

**JOSE E. ARUEGO, JR., SIMEONA SAN JUAN ARUEGO, MA.
IMMACULADA T. ALANON, ROBERTO A. TORRES, CRISTINA A.
TORRES, JUSTO JOSE TORRES AND AGUSTIN TORRES, PETITIONERS,
VS. THE HON. CO...**

G.R. No. 112193. March 13, 1996

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

On March 7, 1983, a Complaint[1] for Compulsory Recognition and Enforcement of Successional Rights was filed before Branch 30 of the Regional Trial Court of Manila by the minors, private respondent Antonia F. Aruego and her alleged sister Evelyn F. Aruego, represented by their mother and natural guardian, Luz M. Fabian. Named defendants therein were Jose E. Aruego, Jr. and the five (5) minor children of the deceased Gloria A. Torres, represented by their father and natural guardian, Justo P. Torres, Jr., now the petitioners herein.

In essence, the complaint avers that the late Jose M. Aruego, Sr., a married man, had an amorous relationship with Luz M. Fabian sometime in 1959 until his death on March 30, 1982. Out of this relationship were born Antonia F. Aruego and Evelyn F. Aruego on October 5, 1962 and September 3, 1963, respectively. The complaint prayed for an Order praying that herein private respondent and Evelyn be declared the illegitimate children of the deceased Jose M. Aruego, Sr; that herein petitioners be compelled to recognize and acknowledge them as the compulsory heirs of the deceased Jose M. Aruego; that their share and participation in the estate of their deceased father be determined and ordered delivered to them.

The main basis of the action for compulsory recognition is their alleged "open and continuous possession of the status of illegitimate children" as stated in paragraphs 6 and 7 of the Complaint, to wit:

"6. The plaintiffs' father, Jose M. Aruego, acknowledged and recognized the herein plaintiffs as his children verbally among plaintiffs' and their mother's family friends, as well as by myriad different paternal ways, including but not limited to the following:

- (a) Regular support and educational expenses;
- (b) Allowance to use his surname;
- (c) Payment of maternal bills;
- (d) Payment of baptismal expenses and attendance therein;
- (e) Taking them to restaurants and department stores on occasions of family rejoicing;
- (f) Attendance to school problems of plaintiffs;
- (g) Calling and allowing plaintiffs to his office every now and then;
- (h) Introducing them as such children to family friends.

7. The plaintiffs are thus, in continuous possession of the status of (illegitimate) children of the deceased Jose M. Aruego who showered them, with the continuous and clear manifestations of paternal care and affection as above outlined."[2]

Petitioners denied all these allegations.

After trial, the lower court rendered judgment, dated June 15, 1992, the dispositive portion of which reads:

"WHEREFORE, judgment is rendered -

1. Declaring Antonia Aruego as illegitimate daughter of Jose Aruego and Luz Fabian;
2. Evelyn Fabian is not an illegitimate daughter of Jose Aruego with Luz Fabian;
3. Declaring that the estate of deceased Jose Aruego are the following:

x x x x x x x x
4. Antonia Aruego is entitled to a share equal to ½ portion of share of the legitimate children of Jose Aruego;
5. Defendants are hereby ordered to recognize Antonia Aruego as the illegitimate daughter of Jose Aruego with Luz Fabian;
6. Defendants are hereby ordered to deliver to Antonia Aruego (her) share in the estate of Jose Aruego, Sr.;
7. Defendants to play (sic) plaintiff's (Antonia Aruego) counsel the sum of P10,000.00 as atty.'s fee;
8. Cost against the defendants."[3]

Herein petitioners filed a Motion for Partial Reconsideration of the decision alleging loss of jurisdiction on the part of the trial court over the complaint by virtue of the passage of Executive Order No. 209 (as amended by Executive Order No. 227), otherwise known as the Family Code of the Philippines which took effect on August 3, 1988. This motion was denied by the lower court in the Order, dated January 14, 1993.

Petitioners interposed an appeal but the lower court refused to give it due course on the ground that it was filed out of time.

