

## FIRST DIVISION

[ G.R. NO. 164948, June 27, 2006 ]

### DIWATA RAMOS LANDINGIN PETITIONER, VS. REPUBLIC OF THE PHILIPPINES, RESPONDENT.

#### DECISION

##### CALLEJO, SR., J.:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court is the Decision<sup>[1]</sup> of the Court of Appeals in CA-G.R. CV No. 77826 which reversed the Decision<sup>[2]</sup> of the Regional Trial Court (RTC) of Tarlac City, Branch 63 in Civil Case No. 2733 granting the Petition for Adoption of the petitioner herein.

##### The Antecedents

On February 4, 2002, Diwata Ramos Landingin, a citizen of the United States of America (USA), of Filipino parentage and a resident of Guam, USA, filed a petition<sup>[3]</sup> for the adoption of minors Elaine Dizon Ramos who was born on August 31, 1986; <sup>[4]</sup> Elma Dizon Ramos, who was born on September 7, 1987; <sup>[5]</sup> and Eugene Dizon Ramos who was born on August 5, 1989.<sup>[6]</sup> The minors are the natural children of Manuel Ramos, petitioner's brother, and Amelia Ramos.

Landingin, as petitioner, alleged in her petition that when Manuel died on May 19, 1990,<sup>[7]</sup> the children were left to their paternal grandmother, Maria Taruc Ramos; their biological mother, Amelia, went to Italy, re-married there and now has two children by her second marriage and no longer communicated with her children by Manuel Ramos nor with her in-laws from the time she left up to the institution of the adoption; the minors are being financially supported by the petitioner and her children, and relatives abroad; as Maria passed away on November 23, 2000, petitioner desires to adopt the children; the minors have given their written consent<sup>[8]</sup> to the adoption; she is qualified to adopt as shown by the fact that she is a 57-year-old widow, has children of her own who are already married, gainfully employed and have their respective families; she lives alone in her own home in Guam, USA, where she acquired citizenship, and works as a restaurant server. She came back to the Philippines to spend time with the minors; her children gave their written consent<sup>[9]</sup> to the adoption of the minors. Petitioner's brother, Mariano Ramos, who earns substantial income, signified his willingness and commitment to support the minors while in petitioner's custody.

Petitioner prayed that, after due hearing, judgment be rendered in her favor, as follows:

WHEREFORE, it is most respectfully prayed to this Honorable Court that after publication and hearing, judgment be rendered allowing the

adoption of the minor children Elaine Dizon Ramos, Elma Dizon Ramos, and Eugene Dizon Ramos by the petitioner, and ordering that the minor children's name follow the family name of petitioner.

Petitioner prays for such other reliefs, just and equitable under the premises.<sup>[10]</sup>

On March 5, 2002, the court ordered the Department of Social Welfare and Development (DSWD) to conduct a case study as mandated by Article 34 of Presidential Decree No. 603, as amended, and to submit a report thereon not later than April 4, 2002, the date set for the initial hearing of the petition.<sup>[11]</sup> The Office of the Solicitor General (OSG) entered its appearance<sup>[12]</sup> but deputized the City Prosecutor of Tarlac to appear in its behalf.<sup>[13]</sup> Since her petition was unopposed, petitioner was allowed to present her evidence *ex parte*.<sup>[14]</sup>

The petitioner testified in her behalf. She also presented Elaine Ramos, the eldest of the adoptees, to testify on the written consent executed by her and her siblings.<sup>[15]</sup> The petitioner marked in evidence the Affidavit of Consent purportedly executed by her children Ann, Errol, Dennis and Ricfel Branitley, all surnamed Landingin, and notarized by a notary public in Guam, USA, as proof of said consent.<sup>[16]</sup>

On May 24, 2002, Elizabeth Pagbilao, Social Welfare Officer II of the DSWD, Field Office III, Tarlac, submitted a Child Study Report, with the following recommendation:

In view of the foregoing, undersigned finds minors Elaine, Elma & Eugene all surnamed Ramos, eligible for adoption because of the following reasons:

