CIVIL LAW—PART TWO
PERSONS AND FAMILY RELATIONS

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The significant rulings handed down by the Supreme Court the past year in the field of *Persons and Family Relations* pertain to citizenship and naturalization, a topic which can properly fall under both *Civil Law* and *Political Law*. Inasmuch as past surveys in Civil Law have preempted citizenship as an attribute of persons, we preface this review of 1967 cases with this subject.

CITIZENSHIP AND NATURALIZATION

Declaration of Intention

Generally, it is required that a year prior to the filing of a petition for admission to Philippine citizenship, the applicant should file a declaration of intention. Section 6 of the Revised Naturalization Law provides for the cases wherein said declaration of intention may be dispensed with, namely: (a) if the applicant, having been born in the Philippines, completed his elementary and secondary education in the schools specified by law, or (b) if the applicant has resided continuously in the Philippines for a period of thirty years or more before filing his application.

As regards proof of birth here, the Supreme Court stated that the affidavits of the mother and brother of applicant who did not take the witness stand and applicant's alien certificate of registration and immigrant certificate of residence, stating he was born here are hearsay and not satisfactory evidence proving said circumstance.

He who fails to mention in his petition the schools where he finished his elementary and secondary education and does not prove that the elementary and secondary schools he attended were recognized by the Government and were not limited to

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any race or nationality, is not exempt from filing a declaration of intention.[1]

Grounds for Disqualification

The year under review has seen, as usual, countless naturalization cases decided by the Supreme Court, most of the applicants for citizenship having been turned down, however, for failure to meet the qualifications required in Section 2 of the Revised Naturalization Law. Adhering to the principle of strict construction in citizenship cases in favor of the State and against the petitioner, the Supreme Court has therefore succeeded in zealously limiting the grant of the privilege of Filipino citizenship to those who are both qualified and deserving.

The common grounds for denying the grant of citizenship were the following:

1. lack of a lucrative income, the standard of which has gone up with the rising cost of living.[2]

2. the omission in the petition of a recital of all former places of legal and actual residence, the same being considered fatal to the application.[3] According to the Court, such omission tends to defeat the purpose of the publication required by law, of notice of the filing of the petition for naturalization. It deprives the Government of the opportunity to make a thorough and effective investigation of petitioner's background prior to

[1] Po Chu King v. Republic, G.R. No. 20810, May 16, 1967.

[2] Tan v. Republic, G.R. No. 22077, February 18, 1967; Tan Tian v. Republic, G.R. No. 19899, March 18, 1967; Chua Tek v. Republic, G.R. No. 22372, March 31, 1967; Lim Sih Beng v. Republic, G.R. No. 23387, April 24, 1967; Tan Chua v. Republic, G.R. No. 22310, April 24, 1967; Law Tai v. Republic, G.R. No. 20623, April 27, 1967; Po Chu King v. Republic, see note 1, *supra*; Tiu Tua Pi v. Republic, G.R. No. 20909, May 24, 1967; Syson v. Republic, G.R. No. 21199, May 29, 1967; Ong Chian Suy v. Republic, G.R. No. 21739, May 30, 1967; Ty Eng Hua v. Republic, G.R. No. 20897, May 30, 1967; Go Yanko v. Republic, G.R. No. 21542, August 10, 1967; O Ku Phuan v. Republic, G.R. No. 23406, August 31, 1967; Sy v. Republic, G.R. No. 19713, September 18, 1967; Po Chu Sam v. Republic, G.R. No. 20812, September 22, 1967; Tan Sen v. Republic, G.R. No. 23181, October 24, 1967; Sia Faw v. Republic, G.R. No. 24782, November 17, 1967; Ho Ngo v. Republic, G.R. No. 24335, November 18, 1967; Manuel To v. Republic, G.R. No. 20156, December 29, 1967.

[3] Tan v. Republic, see note 2, *supra*; Tan Tian v. Republic, see note 2, *supra*; Chua Tek v. Republic, see note 2, *supra*; Lim Sih Beng v. Republic, G.R. No. 23387, April 24, 1967; Tan Chua v. Republic, see note 2, *supra*; Law Tai v. Republic, see note 2, *supra*; Syson v. Republic, see note 2, *supra*; Ong Chian Suy v. Republic, see note 2, *supra*; Ac San v. Republic, G.R. No. 21128, August 19, 1967; O Ku Phuan v. Republic, see note 2, *supra*; Ho Ngo v. Republic, see note 2, *supra*; Li Siu Liat v. Republic, G.R. No. 25356, November 25, 1967.

the hearing of his petition. Moreover, people residing in the neighborhood of the former places of residence not mentioned in the petition may thus be led to believe that petitioner is another person and accordingly, refrain from conveying to the Government pieces of information relevant, if not vital, to the petition for naturalization.[4]

3. the omission or unlawful use of aliases.[5]

4. the presentation of disqualified character witnesses.[6] Said character witnesses, acting as insurers of the character of the petitioner, should be credible persons. What must be credible is not the declaration but the person making it.

