

CASES NOTED

CIVIL LAW

PERSONS: STEP-FATHER WHO HAS A LEGITIMATE SON CANNOT ADOPT HIS STEP-SON.

FACTS: Norman H. Ball, an American citizen domiciled in the Philippines, petitioned the C.F.I. of Manila for the adoption of the minor George William York Jr. The petition was opposed by the Solicitor General. However said court granted the petition for adoption in accordance with Article 338¹ of the Civil Code of the Philippines.

The facts of the case appear as follows: G. W. York Jr. is the son of G. W. York Sr. and Sophie S. Farr, who were divorced in 1944. After said divorce, said minor continued in the custody of his mother Sophie S. Farr. G. W. York Sr. is already married to another woman and is residing in San Francisco, California. The petitioner married Sophie S. Farr on August 5, 1947, of which marriage they have a daughter, two years old. The mother of G. W. York Jr., wife of petitioner, has given her consent to the adoption by the petitioner, who according to the evidence is in a position, economically, to support and educate said minor.

The Solicitor General contends that the petitioner cannot

¹ Article 338 of the Civil Code of the Philippines provides: "The following may be adopted: x x x (3) A step-child by the step-father or step-mother."

adopt said minor because of Article 335² of the Civil Code of the Philippines which prohibits persons having legitimate children to adopt. The judge *a quo* based his decision on Article 338 of the Civil Code of the Philippines.

HELD: According to the Code Commission, Art. 338 should be given effect "as it eases up a strained situation". This argument is tenable if the adopting parent has no legitimate children, because the adoption of a step-son in such a case does good to the situation. On the other hand, if, having legitimate children, a person would adopt, such adoption would encourage friction as the legitimate child or children would not feel happier knowing that he would not enjoy all the love of his father, and that another person would participate in the partition of the estate in the future.

The fundamental basis of adoption is to console those whose marriages are not blessed with issue. However, in cases where marriages are so blessed, we give legal sanction to a prohibition to adopt, as the contrary would give rise to conflicts and differences.³

Article 338 applies the word *may*. Such word could be interpreted either as mandatory, which imposes an obligation, or permissive, which implies discretion. The interpretation of this law is dependent on the intention of the legislature which intention must be interpreted in relation to the whole law. If the word *may* is to be considered as an obligation, then Article 335 is contradictory, useless and redundant. This cannot be the intention of the legislature. We hold therefore, that the word *may* in Article 338 is merely permissive, conferring discretion, and not imperative. Harmonizing Articles 335 and 338, the step-mother or step-father who have no legitimate children, can adopt a step-child; however if they have legitimate children, they are enjoined by law from adopting.

As petitioner has a legitimate daughter, he cannot adopt George William York Jr. Judgment reversed. (*In re Adoption of George William York Jr. by Norman Ball vs. Republic of the Philippines*, G. R. No. L-5272, prom. Dec. 21, 1953.)

² Article 335 of the Civil Code of the Philippines provides: "The following cannot adopt: (1) Those who have legitimate, legitimated, acknowledged natural children or natural children by legal fiction."

³ Manresa 6th ed. 108.

SUCCESSION: NATURAL CHILDREN HAVE NO RIGHT TO REPRESENT THEIR NATURAL FATHER OR MOTHER IN THE SUCCESSION OF THE LEGITIMATE ASCENDANTS OF THE LATTER.

FACTS: Aniceto Oyao had two legitimate children, Simeona and Eulalia, both of whom died before him but were survived by their recognized natural children, the plaintiffs herein. There is no question that the disputed property formerly belonged to Aniceto Oyao, who died intestate in 1936. Plaintiffs now lay claim to Aniceto's hereditary estate in representation of their deceased mothers and bring this action to recover a piece of land alleged to have been usurped by defendant in 1941. Defendant denies the alleged usurpation and claims ownership of the land—one-half of it, as an inheritance from his deceased father, Abundio Oyao, brother of Aniceto Oyao, to whom it had been donated by the latter, and the other half by purchase from Aniceto Oyao himself.

The trial court found plaintiffs' claim to be without legal basis and dismissed the complaint with costs. Plaintiffs appealed to the Court of Appeals, but said court certified the case to this Court on the ground that only questions of law are involved.

HELD: There can be no question on the proposition that natural children have no right to represent their natural father or mother in the succession of the legitimate ascendants of the latter.¹

The plea that because plaintiffs are poor and defendant rich, the land in dispute should be adjudged to the former as a measure of social justice, runs counter to the present law on succession and is, therefore, beyond the power of the courts to grant.

Wherefore, the decision appealed from is affirmed, but without costs. (*Sulpicio Oyao, et al. vs. Emiliano Oyao, G. R. No. L-6340, prom. Dec. 29, 1953.*)

¹ This has been made clear in the case of *Llorente vs. Rodriguez et al.*, 10 Phil. 585.

POLITICAL LAW

NATURALIZATION: WHERE THE PETITIONER FOR NATURALIZATION HAD PREVIOUSLY LIVED WITH ANOTHER WOMAN WITH WHOM HE HAD FIVE CHILDREN AND SUBSEQUENTLY ABANDONED THEM, MARRYING ANOTHER IN CHINA, HIS CONDUCT CAN UNDER NO CIRCUMSTANCES BE CONSIDERED "PROPER AND IRREPROACHABLE" WITHIN THE MEANING OF THE LAW TO QUALIFY HIM FOR NATURALIZATION.

FACTS: This is an appeal from a judgment of the C.F.I. of Cotabato approving the petition for naturalization of petitioner Yu Singco, a Chinese citizen. The Government, in opposition to the petition, presented evidence to the effect that petitioner had relations with Conception Cua, as a result of which five children were born to the latter. Petitioner admitted the relationship and did not deny that the children were his. The petitioner now has ten children with Chua Hoc Ty whom he married in Amoy, China in 1924. As to all other qualifications, there was sufficient evidence that petitioner was qualified for naturalization.

HELD: On this appeal, the Solicitor General contends that the petitioner has not conducted himself "in a proper and irreproachable manner during the entire period of his residence in the Philippines x x x," as required by section 2 of the Revised Naturalization Law. We are constrained to uphold this contention. What constitutes "proper and irreproachable conduct" within the meaning of the law must be determined, not by the law of the country of which the petitioner is a citizen (polygamy is allowed in China), but by the standards of morality prevalent in this country, and these in turn by the religious beliefs and social concepts existing here. This country is predominantly Catholic and universally Christian in religious belief. Both seduction and bigamy are punished as crimes. Society may pardon the sins of their members, but such pardon should not be confused with approval.

Under no circumstances can the conduct of the petitioner be considered "proper and irreproachable" within the meaning of the law, even if he actually gives support to his children.

Judgment reversed and the petition for naturalization