

FIRST DIVISION

[G.R. No. 124853, February 24, 1998]

**FRANCISCO L. JISON, PETITIONER, VS. COURT OF APPEALS AND
MONINA JISON, RESPONDENT.**

D E C I S I O N

DAVIDE, JR., J.:

This is a petition for review under Rule 45 of the Rules of Court of the 27 April 1995 decision of the Court of Appeals (CA) in CA-G.R. CV No. 32860^[1] which reversed the decision of Branch 24 of the Regional Trial Court (RTC) of Iloilo City in Civil Case No. 16373.^[2] The latter dismissed the complaint of private respondent Monina Jison (hereafter MONINA) for recognition as an illegitimate child of petitioner Francisco Jison (hereafter FRANCISCO).

In issue is whether or not public respondent Court of Appeals committed reversible error, which, in this instance, necessitates an inquiry into the facts. While as a general rule, factual issues are not within the province of this Court, nevertheless, in light of the conflicting findings of facts of the trial court and the Court of Appeals, this case falls under an exception to this rule.^[3]

In her complaint^[4] filed with the RTC on 13 March 1985, MONINA alleged that FRANCISCO had been married to a certain Lilia Lopez Jison since 1940. At the end of 1945 or the start of 1946, however, FRANCISCO impregnated Esperanza F. Amolar (who was then employed as the nanny of FRANCISCO's daughter, Lourdes). As a result, MONINA was born on 6 August 1946, in Dingle, Iloilo, and since childhood, had enjoyed the continuous, implied recognition as an illegitimate child of FRANCISCO by his acts and that of his family. MONINA further alleged that FRANCISCO gave her support and spent for her education, such that she obtained a Master's degree, became a certified public accountant (CPA) and eventually, a Central Bank examiner. In view of FRANCISCO's refusal to expressly recognize her, MONINA prayed for a judicial declaration of her illegitimate status and that FRANCISCO support and treat her as such.

In his answer,^[5] FRANCISCO alleged that he could not have had sexual relations with Esperanza Amolar during the period specified in the complaint as she had ceased to be in his employ as early as 1944, and did not know of her whereabouts since then; further, he never recognized MONINA, expressly or impliedly, as his illegitimate child. As affirmative and special defenses, FRANCISCO contended that MONINA had no right or cause of action against him and that her action was barred by estoppel, laches and/or prescription. He thus prayed for dismissal of the complaint and an award of damages due to the malicious filing of the complaint.

After MONINA filed her reply,^[6] pre-trial was conducted where the parties stipulated on the following issues:

1. Did Francisco Jison have any sexual relation[s] with Esperanza Am[o]lar about the end of 1945 or the start of 1946?
2. Is Monina Jison the recognized illegitimate daughter of Francisco Jison by the latter's own acts and those of his family?
3. Is Monina Jison barred from instituting or prosecuting the present action by estoppel, laches and/or prescription?
4. Damages.^[7]

At trial on the merits, MONINA presented a total of eleven (11) witnesses, namely: herself, Ruben Castellanes, Sr., Adela Casabuena, Arsenio Duatin, Zafiro Ledesma, Danthea Lopez, Romeo Bilbao, Rudy Tingson, Alfredo Baylosis, Dominador Zavariz and Lope Amolar.

Ruben Castellanes, Sr., a 63-year old resident of Iloilo City, testified that he had worked for FRANCISCO for a total of six (6) years at Nelly Garden, FRANCISCO's Iloilo residence. Towards the end of the Japanese occupation, FRANCISCO's wife suffered a miscarriage or abortion, thereby depriving FRANCISCO of consortium; thereafter, FRANCISCO's wife managed a nightclub on the ground floor of Nelly Garden which operated daily from 6:00 p.m. till 3:00 a.m. of the following day, thereby allowing FRANCISCO free access to MONINA's mother, Esperanza Amolar, who was nicknamed *Pansay*.

Adela Casabuena, a 61-year old farmer, testified that she served as the *yaya* ("nanny") of Lourdes from July 1946 up to February 1947. Although *Pansay* had left Nelly Garden two (2) weeks before Adela started working for the Jisons, *Pansay* returned sometime in September 1946, or about one month after she gave birth to MONINA, to ask FRANCISCO for support. As a result, *Pansay* and Lilia Jison, FRANCISCO's wife, quarreled in the living room, and in the course thereof, *Pansay* claimed that FRANCISCO was the father of her baby. To which, Lilia replied: "I did not tell you to make that baby so it is your fault." During the quarrel which lasted from 10:30 till 11:00 a.m., FRANCISCO was supposedly inside the house listening.