A credible person has been defined as "an individual who has not been convicted of any crime, who is not a police character and has no police record, who has not perjured and whose affidavit or testimony is not incredible. This implies that such person must have a good standing in the community, that he is known to be honest and upright; that he is reputed to be trustworthy and reliable and his word may be taken at its face value, as a good warranty of the worthiness of the petitioner."[7]

5. lack of good moral character, which is analogous to another ground, that is, the petitioner's failure to conduct himself in a proper and irreproachable manner during the period of residence in the Philippines.

This may take the form of untruthful statements in the petition regarding the number of living children,[8] increasing the number of children from five in the original petition to eight in the amended petition,[9] alleging that his child was borne by his lawful wife when in truth the child's mother was petitioner's common-law-wife[10] or the maintenance of a paramour by whom petitioner had six children.[11]

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[4] O Ku Phuan v. Republic, see note 2, *supra*.

[5] Chua Tek v. Republic, see note 2, *supra*; Tan Chua v. Republic, see note 2, *supra*; Wong Chui v. Republic, G.R. No. 23855, April 24, 1967; O Ku Phuan v. Republic, see note 2, *supra*; Tan Sen v. Republic, see note 2, *supra*; Ho Ngo v. Republic, see note 2, *supra*; Chua Tiong Seng v. Republic, G.R. No. 21422, December 18, 1967.

[6] Tan v. Republic, see note 2, *supra*; Chua Beng v. Republic, G.R. No. 21755, May 13, 1967; Yap v. Republic, G.R. No. 23656, May 15, 1967; O Ku Phuan v. Republic, see note 2, *supra*.

[7] Yap v. Republic, see note 6, *supra*.

[8] Syson v. Republic, see note 2, *supra*.

[9] Ao San v. Republic, see note 3, *supra*.

[10] Li Siu Liat v. Republic, see note 3, *supra*.

[11] Lee Bing Hoo v. Republic, G.R. No. 22147, May 16, 1967.

6. failure to evince a real desire to embrace and practice Filipino customs as manifested by the petitioner's living separately from his wife and children. Such situation is contrary to, if not destructive of, one of the most important traits of the Filipino people — love of the family and abiding interest and concern for its members.[12]

Publication Requirement

A naturalization case, being a proceeding *in rem,* publication is required in order that the court may acquire jurisdiction over the whole world, which would be bound by the decision it may render, if the requirements of due process were complied with.[13] The law requires publication of the petition once a week for three consecutive weeks in the Official Gazette and in one of the newspapers of general circulation in the province where the petitioner resides.

As a ground for the denial of the grant of citizenship, the failure to publish the petition for at least *three* consecutive times in the Official Gazette has received considerable attention from both the executive department and the Supreme Court the past year. One case that has caused alarm among recently naturalized citizens due to the serious consequences arising from the foreseeable unsettling of vested rights acquired by them in the past decade is that of *Gan Tsi Tung v. Republic of the Philippines.*[14]

First brought to the Supreme Court in 1965 upon appeal from an order of the Court of First Instance of Manila annulling a decision thereof and cancelling the certificate of naturalization issued pursuant thereto, the High Court affirmed the said order on the ground that the notice of the filing of the petition and of the hearing thereof had been published in the Official Gazette only once, instead of once a week for three consecutive weeks, in violation of section 9 of the Revised Naturalization Law. Reiterating its doctrine first enunciated in the *Ong Son Cui* case and followed by three other cases,[15] the Supreme Court

[12] Chua Yanho v. Republic, G.R. No. 19475, April 27, 1967.
[13] Yap v. Republic, see note 6, *supra.*
[14] G.R. No. 20819, November 29, 1965; February 21, 1967.
[15] Ong Son Cui v. Republic, 101 Phil. 649 (1957); Celestino Co Y Quing Reyes v. Republic, G.R. No. 10761, November 20, 1958, 55 O.G. 9224 (Nov., 1959); Ng Bulk Kui v. Republic, G.R. No. 11172, December 27, 1958, 55 O.G. 9220 (Nov., 1959); Tan Cona v. Republic, G.R. No. 13224, April 27, 1960, 57 O.G. 7707 (Oct., 1961).

declared that said non-compliance with the publication requirement was "insufficient to confer jurisdiction to the court *a quo* to try the case and grant the petition."

