

SHIRLEY YAP, IN HER OWN BEHALF AND IN HER CAPACITY AS ADMINISTRATRIX OF THE ESTATE OF MANING YAP, JAIME YAP, AND TALINA BIANONG VDA. DE YAP, PETITIONERS, VS. COURT OF APPEALS, N...

G.R. No. L-40003. October 28, 1986

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c363ef92a580/>

GUTIERREZ, JR., J.:

This is a petition to review the decision of the Court of Appeals which set aside the earlier decision of the then Court of First Instance of Lanao del Sur in Special Proceeding No. 1334 (R-61), declaring the petitioners as the legal heirs of the late Maning Yap entitled to inherit his estate and dismissing the opposition filed by the private respondents. The dispositive portion of the decision on appeal reads:

"WHEREFORE, the decision appealed from is hereby set aside and, after a complete and correct inventory is returned by the administratrix, the entire estate of the deceased Maning Yap shall be divided into two equal parts, one-half (1/2) corresponding to the petitioner Talina Bianong and her children Shirley Yap and Jaime Yap and the other half corresponding to the oppositors Nancy J. Yap and her children Maning Yap, Jr., Julia Yap, Jasmin Yap and Samuel Yap, without pronouncement as to costs."

Maning Yap, during his lifetime married twice: first, to Talina Bianong in 1939 and second, to Nancy Yap on December 11, 1948.

Maning Yap and Talina Bianong were married at Bara-as Plantation, Malabang, Lanao del Sur, in accordance with the Muslim rites and practices prescribed by the Islam religion professed by both of them. Immediately, after the marriage, the couple lived in the house of the parents of Maning Yap at the poblacion of Malabang, Lanao del Sur. Out of the marriage, four children were born; two of them died in infancy during the Japanese occupation, while the two others are petitioners Shirley Yap and Jaime Yap.

While the first marriage was still subsisting, Maning Yap married Nancy J. Yap on December 11, 1948 in a civil ceremony performed by District Judge Juan Sarenas of the Court of First Instance of Cotabato. Nancy Yap entered into the marriage in the belief that Maning Yap was not a married man. They had four children, namely respondents Maning Yap, Jr., Julia Yap, Jasmin Yap and Samuel Yap. On February 21, 1964, Maning Yap died in Piagapo, Lanao del Sur, in the crash of an airplane of the Philippine Air Lines. At the time of his death, he, therefore, had two families living separately about 80 kilometers apart.

On March 3, 1964, Talina Bianong Vda. de Yap filed Special Proceeding No. 1334 (Intestate Estate of Maning Yap) before the Court of First Instance of Lanao del Sur, seeking the issuance of letters of administration for the estate of Maning Yap. Among other things, the petition alleged that Maning Yap left personal and real properties all located at Malabang, Lanao del Sur, with an approximate value of P100,000.00.

The petition was opposed by Nancy J. Yap and her minor children on the ground that she is the legitimate widow

of Maning Yap and that Maning Yap, Jr., Julia Yap, Jasmin Yap and Samuel Yap, all minors, are their legitimate children.

Talina Bianong was initially appointed special administratrix of the intestate estate of Maning Yap. However, after a formal hearing and on recommendation of Talina, the lower court appointed Shirley Yap as regular administratrix of the intestate estate of Maning Yap.

Various claims filed by the creditors against the intestate estate of Maning Yap were duly approved by the court and paid by the administratrix. Since there still existed a residue of the intestate estate consisting of real and personal properties and collectible debts after payments to creditors, the court set the case for hearing to arrive at a declaration of heirship for the purpose of liquidating the conjugal partnership of the late Maning Yap and his surviving spouse and to determine the heirs entitled to inherit his intestate estate.

After trial, the lower court rendered decision declaring Talina Bianong and her children as the legal heirs of Maning Yap. The dispositive portion of the decision reads:

"IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered:

"(a) Declaring Talina Bianong, Shirley Yap and Jaime Yap, the legal heirs of the late Maning Yap and entitled to inherit or succeed to his intestate estate with Talina Bianong, as his surviving spouse, and Shirley Yap and Jaime Yap, as his surviving legitimate children;

"(b) Adjudicating to Talina Bianong one-third (1/3) of the whole intestate estate of the late Maning Yap, as her share, pursuant to Art. 996 of the New Civil Code; to Shirley Yap, the other one-third (1/3) as her share and to Jaime Yap the remaining one-third (1/3), also as his share, pursuant to Art. 980 in conjunction with Art. 996 of the new Civil Code.

