

Ferdinand G. Suba

DOES THE BENEFIT OF PARAGRAPH 2 OF ARTICLE 271 OF THE NEW CIVIL CODE EXTEND TO SPURIOUS BROTHERS OR SISTERS OF THE FULL BLOOD?

Article 271 of the New Civil Code has the following provision:

“Only natural children who have been recognized by the parents before or after the celebration of the marriage, or have been declared natural children by final judgment, may be considered legitimated by subsequent marriage.

If a natural child is recognized or judicially declared as natural, such recognition or declaration shall extend to his or her brothers or sisters of the full blood: Provided, That the consent of the latter shall be implied if they do not impugn the recognition within four years from the time of such recognition, or in case they are minors, within four years following the attainment of majority.”

Although the second paragraph (in italics) of the aforequoted provision does not expressly so state, it would seem that the recognition or judicial declaration of a natural child extends only to his full-blood brothers and sisters who are also natural children.

This writer humbly submits that such recognition or judicial declaration does not extend to the natural child's *spurious* brothers or sisters of the full blood. The following reasons may be advanced therefor, to wit:

First, Article 271 is found in Chapter 3, Title VIII, Book 1 of the New Civil Code, which deals with legitimated children. The obvious

inference is that Article 271 applies only to natural children who alone can qualify for legitimation.¹ A spurious child can never be legitimated. Therefore, it would be inappropriate to extend the benefit of the second paragraph of Article 271 to a spurious child even if the latter is a full-blood brother or sister of a recognized natural child.

Second, Section 2, Chapter 4, Title VIII, Book 1 of the New Civil Code deals with the subject of “other illegitimate children”, that is, the spurious children or the illegitimate children other than natural. The three articles appearing thereunder (Articles 287, 288, and 289) say nothing about the effect of the recognition of a spurious child in relation to his or her other full-blood brothers and sisters who are likewise spurious. Thus, the benefit under Article 271 cannot extend likewise to such spurious brothers or sisters.

Third, in the hierarchy of filiation, a natural child occupies a higher position than a spurious child resulting in better rights and privileges in favor of the former. This is very obvious in the law on succession. The benefit under Article 271 accorded a natural child may be treated as another advantage which distinguishes him from a spurious child.

Article 271 speaks of natural children, that is, those born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other.² The kinds of natural children are: natural children proper and natural children by legal fiction.³ Spurious children are not included within the scope of natural children as provided for in the New Civil Code.

The recognition or judicial declaration of a natural child gives him the rights to bear the surname of the recognizing parent, to receive support from such parent in conformity with Article 291, and to receive in a proper case his hereditary portions.⁴

On the other hand, “an illegitimate (spurious) child to be entitled to support and successional rights from his putative parents must prove his filiation to them. This filiation may be proved by the voluntary or compulsory recognition of the illegitimate (spurious) child.”⁵ Please note that it is not filiation that is important, but recognition of said filiation, for the child to have support and successional rights. “For a spurious child to be entitled to inherit, there must be an admission

or recognition by the deceased that said child was his illegitimate child. The recognition must be voluntary or by judicial decree.”⁶

It is thus evident from the foregoing reasons that recognition of spurious children requires an independent and separate act. For spurious children are not within the scope of natural children who, by operation of law as provided in Article 271, are deemed recognized when their brothers or sisters of the full blood are recognized or judicially declared natural.

1 Article 269 of the New Civil Code.

2 Article 269, *supra*.

3 Article 269 and 89 of the New Civil Code.

4 Article 282 of the New Civil Code.

5 RP vs. Workmen's Compensation Commission, G. L. R. – 19946, February 26, 1965.

6 Noble vs. Noble, L-17742, December 17, 1966;
Paulino vs. Paulino, L-15091, December 28, 1961.