Upon motion for reconsideration[16] the same Court definitively held that the doctrine in the *Ong Son Cui* case shall apply and affect the validity of certificates of naturalization issued *after,* not on or before, May 29, 1957, the date the case was decided. In other words, certificates of naturalization issued on or before the cut-off date of May 29, 1957, even if notice of the petition for naturalization had been published only once should not be nullified, considering the jurisprudence enunciated in the earlier cases of *Barretto v. Republic*[17] and *Delgado v. Republic*[18] sanctioning the practice, because "the cancellation thereof would affect the validity of acts and/or legal relations established in justified reliance upon the validity of said document, and thus cause undue harm to the parties concerned and do violence upon public interest."

However when the *Ong Son Cui* doctrine making mandatory the publication in the Official Gazette once a week for three consecutive weeks, or at least three times consecutively, was adopted, it became part of the jurisprudence since May 29, 1957 and hence, law of the land. Accordingly, considering that the certificate of naturalization of petitioner Gan Tsi Tung was issued on December 24, 1954, or *before* the *Ong Son Cui* decision of May 29, 1957, the same should not be nullified.

On the basis of the above-cited *Gan Tsi Tung* decision, a Court of First Instance decision admitting an alien, Nemesio Huang, to Philippine citizenship even after a single publication in the Official Gazette, was upheld by the Supreme Court since appellee took his oath of allegiance on September 1, 1956.[19]

Effect of Decision

The decision in a naturalization case does not become final until after the issuance of the naturalization certificate and compliance with Republic Act No. 530. Until then, the only vested right is that of the Republic to see to it that only applicants fully qualified should be admitted to membership in the

[16] Gan Tsitung v. Republic, see note 14. *supra.*
[17] 87 Phil. 731 (1950).
[18] G.R. No. 2546, January 28, 1950.
[19] Huang v. Republic, G.R. No. 20478, June 29, 1967.

body politic. Before the oath-taking, the trial court has jurisdiction to set aside its decision granting naturalization.[20]

A naturalization proceeding, not being a judicial adversary proceeding, the decision rendered therein is not *res judicata* as to any of the reasons or matters which should support a judgment cancelling the certificate of naturalization for illegal or fraudulent procurement thereof.[21]

Effect of the Naturalization on the Wife and Children

Two cases decided last year place to the fore paragraph 1, section 15 of the Revised Naturalization Law on the effect of naturalization on the wife and children of the Filipino citizen — *Burca v. Republic of the Philippines*[22] and *Morano v. Vivo*.[23] Said provision states:

> "Section 15. *Effect of the naturalization on wife and children.* — Any woman who is now or may hereafter be married to a citizen of the Philippines, and who might herself be lawfully naturalized shall be deemed a citizen of the Philippines."

In *Burca v. Republic of the Philippines,* the petitioner, Zita Ngo Burca, a Chinese citizen born in the Philippines and married subsequently to a Filipino citizen, filed a petition to secure a court declaration to the effect that she possessed all the qualifications and none of the disqualifications for naturalization under Commonwealth Act No. 473 for the purpose of cancelling her alien registry with the Bureau of Immigration. Treating the petition as one for naturalization, the Supreme Court dismissed the same on the ground of its being defective for failure to mention the essential allegations required under section 7 of the Revised Naturalization Law and the fact that no witnesses were presented at all. What is significant in the decision is how the Tribunal arrived at the decision to treat the petition as one for naturalization.

In interpreting the above-quoted section 15 of the Revised Naturalization Law, the Supreme Court reasoned out that under the constitution and legal precepts, an alien woman who marries a Filipino citizen does not, by the mere fact of mar-

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[20] Ao San v. Republic, see note 3, *supra.*; Lee Bing Hoo v. Republic, see note 11, *supra.*

[21] Lee Bing Hoo v. Republic, see note 11, *supra.*

[22] G.R. No. 24252, January 30, 1967.