A Petition for Prohibition and Certiorari with prayer for a Writ of Preliminary Injunction was filed by herein petitioners before respondent Court of Appeals, the petition was dismissed for lack of merit in a decision promulgated on August 31, 1993. A Motion for Reconsideration when filed was denied by the respondent court in a minute resolution, dated October 13, 1993.

Hence, this Petition for Review on Certiorari under Rule 45 alleging the following grounds:

A

RESPONDENT COURT HAD DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW AND IS DIRECTLY CONTRADICTORY TO THE APPLICABLE DECISION ALREADY ISSUED BY THIS HONORABLE COURT.

B

RESPONDENT COURT ERRED IN HOLDING THAT THE PETITION FILED BY PETITIONERS BEFORE IT DOES NOT INVOLVE A QUESTION OF JURISDICTION.

C

RESPONDENT COURT HAD CLEARLY ERRED IN RULING THAT THERE IS NO PERCEPTIBLE DIFFERENCE BETWEEN THE CIVIL CODE PROVISION AND THOSE OF THE FAMILY CODE ANENT THE TIME AN ACTION FOR COMPULSORY RECOGNITION MAY BE MADE AND THAT THERE IS NO DIFFERENCE UNDER THE CIVIL CODE FROM THAT OF THE FAMILY CODE CONCERNING THE REQUIREMENT THAT AN ACTION FOR COMPULSORY RECOGNITION ON THE GROUND OF CONTINUOUS POSSESSION OF THE STATUS OF AN ILLEGITIMATE CHILD SHOULD BE FILED DURING THE LIFETIME OF THE PUTATIVE PARENT, IN UTTER DISREGARD

OF THE RULING OF THIS HONORABLE COURT IN THE UYGUANGCO CASE THAT THE CIVIL CODE PROVISION HAD BEEN SUPERSEDED, OR AT LEAST MODIFIED BY THE CORRESPONDING ARTICLES IN THE FAMILY CODE.

D

RESPONDENT COURT ERRED IN DISMISSING PETITIONERS' PETITION FOR PROHIBITION AND IN HOLDING THAT PETITIONERS REMEDY IS THAT OF AN APPEAL WHICH ALLEGEDLY HAD ALREADY BEEN LOST.[4]

Private respondent's action for compulsory recognition as an illegitimate child was brought under Book I, Title VIII of the Civil Code on PERSONS, specifically Article 285 thereof, which states the manner by which illegitimate children may prove their filiation, to wit:

"Art. 285. The action for the recognition of natural children may be brought only during the lifetime of the presumed parents, except in the following cases:

(1) If the father or mother died during the minority of the child, in which case the latter may file the action before the expiration of four years from the attainment of his majority; x x x."

Petitioners, on the other hand, submit that with the advent of the New Family Code on August 3, 1988, the trial court lost jurisdiction over the complaint of private respondent on the ground of prescription, considering that under Article 175, paragraph 2, in relation to Article 172 of the New Family Code, it is provided that an action for compulsory recognition of illegitimate filiation, if based on the "open and continuous possession of the status of an illegitimate child," must be brought during the lifetime of the alleged parent without any exception, otherwise the action will be barred by prescription. The law cited reads:

"Article 172. The filiation of legitimate children is established by any of the following:

(1) The record of birth appearing in the civil register or a final judgment; or

(2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

(1) The open and continuous possession of the status of a legitimate child; or

(2) Any other means allowed by the Rules of Court and special laws."

"Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173 [during the lifetime of the child], except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent."

In the case at bench, petitioners point out that, since the complaint of private respondent and her alleged sister was filed on March 7, 1983, or almost one (1) year after the death of their presumed father on March 30, 1982, the action has clearly prescribed under the new rule as provided in the Family Code. Petitioners, further, maintain that even if the action was filed prior to the effectivity of the Family Code, this new law must be applied to the instant case pursuant to Article 256 of the Family Code which provides:

"This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws."

