

Thy Will Be Done by Atty. Angelo Molina Cabrera

## **MISTRESS AND ILLEGITIMATE CHILD AS INSURANCE BENEFICIARIES?**

A married man with another family outside of his lawfully wedded wife is duty-bound to provide for the needs of his children, both legitimate and illegitimate. The law makes this clear in Article 195 of the Family Code. Support, as defined in Article 194 comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family. It further states that this support shall include the child's schooling or training for some profession, trade or vocation, even beyond the age of majority.

This obligation to the children extends well beyond the death of the husband as the law also mandates that his estate be distributed among his compulsory heirs, which include his illegitimate children - differentiated only from legitimate children in terms of their legitime. The legitime is that portion of the inheritance which the law has reserved for compulsory heirs. It is the rightful share of each compulsory heir in the inheritance. As a general rule under the law, an illegitimate child's legitime is equivalent to one half of the share of a legitimate child.

To illustrate: where the surviving heirs include the spouse, two legitimate children and two illegitimate children, the law shall apportion the decedent's estate as follows: one-half of the estate to the legitimate children (or equivalent to one-fourth per child since there are two); one-fourth to the surviving spouse; and the balance of one-fourth to the illegitimate children. In this example, since one legitimate child is entitled to one-fourth, each illegitimate child shall therefore be entitled to one-eighth of the estate (or one-half of the share of a legitimate child).

Realizing that his illegitimate family will probably need to be given more support when the time comes, suppose a philandering husband purchases a life insurance policy and names his illegitimate children and his mistress as beneficiaries? When he dies, can the legitimate family claim the insurance proceeds as part of the inheritance, which should therefore be subject to distribution based on the respective legitime of each compulsory heir – to include the wife and legitimate children?

This question is answered in the following case decided by the Supreme Court.

Larry bought two life insurance policies naming his concubine, Essa, and their illegitimate children as beneficiaries. When he died, his legal spouse, Nita, and their legitimate children filed a petition for the revocation of Essa as beneficiary on the one hand and the reduction of the entitlement of the illegitimate children in the insurance proceeds for being inofficious on the other.

According to them, Larry's designation of Essa as a beneficiary in his life insurance policies is void as she is disqualified by law to receive any proceeds from the said policies. They further asserted that the illegitimate children, also designated as beneficiaries, were entitled only to one-half of the legitime of the legitimate children, thus, the proceeds released to them were inofficious or in excess of what they were supposed to receive by way of inheritance and should therefore be reduced in order to satisfy first the legitime of the legal spouse and the legitimate children.

Are the proceeds of life insurance part of the inheritance that is subject to the rules on legitime?

NO. Section 53 of the Insurance Code states, "*The insurance proceeds shall be applied exclusively to the proper interest of the person in whose name or for whose benefit it is made unless otherwise specified in the policy.*"

It follows that the only persons entitled to claim the insurance proceeds are either the insured, if still alive upon maturity of the insurance policy; or the beneficiary, if the insured is already deceased.

Nita and her children are third parties to the insurance contracts which mean that they are not entitled to the proceeds thereof. Accordingly, the insurance companies have no legal obligation to turn over the insurance proceeds to Nita and her children.

While indeed Essa is one of those expressly prohibited by law from being named as beneficiary, this is of no consequence to the two illegitimate children considering that their designation as beneficiaries in Larry's insurance policies remains valid.

There is no legal prohibition in naming as beneficiaries the children of illicit relationships by the insured. The shares of Essa in the insurance proceeds must therefore be awarded to the said illegitimate children, the designated beneficiaries, to the exclusion of Nita and her children.

It is only in cases where the insured has not designated any beneficiary; or where no designated beneficiary is alive at the time of death of the insured; or where a designated beneficiary is disqualified by law and no other beneficiary is named, that the insurance proceeds shall redound to the benefit of the estate of the insured and therefore be subject to distribution in accordance with the rules on legitime. *(based on G.R. No. 181132, JUNE 5, 2009)*

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