[23] G.R. No. 22196, June 30, 1967.

riage, automatically become a Filipino citizen. A long line of uniform judicial pronouncements is to the effect that she may not acquire the status of a citizen of the Philippines unless there is proof that she herself may be lawfully naturalized, i.e., that she possesses the qualifications under section 2 and none of the disqualifications in section 4 of the Revised Naturalization Law.[24] But who is to determine whether she might herself be lawfully naturalized in order that she may be deemed a citizen of the Philippines? Citizenship for one thing, is not an appropriate subject of declaratory judgment proceedings.

In *Brito v. Commissioner of Immigration*,[25] the Supreme Court ventured a step further in clarifying the ambiguous situation by stating that the citizenship of the alien woman married to a Filipino citizen must be determined in an "appropriate proceeding." At this juncture, the question that obtrudes itself is: Does "appropriate proceeding" refer to administrative or judicial action?

Over the years, the determination of the citizenship of alien women in this category had been made mainly by the Commissioner of Immigration in deportation proceedings. Taking cognizance of the confusion engendered by the divergent opinions of officials concerned regarding the matter, the Supreme Court now decided to hand down a clear-cut ruling in an effort at "drying up sources of doubt" and resolved the matter in favor of the courts — judicial over administrative resolution of the matter of citizenship of the alien wife of a naturalized Filipino citizen.

In order to acquire the new citizenship of her husband, the alien wife now must needs comply with section 7 of the Revised Naturalization Law which plainly provides that a person desiring to acquire Philippine citizenship shall file *with the competent court* a petition for the purpose, the proper forum, as section 8 of the same law points out, being the Court of First Instance of the province where the petitioner has resided at least one year immediately preceding the filing of the petition. No other office, agency, board or official, having been empowered

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[24] Cua v. Board, 101 Phil. 521 (1957); Ly Giok Ha v. Galang, 101 Phil. 459, 463 (1957); See also the second case of Ly Giok Ha v. Galang, G.R. No. 21332, March 18, 1966, 63 O.G. 4659 (May, 1967); Lee Suan Ay v. Galang, G.R. No. 11855, December 23, 1959, 57 O.G. 2312 (March, 1961).

by the law to determine such question, the Supreme Court continued, the resolution thereof rests exclusively with the competent courts.

In arriving at this decision, it is to be noted that the Supreme Court did not distinguish the alien wife of a recently-naturalized Filipino citizen from other aliens who, not being citizens, desire to acquire said status, thus nullifying, in effect paragraph 1 of section 15. While it is admitted that the mere fact of marriage to a Filipino citizen does not *ipso facto* confer the same status on the wife, it undoubtedly places her in a special class because by the fact of said marriage, she is *deemed* a citizen of the Philippines, the word *deemed* meaning "considered" or "treated as if." Under this interpretation, the beneficent effects of naturalization shall now extend to the children solely but not to the wife of the Filipino citizen.

Of far-reaching consequence is the further declaration of the Supreme Court that any action by any other office, agency, board or official, administrative or otherwise — other than the judgment of a competent court of justice — certifying or declaring that an alien wife of a Filipino citizen is also a Filipino citizen, is hereby declared null and void. With this precedent-setting decision, it is not difficult to foresee that the implementation of this ruling may unsettle vested rights, particularly if applied retroactively to the hundreds of alien women who have, by administrative fiat, been pronounced Filipino citizens, following that of their husband's newly-acquired status.

Paragraph 1, section 15 of the Revised Naturalization Law was likewise interpreted in a manner consistent with previous ruling in the case of *Morano v. Vivo*.[26] Unlike the *Burca* case, the alien wife here claiming the Filipino citizenship of her husband was a temporary visitor who got married to a Filipino during her brief stay in the Philippines. In reversing the trial court's declaration that petitioner became a Filipino citizen by virtue of her marriage to a natural-born Filipino, the Supreme Court reiterated the *Burca* doctrine that marriage of an alien woman to a Filipino citizen does not make her a Filipino citizen. Again, she must satisfactorily show that she has all the qualifications and none of the disqualifications required by the Natu-

[26] See note 23, *supra*.

ralization Law on the basis of the principle of selective citizenship.

Effect of Exercise by Alien of Rights of a Citizen

Where an alien has managed to exercise the rights and prerogatives inhering exclusively in citizens, as in the case of *Paa v. Chan*,[27] the High Tribunal lost no time in issuing a clear-cut ruling that Filipino citizenship cannot be acquired by holding oneself out as a citizen.