1. Minors' surviving parent, the mother has voluntarily consented to their adoption by the paternal aunt, Diwata Landingin this is in view of her inability to provide the parental care, guidance and support they need. An Affidavit of Consent was executed by the mother which is hereto attached.
2. The three minors subject for adoption have also expressed their willingness to be adopted and joins the petitioners in Guam, USA in the future. A joint Affidavit of consent is hereto attached. The minors developed close attachment to the petitioners and they regarded her as second parent.
3. The minors are present under the care of a temporary guardian who has also family to look after. As young adolescents they really need parental love, care, guidance and support to ensure their protection and well being.

In view of the foregoing, it is hereby respectfully recommended that minors Elaine D. Ramos, Elma D. Ramos and Eugene D. Ramos be adopted by their maternal aunt Diwata Landingin. Trial custody is hereby further recommended to be dispensed with considering that they are

close relatives and that close attachments was already developed between the petitioner and the 3 minors.<sup>[17]</sup>

Pagbilao narrated what transpired during her interview, as follows:

The mother of minors came home together with her son John Mario, this May 2002 for 3 weeks vacation. This is to enable her appear for the personal interview concerning the adoption of her children.

The plan for the adoption of minors by their paternal aunt Diwata Landingin was conceived after the death of their paternal grandmother and guardian. The paternal relatives including the petitioner who attended the wake of their mother were very much concerned about the well-being of the three minors. While preparing for their adoption, they have asked a cousin who has a family to stay with minors and act as their temporary guardian.

The mother of minors was consulted about the adoption plan and after weighing the benefits of adoption to her children, she voluntarily consented. She realized that her children need parental love, guidance and support which she could not provide as she already has a second family & residing in Italy. Knowing also that the petitioners & her children have been supporting her children up to the present and truly care for them, she believes her children will be in good hands. She also finds petitioners in a better position to provide a secured and bright future to her children.<sup>[18]</sup>

However, petitioner failed to present Pagbilao as witness and offer in evidence the voluntary consent of Amelia Ramos to the adoption; petitioner, likewise, failed to present any documentary evidence to prove that Amelia assents to the adoption.

On November 23, 2002, the court, finding merit in the petition for adoption, rendered a decision granting said petition. The dispositive portion reads:

WHEREFORE, it is hereby ordered that henceforth, minors Elaine Dizon Ramos, Elma Dizon Ramos, Eugene Dizon Ramos be freed from all legal obligations obedience and maintenance from their natural parents and that they be declared for all legal intents and purposes the children of Diwata Ramos Landingin. Trial custody is dispensed with considering that parent-children relationship has long been established between the children and the adoptive parents. Let the surnames of the children be changed from "Dizon-Ramos" to "Ramos-Landingin."

Let a copy of this decision be furnished the Local Civil Registrar of Tarlac, Tarlac for him to effect the corresponding changes/amendment in the birth certificates of the above-mentioned minors.

SO ORDERED.<sup>[19]</sup>

The OSG appealed<sup>[20]</sup> the decision to the Court of Appeals on December 2, 2002. In its brief<sup>[21]</sup> for the oppositor-appellant, the OSG raised the following arguments:

## I

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR ADOPTION DESPITE THE LACK OF CONSENT OF THE PROPOSED ADOPTEES' BIOLOGICAL MOTHER.

## II

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR ADOPTION DESPITE THE LACK OF THE WRITTEN CONSENT OF THE PETITIONER'S CHILDREN AS REQUIRED BY LAW.

## III

THE TRIAL COURT ERRED IN GRANTING THE PETITION FOR ADOPTION DESPITE PETITIONER'S FAILURE TO ESTABLISH THAT SHE IS IN A POSITION TO SUPPORT THE PROPOSED ADOPTEES.