The basic question that must be resolved in this case, therefore, appears to be: Should the provisions of the Family Code be applied in the instant case? As a corollary Will the application of the Family Code in this case prejudice or impair any vested right of the private respondent such that it should not be given retroactive effect in this particular case?

The phrase "vested or acquired rights" under Article 256, is not defined by the Family Code. "The Committee did not define what is meant by a 'vested or acquired right,' thus leaving it to the courts to determine what it means as each particular issue is submitted to them. It is difficult to provide the answer for each and every question that may arise in the future." [5]

In *Tayag vs. Court of Appeals*, [6] a case which involves a similar complaint denominated as "Claim for Inheritance" but treated by this court as one to compel recognition as an illegitimate child brought prior to the effectivity of the Family Code by the mother of the minor child, and based also on the "open and continuous possession of the status of an illegitimate child," we had occasion to rule that:

"Under the circumstances obtaining in the case at bar, we hold that the right of action of the minor child has been vested by the filing of the complaint in court under the regime of the Civil Code and prior to the effectivity of the Family Code. We herein adopt our ruling in the recent case of *Republic of the Philippines vs. Court of Appeals, et. al.* [7] where we held that the fact of filing of the petition already vested in the petitioner her right to file it and to have the same proceed to final adjudication in accordance with the law in force at the time, and such right can no longer be prejudiced or impaired by the enactment of a new law.

xxx xxx

Accordingly, Article 175 of the Family Code finds no proper application to the instant case since it will ineluctably affect adversely a right of private respondent and, consequentially, of the minor child she represents, both of which have been vested with the filing of the complaint in court. The trial court is, therefore, correct in applying the provisions of Article 285 of the Civil Code and in holding that private respondent's cause of action has not yet prescribed."

Tayag applies four-square with the case at bench. The action brought by private respondent Antonia Aruego for compulsory recognition and enforcement of successional rights which was filed prior to the advent of the Family Code, must be governed by Article 285 of the Civil Code and not by Article 175, paragraph 2 of the Family Code. The present law cannot be given retroactive effect insofar as the instant case is concerned, as its application will prejudice the vested right of private respondent to have her case decided under Article 285 of the Civil Code. The right was vested to her by the fact that she filed her action under the regime of the Civil Code. Prescinding from this, the conclusion then ought to be that the action was not yet barred, notwithstanding the fact that it was brought when the putative father was already deceased, since private respondent was then still a minor when it was filed, an exception to the general rule provided under Article 285 of the Civil Code. Hence, the trial court, which acquired jurisdiction over the case by the filing of the complaint, never lost jurisdiction over the same despite the passage of E.O. No. 209, also known as the Family Code of the Philippines.

Our ruling herein reinforces the principle that the jurisdiction of a court, whether in criminal or civil cases, once attached cannot be ousted by subsequent happenings or events, although of a character which would have prevented jurisdiction from attaching in the first instance, and it retains jurisdiction until it finally disposes of the case. [8]

WHEREFORE, the petition is DENIED and the decision of the Court of Appeals dated August 31, 1993 and its Resolution dated October 13, 1993 are hereby AFFIRMED.

SO ORDERED.

Padilla, Bellosillo, and Kapunan, JJ., concur.

Vitug, J., also believes that the Court of Appeals did not err in holding that the petition before it did not involve a question of jurisdiction and cannot thus be a substitute for a lost appeal.

[1] Docketed as Civil Case No. 83-16093.

[2] Rollo, p. 45.

[3] Rollo, pp. 10-11.

[4] Rollo, p. 55.

[5] Sempio-Diy, Alicia V., Handbook on the Family Code of the Philippines, 1988 ed., p. 325.

[6] 209 SCRA 665 [1992].

[7] 205 SCRA 356 [1992].

[8] Regalado, Florenz D., Remedial Law Compendium, Volume One, Fifth Revised Edition, p.9, citing Ramos, et al. v. Central Bank, L-29352, October 4, 1971; Dioquino v. Cruz, et al., L-38579, September 9, 1982; Republic v. Pielago, et al., G.R. No. 72218, July 21, 1986.

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