In this case, petitioner who lost to respondent Chan as councilor of San Fernando, La Union in the general elections of 1963, filed a petition for *quo warranto* questioning the latter's eligibility for said office for which he was proclaimed elected on the ground of his Chinese citizenship. To prove his Filipino citizenship, respondent cited, among others, the following circumstances which were included in the parties' stipulation of facts: that he had been exercising the right to vote since 1935; that he was issued a Philippine passport wherein it was stated that he is a Filipino citizen; that in his residence certificate issued in 1945 it appears that he is a Filipino citizen; that he had entered into contracts with the national, provincial and municipal governments; that he owns real property in several municipalities; that he was granted a certificate of public convenience by the Public Service Commission for a trucking business; that he has a brother who is a duly licensed engineer and a sister who is a duly registered nurse.

In affirming the lower court's decision that the respondent is *not* a Filipino citizen, the Supreme Court held that the exercise by a person of the rights and/or privileges that are granted only to Filipino citizens is not conclusive proof that he or she is a Filipino citizen inasmuch as he may merely represent himself to be one.

It is incumbent upon the respondent, who claims Philippine citizenship, to prove to the satisfaction of the court that he is really a Filipino. No presumption can be indulged in favor of the claimant of Philippine citizenship, and any doubt regarding citizenship must be resolved in favor of the State. Even the opinion of the Secretary of Justice declaring the respondent a Filipino citizen has no controlling effect upon the Supreme

[27] G.R. No. 25945, October 31, 1967.

Court. More so, when there are facts of record showing that respondent regarded himself as a Chinese citizen, such as registration of himself and his father as aliens with the Bureau of Immigration, filing a petition for naturalization in the Court of First Instance of La Union and enrollment of five of his eight children in the local Chinese High School.

MARRIAGE AND CONJUGAL PARTNERSHIP

In the case of *Manila Surety and Fidelity Co., Inc. v. Teodoro,*[28] the distinction between the concepts of conjugal partnership and the marriage relationship was stressed. Although the conjugal partnership between Jose Corominas, Jr. and Sonia Lizares was terminated in 1957 by the Court of Juvenile and Domestic Relations of Manila upon their joint petition, the matrimonial bonds subsisted. And in line with a number of previous rulings, a decree of divorce granted by the court of Nevada in 1954, not being valid under Philippine law, did not operate to sever said ties. The subsequent marriage of Corominas therefore to Trinidad Teodoro in Hongkong was bigamous and void.

Proof of Marriage

The lack of reference to a marriage in the indices of marriages, for the years 1900 to 1904, of the Office of the Civil Registrar for Manila, does not establish plaintiff's claim that the couple were not married at all for they may have been married at some other time or at some other place. Besides, having concededly lived together as husband and wife for many years, they are presumed to be legally married, unless and until the contrary is satisfactorily proved.[29]

Quasi-Conjugal Properties

In clarification of the nature of quasi-conjugal properties, or those properties acquired by either or both man and woman living together as husband and wife, but are not married, or their marriage is void from the beginning, the Supreme Court said that the pertinent article, article 144, is not applicable to a case where the funds used in acquiring those properties were fruits of the woman's paraphernal investments which accrued before her "mar-

[28] G.R. No. 20530, June 29, 1967.
[29] Bartolome v. Bartolome, G.R. No. 23661, December 20, 1967.

riage." Not having been acquired by either or both of the partners through their work or industry or their wages and salaries, said properties cannot be the subject of co-ownership. They remain the woman's exclusive properties and are therefore beyond the reach of execution to satisfy the judgment debt of the man.[30]

Conjugal Property

A few points relating to ganancial properties were raised in *Maramba v. Lozano*.[21] In this case, property in the name of the defendant-wife was sought to be levied upon in satisfaction of a judgment debt of defendant-spouses. The Supreme Court, affirming the trial court's order, held that said wife could only be held liable for one-half of the judgment debt since the rule is that when the judgment does not order the defendant to pay jointly and severally, their liability is merely joint.

Appellant's contention that the entire debt can be satisfied from the proceeds of the property sold at public auction since the presumption is that it is conjugal in character is incorrect for article 160 laying down the presumption refers to properties acquired during the marriage and not, as in the instant case, where there is no showing as to when the property in question was acquired. Hence, the fact that the title is in the wife's name alone is determinative.