On April 29, 2004, the CA rendered a decision<sup>[22]</sup> reversing the ruling of the RTC. It held that petitioner failed to adduce in evidence the voluntary consent of Amelia Ramos, the children's natural mother. Moreover, the affidavit of consent of the petitioner's children could not also be admitted in evidence as the same was executed in Guam, USA and was not authenticated or acknowledged before a Philippine consular office, and although petitioner has a job, she was not stable enough to support the children. The dispositive portion of the CA decision reads:

WHEREFORE, premises considered, the appealed decision dated November 25, 2002 of the Regional Trial Court, Branch 63, Tarlac City in Spec. Proc. No. 2733 is hereby REVERSED and SET ASIDE.

SO ORDERED.<sup>[23]</sup>

Petitioner filed a Motion for Reconsideration<sup>[24]</sup> on May 21, 2004, which the CA denied in its Resolution dated August 12, 2004.<sup>[25]</sup>

Petitioner, thus, filed the instant petition for review on *certiorari*<sup>[26]</sup> on September 7, 2004, assigning the following errors:

1. THAT THE HONORABLE LOWER COURT HAS OVERLOOKED AND MISAPPLIED SOME FACTS AND CIRCUMSTANCES WHICH ARE OF WEIGHT AND IMPORTANCE AND WHICH IF CONSIDERED WOULD HAVE AFFECTED THE RESULT OF THE CASE.
2. THAT THE HONORABLE LOWER COURT ERRED IN CONCLUDING THAT THE PETITIONER-APPELLEE IS NOT FINANCIALLY CAPABLE TO SUPPORT THE THREE CHILDREN.<sup>[27]</sup>

The issues raised by the parties in their pleadings are the following: (a) whether the petitioner is entitled to adopt the minors without the written consent of their biological mother, Amelia Ramos; (b) whether or not the affidavit of consent purportedly executed by the petitioner-adopter's children sufficiently complies with the law; and (c) whether or not petitioner is financially capable of supporting the

adoptees.

### **The Court's Ruling**

The petition is denied for lack of merit.

It has been the policy of the Court to adhere to the liberal concept, as stated in *Malkinson v. Agrava*,<sup>[28]</sup> that adoption statutes, being humane and salutary, hold the interest and welfare of the child to be of paramount consideration and are designed to provide homes, parental care and education for unfortunate, needy or orphaned children and give them the protection of society and family in the person of the adopter as well as to allow childless couples or persons to experience the joys of parenthood and give them legally a child in the person of the adopted for the manifestation of their natural parental instincts. Every reasonable intendment should thus be sustained to promote and fulfill these noble and compassionate objectives of the law.<sup>[29]</sup>

However, in *Cang v. Court of Appeals*,<sup>[30]</sup> the Court also ruled that the liberality with which this Court treats matters leading to adoption insofar as it carries out the beneficent purposes of the law to ensure the rights and privileges of the adopted child arising therefrom, ever mindful that the paramount consideration is the overall benefit and interest of the adopted child, should be understood in its proper context and perspective. The Court's position should not be misconstrued or misinterpreted as to extend to inferences beyond the contemplation of law and jurisprudence. Thus, the discretion to approve adoption proceedings is not to be anchored solely on best interests of the child but likewise, with due regard to the natural rights of the parents over the child.<sup>[31]</sup>

Section 9 of Republic Act No. 8552, otherwise known as the Domestic Adoption Act of 1998, provides:

Sec. 9. *Whose Consent is Necessary to the Adoption.* - After being properly counseled and informed of his/her right to give or withhold his/her approval of the adoption, the written consent of the following to the adoption is hereby required:

- (a) The adoptee, if ten (10) years of age or over;
- (b) The biological parent(s) of the child, if known, or the legal guardian, or the proper government instrumentality which has legal custody of the child;
- (c) The legitimate and adopted sons/daughters, ten (10) years of age or over, of the adopter(s) and adoptee, if any;
- (d) The illegitimate sons/daughters, ten (10) years of age or over, of the adopter, if living with said adopter and the latter's spouse, if any;
- (e) The spouse, if any, of the person adopting or to be