"The opposition and claim of the opposition is hereby dismissed without costs."

Upon appeal by Nancy Yap and her children, the appellate court reversed and set aside the decision. As stated earlier, the Court of Appeals ruled that the estate of Maning Yap should be equally divided into two equal parts: one-half (1/2) to Talina Bianong and her children and the other half (1/2) to Nancy Yap and her children.

The appellate court applied the ruling in *Lao and Lao v. Dee Tim* (45 Phil. 739). The facts in the cited case are similar to the case at bar in that Yap Siong in his lifetime contracted two marriages; first to Dee Tim on September 14, 1893 in China with whom he had three children and second to Maria Lao on June 24, 1903 with whom he had one child. Moreover, Maria Lao entered into the marriage believing that Yap Siong was not then a married man. Yap Siong died on September 1922 leaving properties which were claimed by the two families. In resolving the issue on how the properties of Yap Siong should be divided, this Court applied the *Leyes de Partidas* (Law 1, Title 13, Partida 4), to wit:

xxx xxx xxx

"x x x [W]here two women innocently and in good faith are legally united in holy matrimony to the same man, their children and each family will be entitled to one-half of the estate of the husband upon distribution of his estate. That provision of the *Leyes de Partidas* is a very humane and wise law. It justly protects those who innocently have entered into the solemn relation of marriage and their descendants. The good faith of all the parties will be presumed until the contrary is positively proved. (Article 69, Civil Code; *Las Leyes de Matrimonio*, section 96; *Gaines v. Hennen*, 65 U.S., 553.)

"A woman who is deceived by a man who represents himself as single and who marries him, she and her children born while the deception lasted, under the Spanish law, are entitled to all the rights of a legitimate wife and children. The common law allowing none of the incidents of a true marriage to follow another

marriage entered into during the continuance of a first, was early found to work a great injustice upon the innocent parties to the second marriage, and specially upon the offspring of such second marriage. x x x."

The petitioners now contend that Maning Yap died in 1964 when the New Civil Code had already superseded the old Spanish Civil Code. They state that pursuant to Article 2263 of the New Civil Code, the distribution of the estate of Maning Yap should be in accordance with the new codal provisions and not the *Leyes Partidas*, which is an old law no longer applicable.

We agree.

Article 2263, a transitional provision in the New Civil Code which took effect on August 30, 1950 states:

"Rights to the inheritance of a person who died, with or without a will, before the effectivity of this Code, shall be governed by the Civil Code of 1889, by other previous laws, and by the Rules of Court. The inheritance of those who, with or without a will, die after the beginning of the effectivity of this Code, shall be adjudicated and distributed in accordance with this new body of laws and by the Rules of Court; but the testamentary provisions shall be carried out insofar as they may be permitted by this Code. Therefore, legitimes, betterments, legacies and bequests shall be respected; however, their amount shall be reduced if in no other manner can every compulsory heir be given his full share according to this Code. (Rule 12a)"

The Report of the Code Commission explains the rule, to wit:

"The decisive fact which gives origin to the right of the heirs, devisees and legatees is the death of the decedent. This is the basis of the foregoing rule. No heir, devisee or legatee has any vested right until the moment of such death (Civil Code, Padilla, Volume VII, 1975, p. 712)."

We have accordingly ruled that the rights to the inheritance of a person who died before the effectivity of the New Civil Code shall be governed by the Civil Code of 1889, by other previous laws and by the Rules of Court (See *Vidaurrezaga v. Court of Appeals*, 91 Phil. 492; *Canales v. Arrogante*, 91 Phil. 9; and *Morales, et al. v. Yañez*, 98 Phil. 677), while the rights to the inheritance of a person who died after the effectivity of the New Civil Code shall be governed by the New Civil Code (*Del Prado v. Santos*, 18 SCRA 68).

