

You're My Dad! Prove it!

In our country, we are under a system of compulsory heirs. This means that whether we like it or not, when the time comes, we have to give a portion of our wealth to certain persons, who are called compulsory heirs (barring a lawful disinheritance). A child – whether legitimate or illegitimate – holds a position of primacy in this system. The existence of just one child is enough to exclude the participation of all other classes of relatives, such as brothers and sisters, from the inheritance.

It necessarily follows that determining who are one's compulsory heirs will have to touch upon the issue of paternity and filiation.

Paternity is the relationship of a parent to a child while filiation is the relationship of a child to a parent. When a person is claiming to be the father of a particular child, the issue is paternity. When a woman is claiming that her child is that of a particular person, the issue is that of filiation.

If there is no controversy as to the paternity or filiation, then well and good. But supposing the relationship is not at all recognized? How does one go about proving the same?

In a recent case, the Supreme Court gave important guidelines on how to go about establishing a paternity claim.

Donn and Lita lived together as husband and wife. Unfortunately, Donn died early.

Two months later, Lita gave birth to a son – Carlos.

Lita wanted to register the child using Donn's surname. Among other evidences – such as affidavits of witnesses claiming that they knew that Donn and Lita had lived together as husband and wife before the death of Don and that barely two months later Carlos was born – Lita presented Donn's handwritten autobiography. In it, he admitted that he and Lita had been living together and that she became pregnant as a result.

The Civil Registrar denied the application pointing out that the law requires that handwritten evidences of paternity need to be signed. Donn's autobiography was unsigned.

The case reached the Supreme Court, which ruled that while the law indeed requires the signature of the putative father, the best interest of the child should be the paramount consideration. Thus, it justified the liberalization of the rules as follows:

“1) Where the private handwritten instrument is the lone piece of evidence submitted to prove filiation, there should be strict compliance with the requirement that the same must be signed by the acknowledging parent; and

2) Where the private handwritten instrument is accompanied by other relevant and competent evidence, it suffices that the claim of filiation therein be shown to have been made and handwritten by the acknowledging parent as it is merely corroborative of such other evidence.”

Here, the affidavits of witnesses to their live-in relationship were also presented to the Civil Registrar. The unsigned autobiography was then accepted and Carlo’s name was registered bearing the name of his father.

Although not part of the case, the interesting question is whether Carlo, being yet unborn at the time of death of his father, is qualified as a compulsory heir of Donn?

The answer is yes, because Article 40 of the Civil Code provides that, “the conceived child shall be considered born for all purposes that are favorable to it,” provided it meets the conditions specified by the law.

(Based on G.R. No. G.R. No. 177728, July 31, 2009)