Arsenio Duatin, a 77-year old retired laborer, testified that from 1947 until 1977, he worked as FRANCISCO's houseboy at the latter's house on 12th Street, Capitol Subdivision, Bacolod City. Arsenio met MONINA in 1967, when Felipe Lagarto, the bookkeeper at Nelly Garden, informed Arsenio that MONINA, FRANCISCO's daughter, would arrive at Bacolod City with a letter of introduction from Lagarto.

Initially, Arsenio identified seven (7) black-and-white photographs (Exhs. X-5 to X-11) of MONINA,^[8] and as he paid for the telephone bills, he likewise identified six (6) telephone cards (Exhs. G to L). Arsenio then declared that when MONINA arrived in Bacolod City, she introduced herself to him as FRANCISCO's daughter. She stayed at FRANCISCO's house, but when the latter and his wife would come over, Arsenio would "conceal the presence of MONINA because Mrs. Jison did not like to see her face." Once, Arsenio hid MONINA in the house of FRANCISCO's sister, Mrs. Luisa Jison Alano, in Silay City; another time, at the residence of FRANCISCO's cousin, Mrs. Concha Lopez Cuaycong. Finally, Arsenio declared that the last time he saw MONINA was when she left for Manila, after having finished her schooling at La Salle College in Bacolod City.

On re-direct and upon questions by the court, Arsenio disclosed that it was FRANCISCO who instructed that MONINA be hidden whenever FRANCISCO and his wife were around; that although FRANCISCO and MONINA saw each other at the Bacolod house only once, they called each other "through long distance;" and that MONINA addressed FRANCISCO as "Daddy" during their lone meeting at the Bacolod house and were "affectionate" to each other. Arsenio likewise declared that MONINA stayed at FRANCISCO's Bacolod house twice: first for a month, then for about a week the second time. On both occasions, however, FRANCISCO and his wife were abroad. Finally, Arsenio recalled that FRANCISCO likewise bade Arsenio to treat MONINA like his (FRANCISCO's) other daughters.

The testimony of Zafiro Ledesma, a 74-year old banker and former mayor of Iloilo City, initially touched on how he and his wife were related to FRANCISCO, FRANCISCO's wife and MONINA. Zafiro first identified Exhibit R, a diagram of the family trees of the Jison and Lopez families, which showed that former Vice-President Fernando Lopez was the first cousin of FRANCISCO's wife, then told the court that the family of Vice-President Lopez treated MONINA "very well because she is considered a relative xxx by reputation, by actual perception." Zafiro likewise identified Exhibits X-13 to X-18, photographs taken at the 14 April 1985 birthday celebration of Mrs. Fernando Lopez, which showed MONINA with the former Vice-President and other members of the Lopez family.

Zafiro further testified that while MONINA lived with Mrs. Cuaycong, the latter paid for some of MONINA's school needs and even asked MONINA to work in a hospital owned by Mrs. Cuaycong; and that another first cousin of FRANCISCO's wife, a certain Remedios Lopez Franco, likewise helped MONINA with her studies and problems, and even attended MONINA's graduation in 1978 when she obtained a masteral degree in Business Administration, as evidenced by another photograph (Exh. X-12). Moreover, upon Remedios' recommendation, MONINA was employed as a secretary at Merchant Financing Company, which was managed by a certain Danthea Lopez, the wife of another first cousin of FRANCISCO's wife, and among whose directors were Zafiro himself, his wife and Danthea's husband. In closing, Zafiro identified MONINA's Social Security Record (Exh. W), which was signed by Danthea as employer and where MONINA designated Remedios as the beneficiary.

