotional conditions of the minor children. Knowing that they are illegitimate is hard enough, but having to live with it, witnessing their father living with a woman not their mother may have a more damaging effect upon them.

"Article 3 of PD 603, otherwise known as the Child and Youth Welfare Code, provides in part:

"` Art. 3. Rights of the Child. - x x x

` (1) x x x

` (2) x x x

` (3) x x x

` (4) x x x

` (5) Every child has the right to be brought up in an atmosphere of morality and rectitude for the enrichment and the strengthening of his character.

` (6) x x x

` (7) x x x

` (8) Every child has the right to protection against exploitation, improper influences, hazards and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.

` x x x'

"With Articles 3 and 8 of PD 603, in mind, We find it to the best interest of the minor children, to deny visitorial and/or temporary custodial rights to the father, even at the expense of hurting said parent. After all, if indeed his love for the children is genuine and more divine than the love for himself, a little self-sacrifice and self-denial may bring more benefit to the children. While petitioner-appellee, as father, may not intentionally prejudice the children by improper influence, what the children may