

EN BANC

[A.M. No. 10019-Ret, February 22, 2001]

**RE: APPLICATION FOR SURVIVOR'S BENEFITS OF MS.
MAYLENNE G. MANLAVI, DAUGHTER OF THE LATE ERNESTO R.
MANLAVI.**

R E S O L U T I O N

KAPUNAN, J.:

This case involves an application for Survivor's Benefits filed by Ms. Maylenne G. Manlavi, daughter of the late Ernesto R. Manlavi, a former Clerk of Court II from the Municipal Circuit Trial Court at El Nido, Palawan. He had been in the government service for a total of 17 years, 10 months, and 13 days, when he died on June 23, 1999. These claims are based on R.A. 8291, Sections 20 and 21(a), of which provide:

Sec. 20--Survivorship Benefits. - When a member or pensioner dies, the beneficiaries shall be entitled to survivorship benefits provided in Sections 21 and 22 hereunder subject to the conditions therein provided for. The survivorship pension shall consist of:

- (1) the basic survivorship pension which is fifty percent (50%) of the basic monthly pension; and
- (2) the dependent children's pension not exceeding fifty percent (50%) of the basic monthly pension.

Sec. 21. Death of a Member.-- (a) Upon death of a member, the primary beneficiaries shall be entitled to:

- (1) survivorship pension: Provided that the deceased:
 - (i) was in service at the time of his death; or
 - (ii) if separated from the service, has at least three (3) years of service at the time of his death and has paid thirty-six (36) monthly contributions within the five-year period immediately preceding his death; or has paid a total of at least one hundred eighty (180) monthly contributions prior to his death.
- (2) the survivorship pension plus a cash payment equivalent to one hundred percent (100%) of his average monthly compensation for every year of service; Provided, that the

deceased was in the service at the time of his death with at least three (3) years of service.^[1]

At the time of his death, Ernesto R. Manlavi had one legitimate daughter, Ms. Maylenne G. Manlavi, who was born on October 30, 1977 and six (6) illegitimate children he had begotten with his common-law wife, Ms. Maribelle Endocado, namely, Maybelle Manlavi, born April 16, 1985; Ernest Glenn Manlavi, born August 1, 1986; Mark Andrew Endocado, born August 27, 1989; John Edward Endocado, born April 28, 1992; James Robert Endocado, born May 25, 1996; Ernesto Endocado II, born August 2, 1999. He and Maribelle Endocado had been living together since 1984, four years after his legal wife, Ms. Marilou G. Manlavi, left him and their only daughter to cohabit with a married man.^[2] From that time on, Marilou G. Manlavi's whereabouts had been unknown to her family. Maylenne's Application for Survivor's Benefits was supported by an affidavit executed by a certain Manny Mananquil, the next door neighbor of the Manlavis since the 1980s, who stated that he had personal knowledge that Ms. Marilou G. Manlavi was in hiding and was implicated in the murder of one Delfin Lim, an old but rich businessman and her live-in partner,^[3] who was murdered inside his own home in Pasig City. The other principal suspect in the same case is her alleged new lover, one Rogelio "Jing" de Guia, a businessman who is engaged in a fishing venture in Northern Palawan. Since the murder and up to the present, Marilou G. Manlavi and Rogelio "Jing" de Guia became fugitives from justice, their whereabouts unknown.^[4]

In the meantime, however, the union of Ernesto Manlavi and Maribelle Endocado was not merely tolerated but accepted, not only by his daughter but also by the community which elected Ernesto Manlavi as President of the Civic and Social Organization. Maribelle treated Maylenne as her own child, and in her affidavit, Maylenne describes the union of her father and his common-law wife as "happy, albeit illicit."^[5]

Maylenne's application for Survivor's Benefits was in behalf of herself and her six (6) half brothers and sisters.

This Court in a Resolution dated November 16, 1999 approved the application as recommended by the Court Administrator. The Resolution states:

x x x. The Court Resolved to APPROVE the application for survivor's benefits under Secs. 20 and 21(a), R.A. 8291, of Ms. Maylenne G. Manlavi, legitimate daughter of the late Ernesto R. Manlavi, former Clerk of Court II, Municipal Circuit Trial Court, El Nido, Palawan, effective upon the latter's death on 23 June 1999, without prejudice to the share of the four (4) illegitimate children of the deceased. Payment of the benefits shall be subject further to the submission of a Declaration of Absence of Ms. Marilou Gonzales-Manlavi (wife of the deceased) and to the availability of funds and the usual clearance requirements.

The pertinent portions of Section 21(b) of R.A. 8291 states:

SEC. 21. *Death of a Member.* -

The survivorship pension shall be paid as follows:

(2) when only dependent children are the survivors, they shall be entitled to the basic survivorship pension for as long as they are qualified, plus the dependent children's pension equivalent to ten percent (10%) of the basic monthly pension for every dependent child *not exceeding five (5) counted from the youngest and without substitution*;

(3) when the survivors are the dependent spouse and the dependent children, the dependent spouse shall receive the basic survivorship pension for life until he/she remarries, and the dependent children shall receive the dependent children's pension mentioned in the immediate preceding paragraph (2) hereof.^[6]

On January 12, 2000 however, the legitimate wife Marilou G. Manlavi suddenly reappeared and filed her own application for Survivor's Benefits dated January 3, 2000, by reason of the death of said Ernesto Manlavi. Maylenne bitterly opposed her mother's application. In her Affidavit dated February 10, 2000, Maylenne G. Manlavi states, to wit:

A F F I D A V I T

I, MAYLENNE G. MANLAVI, of legal age, Filipino, single and a resident of El Nido, Palawan, under oath, do hereby depose and say:

That I am the only legitimate child of ERNESTO R. MANLAVI who died on June 23, 1999, at El Nido, Palawan, and MARILOU GONZALES MANLAVI, my mother, who had left the conjugal home in 1982 to carry on her illicit relationship with a married man;

That since then, it was my father, the late Ernesto R. Manlavi, who lovingly and patiently played a dual role of father and mother to me until he met MARIBELLE ENDOCADO in 1984 who agreed to live with my father without the benefit of marriage and to play the role of mother to me;

That the illicit union of Ernesto R. Manlavi and Maribelle Endocado was not merely tolerated, but indeed accepted, by the sympathetic inhabitants of El Nido, Palawan, who, well aware of the infidelity (sic) of my mother and the sacrifices of my father, have elected the latter President of Civic and Social Organizations in the Community;

That on the other hand, Marilou Gonzales Manlavi has many times around changed her living partners after she had shamelessly abandoned my father and me; that she and her paramour, a certain "JING de GUIA" whose whereabouts are unknown, are WANTED by the Police Authorities for the alleged killing of her previous paramour, one Hadji Delfin Lim;

That meanwhile, the happy, albeit illicit union of the late Ernesto R. Manlavi and Maribelle Endocado whom I lovingly called "Auntie" has given them - please take note - SIX (6) children, namely: