

SECOND DIVISION

[G.R. No. 206647, August 09, 2017]

**RICHELLE P. ABELLA, FOR AND IN BEHALF OF HER MINOR
DAUGHTER, MARL JHORYLLE ABELLA, PETITIONER, V.
POLICARPIO CABAÑERO, RESPONDENT.**

D E C I S I O N

LEONEN, J.:

Filiation must be established for a child to claim support from a putative father. When "filiation is beyond question, support follows as [a] matter of obligation."^[1] To establish filiation, an action for compulsory recognition may be filed against the putative father ahead of an action for support. In the alternative, an action for support may be directly filed, where the matter of filiation shall be integrated and resolved.^[2]

This resolves a Petition for Review on *Certiorari*^[3] under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed August 25, 2011 Decision^[4] and January 15, 2013 Resolution^[5] of the Court of Appeals in CA-G.R. SP No. 02687 be reversed and set aside.

The assailed Court of Appeals August 25, 2011 Decision sustained the March 19, 2007 Decision^[6] of Branch 12, Regional Trial Court, San Jose, Antique in Civil Case No. 2005-4-3496. The Regional Trial Court Decision dismissed petitioner Richelle P. Abella's (Richelle) action for support of her minor daughter, Marl Jhorylle Abella (Jhorylle) against respondent Policarpio Cabañero (Cabañero). The assailed Court of Appeals January 15, 2013 Resolution denied petitioner's Motion for Reconsideration.^[7]

In a Complaint^[8] for Support (Complaint) filed on April 22, 2005, petitioner Richelle alleged that while she was still a minor in the years 2000 to 2002, she was repeatedly sexually abused by respondent Cabañero inside his rest house at Barangay Masayo, Tobias Fornier, Antique.^[9] As a result, she allegedly gave birth to a child on August 21, 2002.^[10]

Richelle added that on February 27, 2002, she initiated a criminal case for rape against Cabañero. This, however, was dismissed. Later, she initiated another criminal case, this time for child abuse under Republic Act No. 7610 or the Special Protection of Children Against Abuse, Exploitation and Discrimination Act. This, too, was dismissed.^[11]

Richelle prayed for the child's monthly allowance in the amount of P3,000.00.^[12]

In his Answer, Cabañero denied sexually abusing Richelle, or otherwise having any sexual relations with her. Thus, he asserted that he could not have been the father

of Richelle's child.^[13]

After two (2) re-settings, pre-trial was held on February 21, 2007. Only Richelle's counsel appeared. Richelle's motion to present her evidence *ex parte* was granted.^[14]

In her testimony, Richelle noted that Cabañero was related to her mother and that she treated him as her uncle. She narrated how she was sexually abused by Cabañero on July 25, 2000, September 10, 2000, and February 8, 2002 and how Cabañero threatened her to keep her silent. She added that during this period, Cabañero sent her three (3) letters. She testified that she bore her and Cabañero's child, whom she named Marl Jhorylle Abella, on August 21, 2002. She insisted on her certainty that Cabañero was the father of the child as she supposedly had no sexual relations with any other man.^[15]

In its March 19, 2007 Decision,^[16] the Regional Trial Court dismissed Richelle's Complaint without prejudice, on account of her failure to implead her minor child, Jhorylle, as plaintiff.

Richelle filed a petition for *certiorari* and mandamus before the Court of Appeals.^[17]

In its assailed August 25, 2011 Decision,^[18] the Court of Appeals sustained the dismissal of the Complaint.

However, the Court of Appeals disagreed with the Regional Trial Court's basis for dismissing the Complaint. It emphasized that non-joinder of indispensable parties is not a ground for the dismissal of an action and added that it would have sufficed for the Regional Trial Court to have "ordered the amendment of the caption of the [C]omplaint to implead the minor child."^[19] The Court of Appeals still ruled that the dismissal of the Complaint was proper as the filiation and paternity of the child had not been previously established. As the child's birth certificate did not indicate that Cabañero was the father and as Cabañero had not done anything to voluntarily recognize the child as his own, the Court of Appeals asserted that Richelle "should have first instituted filiation proceedings to adjudicate the minor child's paternity."^[20]

Following the denial of her Motion for Reconsideration, Richelle filed this Petition.

For resolution is the sole issue of whether the Court of Appeals erred in ruling that filiation proceedings should have first been separately instituted to ascertain the minor child's paternity and that without these proceedings having first been resolved in favor of the child's paternity claim, petitioner Richelle P. Abella's action for support could not prosper.

This Court reverses the Court of Appeals Decision.

While it is true that the grant of support was contingent on ascertaining paternal relations between respondent and petitioner's daughter, Jhorylle, it was unnecessary for petitioner's action for support to have been dismissed and terminated by the Court of Appeals in the manner that it did. Instead of dismissing the case, the Court of Appeals should have remanded the case to the Regional Trial Court. There, petitioner and her daughter should have been enabled to present evidence to

establish their cause of action—inclusive of their underlying claim of paternal relations—against respondent.