There is no dispute that the marriage of Talina Bianong to Maning Yap was valid and that the second marriage contracted by the latter with Nancy Yap was illegal and void pursuant to Act 3613 of the Philippine Legislature, the Marriage Law which was in force when the two marriages were celebrated, to wit:

"SEC. 29. Illegal Marriages. - Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless;

"(a) The first marriage was annulled or dissolved;

"(b) The first spouse had been absent for seven consecutive years at the time of the second marriage without the spouse present having news of the absentee being alive, or the absentee being generally considered as dead and believed to be so by the spouse present at the time of contracting such subsequent marriage, the marriage so contracted being valid in either case until declared null and void by a competent court."

Bearing this in mind, how must the estate of Maning Yap be distributed?

The records show that the real and personal properties under administration in the intestate estate proceedings of Maning Yap were acquired by Talina Bianong and the deceased Maning Yap during their marriage. Hence, these properties, in the absence of any evidence to the contrary are considered conjugal properties of Talina Bianong and Maning Yap (Article 142, New Civil Code). Considering that there, was no liquidation of the conjugal

partnership of gains during the lifetime of Maning Yap, such liquidation must be carried out in the intestate proceedings of Maning Yap, the deceased spouse as expressly provided in Section 2, Rule 73, Revised Rules of Court (*Lapuz v. Eufemio*, 43 SCRA 177).

Article 142 of the New Civil Code provides:

"By means of the conjugal partnership of gains the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage."

and Article 185 thereof states:

"The net remainder of the conjugal partnership of gains shall be divided equally between the husband and the wife or their respective heirs, unless a different basis of division was agreed upon in the marriage settlements."

Pursuant to these provisions, the net remainder of the conjugal partnership of gains after money claims filed, by creditors against the intestate estate of Maning Yap approved by the lower court have been paid by the administratrix should be equally divided between Maning Yap and Talina Bianong as their shares. The one-half share of Mating Yap would then comprise his intestate estate to be distributed among his heirs. (See also *Vda. de Delizo v. Delizo*, 69 SCRA 216)

Under the law of succession in the New Civil Code, Maning Yap's legal heirs are Talina Bianong, her children Shirley Yap and Jaime Yap and the children of Nancy Yap by Maning Yap namely: Maning Yap, Jr., Julia Yap, Jasmin Yap and Samuel Yap. Talina Bianong, the first wife had not lost or relinquished her status as putative heir of her husband. She is entitled to share in Maning Yap's estate upon his death (*Gomez v. Lipana*, 33 SCRA 615). On the other hand, Nancy Yap, the second wife cannot inherit from Maning Yap because their marriage was void ab initio. (Art. 83, New Civil Code; *People v. Mendoza*, 95 Phil. 845) However, Nancy Yap's children by Maning Yap have the status of natural children by legal fiction and are considered compulsory heirs of the late Maning Yap. (Articles 89 and 887, New Civil Code).

Considering the foregoing, the estate of Maning Yap which is one-half (1/2) pro indiviso of the net remainder of the conjugal partnership of gains of the first marriage (Articles 142 and 185 New Civil Code), the other half being the share of Talina Bianong, should be distributed as follows:

- To the legitimate children, Shirley Yap and Jaime Yap - one-half (1/2) of the resulting net estate to be divided equally between them pursuant to Article 888 of the New Civil Code;
- To the legitimate widow Talina Bianong - one-fourth (1/4) of the net estate taken from the free portion or disposable half of the estate pursuant to Article 999 in relation to Article 897 of the New Civil Code; and
- To the natural children by legal fiction - Maning Yap, Jr., Julian Yap, Jasmin Yap and Samuel Yap - the remaining one-fourth (1/4) of the net estate to be shared equally between them pursuant to the first and third paragraphs of Article 895 in relation to Article 983 of the New Civil Code.

WHEREFORE, the instant PETITION is GRANTED. The questioned decision of the Court of Appeals is hereby REVERSED and SET ASIDE. The Widow, Talina Bianong shall receive one half (1/2) of the whole intestate estate as her share in the net remainder of the conjugal partnership of gains. The other half, which is the net estate of the late Maning Yap, is distributed and adjudicated as stated above.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Paras, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.