



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 18, 2021** which reads as follows:*

**“G.R. No. 252476 – JOHN ALVIN L. MANINGDING, petitioner, versus ZIA NICOLE C. BERSAMINA, respondent.**

After a careful review of the instant Petition and its annexes, as well as the Decision<sup>1</sup> dated August 29, 2019 and Resolution<sup>2</sup> dated February 26, 2020 of the Court of Appeals (CA) in CA-G.R. SP. No. 159684, the Court resolves to **DISMISS** the Petition for lack of merit.

It is a threshold principle that “insofar as illegitimate children are concerned, Article 176 of the Family Code states that illegitimate children shall be under the parental authority of their mother. Accordingly, mothers x x x are entitled to the sole parental authority of their illegitimate children x x x, notwithstanding the father’s recognition of the child. In the exercise of that authority, mothers are consequently entitled to keep their illegitimate children in their company, and the Court will not deprive them of custody, absent any imperative cause showing the mother’s unfitness to exercise such authority and care.”<sup>3</sup>

Notwithstanding the foregoing, a biological father’s visitation right (*i.e.*, the right of access of a non-custodial parent to his or her child or children) has been recognized as an inherent and natural right.<sup>4</sup> In *Silva v. Court of Appeals*,<sup>5</sup> the Court held:

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<sup>1</sup> *Rollo*, pp. 34-43. Penned by Associate Justice Jhosep Y. Lopez (now a Member of the Court), with Associate Justices Stephen C. Cruz and Perpetua Susana T. Atal Paño concurring.

<sup>2</sup> *Id.* at 45-46.

<sup>3</sup> *Masbate v. Relucio*, G.R. No. 235498, July 30, 2018, 875 SCRA 25, 40. Emphasis and italics omitted.

<sup>4</sup> *Rollo*, p. 41.

<sup>5</sup> G.R. No. 114742, July 17, 1997, 275 SCRA 604.

The issue before us is not really a question of child custody; instead[,] the case merely concerns the visitation right of a parent over his children which the trial court has adjudged in favor of petitioner by holding that he shall have “visitorial rights to his children during Saturdays and/or Sundays, but in no case (could) he take out the children without the written consent of the mother x x x.” The visitation right referred to is the right of access of a noncustodial parent to his or her child or children.

There is, despite a dearth of *specific* legal provisions, enough recognition on the *inherent* and *natural right* of parents over their children. Article 150 of the Family Code expresses that “[f]amily relations include those x x x (2) [b]etween parents and children; x x x” Article 209, in relation to Article 220, of the Code states that it is the *natural right and duty of parents* and those exercising parental authority to, among other things, keep children in their company and to give them love and affection, advice and counsel, companionship and understanding. The Constitution itself speaks in terms of the “*natural and primary rights*” of parents in the rearing of the youth. There is nothing conclusive to indicate that these provisions are meant to solely address themselves to legitimate relationships. Indeed, although in varying degrees, the laws on support and successional rights, by way of examples, clearly go beyond the legitimate members of the family and so explicitly encompass illegitimate relationships as well. Then, too, and most importantly, in the declaration of *nullity* marriages, a situation that presupposes a *void* or *inexistent marriage*, Article 49 of the Family Code provides for appropriate visitation rights to parents who are not given custody of their children.<sup>6</sup>

There is no doubt, however, that in all cases involving a child, his or her interest and welfare shall always be the paramount consideration.<sup>7</sup>

While the Court agrees that petitioner is entitled to visitation rights and that overnight access may be allowed depending on the facts and circumstances of each case, it will not generally overturn the lower courts’ judgment absent a clear showing that the latter overlooked facts of weight and substance that would warrant a different conclusion.<sup>8</sup> The lower courts had the best opportunity to assess the various factors relevant to the manner by which petitioner’s visitation rights should be exercised. They were in the best position to thoroughly evaluate the parties’ circumstances and to ultimately determine the best interests of the child.<sup>9</sup> It bears emphasis that Administrative Matter (A.M.) No. 03-04-04-SC or the “Rule on

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<sup>6</sup> Id. at 609. Italics in the original.