Danthea Lopez, a 58-year old housekeeper, declared that FRANCISCO was the first cousin of her husband, Eusebio D. Lopez; and that she came to know MONINA in the latter part of 1965 when Remedios Franco recommended MONINA for employment at Merchant Financing Co., which Danthea managed at that time. Remedios introduced MONINA to Danthea "as being reputedly the daughter of Mr. Frank Jison;" and on several occasions thereafter, Remedios made Danthea and the latter's husband understand that MONINA was "reputedly the daughter of [FRANCISCO]." While MONINA worked at Merchant Financing, Danthea knew that MONINA lived with Remedios; however, in the latter part of 1966, as Remedios left for Manila and MONINA was still studying at San Agustin University, Danthea and her husband invited MONINA to live with them. During MONINA's 6-month stay with them, she was not charged for board and lodging and was treated as a relative, not a mere employee, all owing to what Remedios had said regarding MONINA's filiation. As Danthea understood, MONINA resigned from Merchant Financing as she was called by Mrs. Cuaycong, a first cousin of Danthea's husband who lived in Bacolod City.

Romeo Bilbao, a 43-year old seaman, testified that he had worked for FRANCISCO from 1969 up to 1980 at Nelly Garden in various capacities: as a procurement officer,

hacienda overseer and, later, as hacienda administrator. Sometime in May, 1971, Romeo saw and heard MONINA ask “her Daddy” (meaning FRANCISCO) for the money he promised to give her, but FRANCISCO answered that he did not have the money to give, then told MONINA to go see Mr. Jose Cruz in Bacolod City. Then in the middle of September that year, FRANCISCO told Romeo to pick up Mr. Cruz at the Iloilo pier and bring him to the office of Atty. Benjamin Tirol. At said office, Atty. Tirol, Mr. Cruz and MONINA entered a room while Romeo waited outside. When they came out, Atty. Tirol had papers for MONINA to sign, but she refused. Atty. Tirol said that a check would be released to MONINA if she signed the papers, so MONINA acceded, although Atty. Tirol intended not to give MONINA a copy of the document she signed. Thereafter, Mr. Cruz gave MONINA a check (Exh. Q), then MONINA grabbed a copy of the document she signed and ran outside. Romeo then brought Mr. Cruz to Nelly Garden. As to his motive for testifying, Romeo stated that he wanted to help MONINA be recognized as FRANCISCO’S daughter.

Rudy Tingson, a 45-year old antique dealer, testified that in 1963-1964, he was employed by FRANCISCO’S wife at the Baguio Military Institute in Baguio City; then in 1965, Rudy worked at FRANCISCO’S office at Nelly Garden recording hacienda expenses, typing vouchers and office papers, and, at times, acting as paymaster for the haciendas. From the nature of his work, Rudy knew the persons receiving money from FRANCISCO’S office, and clearly remembered that in 1965, as part of his job, Rudy gave MONINA her allowance from FRANCISCO four (4) times, upon instructions of a certain Mr. Lagarto to give MONINA P15.00 a month. Rudy likewise recalled that he first met MONINA in 1965, and that she would go to Nelly Garden whenever FRANCISCO’S wife was not around. On some of these occasions, MONINA would speak with and address FRANCISCO as “Daddy,” without objection from FRANCISCO. In fact, in 1965, Rudy saw FRANCISCO give MONINA money thrice. Rudy further declared that in April 1965, FRANCISCO’S office paid P250.00 to Funeraria Bernal for the funeral expenses of MONINA’S mother. Finally, as to Rudy’s motives for testifying, he told the court that he simply wanted to help bring out the truth “and nothing but the truth,” and that MONINA’S filiation was common knowledge among the people in the office at Nelly Garden.

On re-direct, Rudy declared that the moneys given by FRANCISCO’S office to MONINA were not reflected in the books of the office, but were kept in a separate book, as Mr. Lagarto explained that FRANCISCO’S wife and children “should not know [of] this.” Rudy further revealed that as to the garden “meetings” between FRANCISCO and MONINA, Rudy saw MONINA kiss FRANCISCO on the cheek both upon arriving and before leaving, and FRANCISCO’S reaction upon seeing her was to smile and say in the Visayan dialect: “*Kamusta ka iha?*” (“How are you, daughter?”); and that MONINA was free to go inside the house as the household staff knew of her filiation, and that, sometimes, MONINA would join them for lunch.

Alfredo Baylosis, a 62-year old retired accountant, testified that he worked for FRANCISCO at Central Santos-Lopez in Iloilo from 1951 up to 1961, then at Nelly Garden from 1961 until 1972. Alfredo first served FRANCISCO as a bookkeeper, then when Mr. Lagarto died in 1967 or 1969, Alfredo replaced Mr. Lagarto as office manager.