Furthermore, it is likewise incorrect to allege that the land, even if originally paraphernal, became conjugal property by virtue of the construction of a house thereon at the expense of the common fund pursuant to article 158, paragraph 2 of the Civil Code. The construction of a house at conjugal expense on the exclusive property of one of the spouses does not automatically make it conjugal. While the conjugal partnership may use both land and building, it does so not as owner but as usufructuary, the ownership remaining the same until the value thereof is paid and this payment can only be demanded in the liquidation of the partnership.

Thus has the Supreme Court imbedded firmly in our jurisprudence the principles first enunciated in the cases of *Coingco*

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[30] Manila Surety and Fidelity Co., Inc. v. Teodoro, see note 28, *supra*.
[31] G.R. No. 21533, June 29, 1967.

v. Flores,[32] *Paterno v. Padilla*[33] and *Testate Estate of Padilla*[34] in relation to article 158, paragraph 2 of the Civil Code, but questioned by a strong dissenting opinion of *Coingco v. Flores* and by some authorities in Civil Law.

Sale of Conjugal Property Without Marital Consent

Article 173, in providing that the wife may, during the marriage or within ten years from the transaction questioned seek the annulment of any contract entered into by the husband without her consent, when such consent is required, seems to make it clear that such contracts are voidable. Jurisprudence on the matter had hitherto upheld this interpretation but a 1966 case[35] threw doubt on the matter when the Supreme Court said that such transaction is not merely voidable but *null and void.*

The confusion brought about by said decision regarding the status of such transactions entered into without marital consent has been set at rest with the 1967 ruling of the Supreme Court in *Reyes v. de Leon*[36] that a conveyance of real property of the conjugal partnership made by the husband without the consent of his wife is merely voidable. As such it can be ratified as in this case when she gave her conformity to the extension of the period of redemption by signing the annotation on the margin of the deed.

THE FAMILY

Scope of Article 222

In *Mendoza v. Court of Appeals*[37] where the respondent wife claimed support from her husband, petitioner herein who was in the States, the High Tribunal had occasion to point out the scope of article 222 requiring, as a condition precedent to the filing of a suit between members of the same family, a showing that earnest efforts toward a compromise have been made. A claim for future support, being a non-compromisable issue, the same is outside the sphere of application of article 222. Support in arrears may, however, be the object of a compromise.

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[32] 82 Phil. 284 (1948).
[33] 74 Phil. 377 (1943).
[34] G.R. No. 8748, December 26, 1961.
[35] Tolentino v. Cardenas, G.R. No. 20510, April 29, 1966.
[36] G.R. No. 22331, June 6, 1967.
[37] G.R. No. 23102, April 24, 1967.

PATERNITY AND FILIATION

Jurisdiction

In *Paterno v. Paterno*[38] wherein plaintiff-minors sought to participate in their deceased putative parent's estate as illegitimate (adulterous) children, the Supreme Court was called upon to settle a question of jurisdiction. Preliminarily, it held that the main issue was that of paternity inasmuch as before the claim to participate in the decedent's estate may be prosecuted, plaintiff's right to succeed must first be established. And since it is undisputed that the Juvenile and Domestic Relations Court has jurisdiction over the issue of paternity, the incidental question of participation must likewise be decided by it if splitting of causes of action is to be avoided.

Likewise, the same Court has exclusive jurisdiction over the acknowledgment of natural children pursuant to section 38-A, paragraph (6) of Republic Act No. 1401.[39]

Acknowledged Natural Children

In the cases of *Bartolome v. Bartolome*[40] and *Alabat v. Alabat;*[41] the Supreme Court reiterated the ruling that the continuous possession of the status of a natural child does not automatically confer the legal status of an acknowledged natural child. Under the Civil Code of Spain, it was, at best, a ground for compulsory recognition of said status, which must precede an action for adjudication of their share as alleged heirs of the deceased. Indeed, under the provisions of said Code, a natural child, who is not acknowledged as such, has no successional rights to the estate of his natural father.