I

Article 194 of the Family Code delineates the extent of support among family members, while Article 195 identifies family members who "are obliged to support each other":

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. (Emphasis supplied)

Lim-Lua v. Lua^[21] echoed Article 201 of the Family Code^[22] and stated that the "amount of support which those related by marriage and family relationship is generally obliged to give each other shall be in proportion to the resources or means of the giver and to the needs of the recipient."^[23] Article 202 of the Family Code adds, however, that support may be adjusted and that it "shall be reduced or increased proportionately, according to the reduction or increase of the necessities of the recipient and the resources or means of the person obliged to furnish the same."^[24]

II

The obligation to give support shall only be demandable from the time the person entitled to it needs it for maintenance, but it shall not be paid except from the date of judicial or extrajudicial demand.^[25] Support *pendente lite* may also be claimed, in conformity with the manner stipulated by the Rules of Court.^[26]

An illegitimate child, "conceived and born outside a valid marriage," as is the admitted case with petitioner's daughter, is entitled to support.^[27] To claim it, however, a child should have first been acknowledged by the putative parent or

must have otherwise previously established his or her filiation with the putative parent."^[28] When "filiation is beyond question, support [shall then follow] as [a] matter of obligation."^[29]

The judicial remedy to enable this is an action for compulsory recognition.^[30] Filiation proceedings do not merely resolve the matter of relationship with a parent but also secure the legal rights associated with that relationship: citizenship, support, and inheritance, among others.^[31]

The paramount consideration in the resolution of questions affecting a child is the child's welfare,^[32] and it is "[t]he policy of the Family Code to liberalize the rule on the investigation of the paternity and filiation of children, especially of illegitimate children."^[33] Nevertheless, in keeping with basic judicial principles, the burden of proof in proceedings seeking to establish paternity is upon the "person who alleges that the putative father is the biological father of the child."^[34] Likewise, a liberal application of rules should not be "without prejudice to the right of the putative parent to claim his or her own defenses."^[35]

III

Illegitimate children establish their filiation "in the same way and on the same evidence as legitimate children,"^[36] that is, by:

- (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.^[37]

In the absence of these, illegitimate filiation, as with legitimate filiation, may be established 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.^[38]

In keeping with these, the recognition of an illegitimate child through a birth certificate, a will, a statement before a court of record, or in any authentic writing, has been held to be "in itself, a consummated act of acknowledgment of the child, and no further court action is required."^[39]

IV

Having thus far only presented her child's birth certificate, which made no reference to respondent as the child's father, the Court of Appeals correctly noted that the necessary condition of filiation had yet to be established. The Court of Appeals later affirmed the dismissal of petitioner's Complaint, insisting that separate filiation proceedings and their termination in petitioner's daughter's favor were imperative.

While ably noting that filiation had yet to be established, the Court of Appeals' discussion and final disposition are not in keeping with jurisprudence.

Dolina v. Vallecera^[40] clarified that since an action for compulsory recognition may be filed ahead of an action for support, the direct filing of an action for support, "where the issue of compulsory recognition may be integrated and resolved,"^[41] is an equally valid alternative:

To be entitled to legal support, petitioner must, in proper action, first establish the filiation of the child, if the same is not admitted or acknowledged. Since Dolina's demand for support for her son is based on her claim that he is Vallecera's illegitimate child, the latter is not entitled to such support if he had not acknowledged him, until Dolina shall have proved his relation to him. The child's remedy is to file through her mother a judicial action against Vallecera for compulsory recognition. If filiation is beyond question, support follows as matter of obligation. In short, illegitimate children are entitled to support and successional rights but their filiation must be duly proved.

Dolina's remedy is to file for the benefit of her child an action against Vallecera for compulsory recognition in order to establish filiation and then demand support. *Alternatively, she may directly file an action for support, where the issue of compulsory recognition may be integrated and resolved.*^[42] (Emphasis supplied, citations omitted)

Agustin v. Court of Appeals^[43] extensively discussed the deep jurisprudential roots that buttress the validity of this alternative.

Agustin concerned an action for support and support *pendente lite* filed by a child, represented by his mother. The putative father, Arnel Agustin, vehemently denied paternal relations with the child. He disavowed his apparent signature on the child's birth certificate, which indicated him as the father. Agustin "moved to dismiss the complaint for lack of cause of action, considering that his signature on the birth certificate was a forgery and that, under the law, an illegitimate child is not entitled to support if not recognized by the putative father."^[44] The Regional Trial Court denied Agustin's motion to dismiss; it was subsequently affirmed by the Court of Appeals.

In sustaining the lower courts' decisions, this Court noted that enabling the mother and her child to establish paternity and filiation in the course of an action for support was merely a permission "to prove their cause of action against [Agustin,] who had been denying the authenticity of the documentary evidence of acknowledgement."^[45]

This Court added that an action to compel recognition could very well be integrated with an action for support. This Court drew analogies with extant jurisprudence that sustained the integration of an action to compel recognition with an action to claim inheritance and emphasized that "the basis or rationale for integrating them remains the same,"^[46] This Court explained:

[Petitioner] claims that the order and resolution . . . effectively converted the complaint for support to a petition for recognition, which is supposedly proscribed by law. According to petitioner, Martin, as an unrecognized child, has no right to ask for support and must first establish his filiation in a separate suit. . .