Alfredo knew MONINA since 1961 as she used to go to Nelly Garden to claim her P15.00 monthly allowance given upon FRANCISCO’S standing order. Alfredo further declared that MONINA’S filiation was pretty well-known in the office; that he had seen MONINA and FRANCISCO go from the main building to the office, with FRANCISCO’S

arm on MONINA's shoulder; and that the office paid for the burial expenses of *Pansay*, but this was not recorded in the books in order to hide it from FRANCISCO's wife. Alfredo also disclosed that the disbursements for MONINA's allowance started in 1961 and were recorded in a separate cash book. In 1967, the allowances ceased when MONINA stopped schooling and was employed in Bacolod City with Miller, Cruz & Co., which served as FRANCISCO's accountant-auditor. Once, when Alfredo went to the offices of Miller, Cruz & Co. to see the manager, Mr. Atienza, and arrange for the preparation of FRANCISCO's income tax return, Alfredo chanced upon MONINA. When Alfredo asked her how she came to work there, she answered that "her Daddy," FRANCISCO, recommended her, a fact confirmed by Mr. Atienza. Alfredo then claimed that Mr. Jose Cruz, a partner at Miller, Cruz & Co., was the most trusted man of FRANCISCO.

Dominador Savariz, a 55-year old caretaker, testified that he worked as FRANCISCO's houseboy at Nelly Garden from November 1953 up to 1965. One morning in April 1954, MONINA and her mother *Pansay* went to Nelly Garden and spoke with FRANCISCO for about an hour, during which time, Dominador was vacuuming the carpet about six (6) to seven (7) meters away. Due to the noise of the vacuum cleaner, FRANCISCO and MONINA spoke in loud voices, thus Dominador overheard their conversation. As FRANCISCO asked *Pansay* why they came, *Pansay* answered that they came to ask for the "sustenance" of his child MONINA. FRANCISCO then touched MONINA's head and asked: "How are you Hija?," to which MONINA answered: "Good morning, Daddy." After FRANCISCO told *Pansay* and MONINA to wait, he pulled something from his wallet and said to *Pansay*: "I am giving this for the child."

In May 1954, Dominador saw MONINA at Mr. Lagarto's office where Dominador was to get "the day's expenses," while MONINA was claiming her allowance from Mr. Diasnes. The next month, Dominador saw MONINA at Nelly Garden and heard in the office that MONINA was there to get her allowance "from her Daddy." In December 1960, Dominador saw MONINA at Nelly Garden, in the room of Don Vicente (father of FRANCISCO's wife), where she asked for a Christmas gift "and she was calling Don Vicente, *Lolo* (grandfather)." At that time, FRANCISCO and his wife were not around. Then sometime in 1961, when Dominador went to Mr. Lagarto's office to get the marketing expenses, Dominador saw MONINA once more claiming her allowance.

Dominador further testified that in February 1966, after he had stopped working for FRANCISCO, Dominador was at Mrs. Franco's residence as she recommended him for employment with her sister, Mrs. Concha Cuaycong. There, he saw MONINA, who was then about 15 years old, together with Mrs. Franco's daughter and son. Mrs. Franco pointed at MONINA and asked Dominador if he knew who MONINA was. Dominador answered that MONINA was FRANCISCO's daughter with *Pansay*, and then Mrs. Franco remarked that MONINA was staying with her (Mrs. Franco) and that she was sending MONINA to school at the University of San Agustin.

Lope Amolar, a 50-year old resident of Dingle, Iloilo, and the younger brother of Esperanza Amolar (*Pansay*), testified that he worked for FRANCISCO as a houseboy from March to November 1945 at Nelly Garden. Thereafter, FRANCISCO sent Lope to work at Elena Apartments in Manila. By November 1945, *Pansay* was also working at Elena Apartments, where she revealed to Lope that FRANCISCO impregnated her. Lope then confronted FRANCISCO, who told Lope "don't get hurt and don't cause any trouble, because I am willing to support your *Inday Pansay* and my child." Three (3) days after this confrontation, Lope asked for and received permission from FRANCISCO to resign because he (Lope) was hurt.