<sup>7</sup> Id.

<sup>8</sup> *Rollo*, p. 42.

<sup>9</sup> Id.

Custody of Minors and Writ of *Habeas Corpus* in Relation to Custody of Minors” allows the lower courts wide discretion to provide for “*appropriate* visitation rights to the non-custodial parent, unless the court finds said parent or parents unfit or disqualified”<sup>10</sup> and to “issue any order that is *just and reasonable* permitting the parent who is deprived of the care and custody of the minor to visit or [when appropriate,] have temporary custody.”<sup>11</sup>

In any event, the lower court’s directives regarding visitation rights are without prejudice to respondent allowing him additional visitation days,<sup>12</sup> to any subsequent visitation agreement that may be reached by the parties,<sup>13</sup> or to future modifications by the lower court.

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<sup>10</sup> Italics supplied. See A.M. NO. 03-04-04-SC, April 22, 2003, Sec. 15 which provides:

**SEC. 15. *Temporary visitation rights.*** — The court shall provide in its order awarding provisional custody appropriate visitation rights to the non-custodial parent or parents, unless the court finds said parent or parents unfit or disqualified.

The temporary custodian shall give the court and non-custodial parent or parents at least five days’ notice of any plan to change the residence of the minor or take him out of his residence for more than three days provided it does not prejudice the visitation rights of the non-custodial parent or parents.

<sup>11</sup> Italics supplied. See also *id.*, Sec. 18 that states:

**SEC. 18. *Judgment.*** — After trial, the court shall render judgment awarding the custody of the minor to the proper party considering the best interests of the minor.

If it appears that both parties are unfit to have the care and custody of the minor, the court may designate either the paternal or maternal grandparent of the minor, or his oldest brother or sister, or any reputable person to take charge of such minor, or commit him to any suitable home for children.

In its judgment, the court may order either or both parents to give an amount necessary for the support, maintenance and education of the minor, irrespective of who may be [his/her] custodian. In determining the amount of support, the court may consider the following factors: (1) the financial resources of the custodial and non-custodial parent and those of the minor; (2) the physical and emotional health, special needs, and aptitude of the minor; (3) the standard of living the minor has been accustomed to; and (4) the non-monetary contributions that the parents would make toward the care and well-being of the minor.

The court may also issue any order that is just and reasonable permitting the parent who is deprived of the care and custody of the minor to visit or have temporary custody.

<sup>12</sup> See generally *Masbate v. Relucio*, supra note 3.

<sup>13</sup> A.M. NO. 03-04-04-SC, Sec. 14 provides:

**SEC. 14. *Factors to consider in determining custody.*** — In awarding custody, the **court shall consider the best interests of the minor and shall give paramount consideration to his material and moral welfare.** The best interests of the minor refer to **the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the minor encouraging to his physical, psychological and emotional development.** It also means the least detrimental available alternative for **safeguarding the growth and development of the minor.**

The court shall also consider the following:

(a) Any extrajudicial agreement which the parties may have bound themselves to comply with respecting the rights of the minor to maintain direct contact with the non[-]custodial parent on a regular basis, except when there is an existing threat or danger of physical, mental, sexual or emotional violence which endangers the safety and best interests of the minor;

x x x. Emphasis and underscoring supplied.


Like the rule on support and on custody, a judgment involving visitation rights does not become final and may be modified depending on the circumstances, needs, and best interests of the child after taking into consideration “the totality of the circumstances and conditions as are most congenial to the survival, protection, and feelings of security of the minor encouraging to his physical, psychological and emotional development” and as are least detrimental for “safeguarding the growth and development of the minor.” The court shall always give “paramount consideration to [a child’s] material and moral welfare.”

In view thereof, the instant Petition is **DISMISSED**. The Compromise Agreement executed on October 8, 2020 is hereby **NOTED**.

The joint motion for judgment based on compromise agreement, filed by Atty. Carlos P. Garcia of Garcia Habacon & Han, counsel for petitioner, and Atty. Elizabeth A. Andres, counsel for respondent, is **NOTED**.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
9715

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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