Evidence to Prove Paternity and Filiation

Evidence to prove a children-to-father illegitimate relationship should be clear, strong and convincing, considering the seriousness of the relationship and its far-reaching consequences. Citing the case of *Serrano v. Aragon,*[42] the Supreme Court stated: "Public policy, indeed public necessity, demands that before an illegitimate child be admitted into a legitimate family, every requisite of the law be completely and fully complied with. No

[38] G.R. No. 23060, June 30, 1967.
[39] Bartolome v. Bartolome, G.R. No. 23661, December 20, 1967.
[40] *Ibid.*
[41] G.R. No. 22169, December 29, 1967.
[42] 22 Phil. 10 (1912).

one should ever be permitted upon doubtful evidence to take from legitimate children the property which they and their parents have, by industry, fidelity, and frugality, acquired."[43]

Change of Surname by Illegitimate Child

The Supreme Court, motivated by humane considerations, allowed that an illegitimate child, in this case, a natural child by legal fiction, need not bear her stigma of illegitimacy for as long as she lives. In *Calderon v. Republic*,[44] it was held that said child may petition for a change of surname from her natural father's surname to that of her stepfather, the latter being agreeable to the same and it appearing that such a change would improve his social standing as long as in doing so he does not cause prejudice or injury to the interest of the State or of other persons.

This change of name as authorized under Rule 103 does not by itself define, or effect a change in, one's existing family relations, or in the rights and duties flowing therefrom; nor does it create new family rights and duties where none before was existing. It does not alter one's legal capacity, civil status or citizenship. What is altered only is the label or appellation by which a person is known and distinguished from others.

PARENTAL AUTHORITY

What is the extent of the authority of the parent as legal administrator of his unemancipated child's property?

In the case of *Nario v. Philippine-American Life Insurance Company*,[45] the plaintiff who was covered by a life insurance policy with her husband and unemancipated minor son as her irrevocable beneficiaries, was denied her application for a loan and subsequently, for the cash surrender value of said policy by defendant insurance company on the ground that the written consent for the minor son given by the latter's father as legal guardian was not sufficient. Prior court authorization was required by the company.

In upholding the lower court's decision which was identical with the stand of the defendant company, the Supreme Court

[43] Tan v. Court of Appeals, G.R. No. 22793, May 16, 1967.
[44] G.R. No. 18127, April 5, 1967.
[45] G.R. No. 22796, June 26, 1967.

applied Articles 320 and 326 of the Civil Code, as implemented and clarified by Rule 93, section 7 of the Revised Rules of Court. Inasmuch as the minor beneficiary's vested interest exceeded ₱2,000 and plaintiff-parents neither filed a guardianship bond to be approved by the court nor a formal petition for guardianship, the latter cannot possibly exercise the powers vested in them as legal administrators of their child's property.

Even if the interest of the ward were less than ₱2,000, in which case the parents would be exempt from the duty of filing a bond and securing judicial appointment, still their authority would not extend to acts of encumbrance or disposition, as distinguished from acts of management or administration.

ADOPTION

A question of first impression regarding the legality of adopting relatives was resolved by the Supreme Court last year in the case of *Santos v. Republic of the Philippines*.[46] May an elder sister adopt a younger brother?

While Article 338 of the Civil Code authorizes the adoption by the adopter of one to whom he already stands as a parent, *viz.*, the adoption of a natural child by the natural parent, other illegitimate children by the father or mother, and of a stepchild by the stepfather or stepmother, there is no specific provision allowing the adoption of other kinds of relatives. Does this omission preclude adoption among relatives whatever be the degree of relationship, such as that of sister and brother?

Answering in the negative, the Supreme Court upheld the right of petitioner spouses to adopt the wife's four-year old brother whom they had reared from the time the latter was entrusted to their care by their common parents. Brushing aside the Solicitor General's objective that an incongruity will result inasmuch as the adopted who is the legitimate brother of the adopter will also be her son by adoption, the Tribunal fell back on the basic criterion in determining who should have the care and custody of children, i.e., the interest and welfare of the latter. Besides, petitioners are not among those prohibited in article 335 from adopting; nor is the minor child sought to be adopted one of those excluded under article 339 from being adopted.

[46] G.R. No. 22523, September 28, 1967.

With respect to the objection that the adoption in this case will result in a dual relationship between the parties, that is, the adopted brother will also be the son of the adopting elder sister, this fact alone should not prevent the adoption since similar dual relationships also result under our law on marriage when persons who are already related by blood or by affinity, marry each other, as long as the relationship is not within the degrees prohibited by law. The adoption contemplated may produce a dual relationship but one is by nature, the other by fiction of law. Inasmuch therefore as there is no provision of law expressly prohibiting the adoption sought, the same should be allowed.

This ruling allowing adoption among siblings may foreseeably operate as a green light for the adoption of more distant relations as long as neither adopter nor adopted are specifically disqualified under the law.