

**IN THE MATTER OF THE INTESTATE ESTATES OF THE DECEASED
JOSEFA DELGADO AND GUILLERMO RUSTIA CARLOTA DELGADO
VDA. DE DE LA ROSA AND OTHER HEIRS OF LUIS DELGADO,
NAMELY, HEIRS OF C...**

G.R. NO. 155733. January 27, 2006

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari, petitioners seek to reinstate the May 11, 1990 decision of the Regional Trial Court (RTC) of Manila, Branch 55,[4] in SP Case No. 97668, which was reversed and set aside by the Court of Appeals in its decision[5] dated October 24, 2002.

FACTS OF THE CASE

This case concerns the settlement of the intestate estates of Guillermo Rustia and Josefa Delgado.[6] The main issue in this case is relatively simple: who, between petitioners and respondents, are the lawful heirs of the decedents. However, it is attended by several collateral issues that complicate its resolution.

The claimants to the estates of Guillermo Rustia and Josefa Delgado may be divided into two groups: (1) the alleged heirs of Josefa Delgado, consisting of her half- and full-blood siblings, nephews and nieces, and grandnephews and grandnieces, and (2) the alleged heirs of Guillermo Rustia, particularly, his sisters,[7] his nephews and nieces,[8] his illegitimate child,[9] and the de facto adopted child[10] (ampun-ampunan) of the decedents.

THE ALLEGED HEIRS OF JOSEFA DELGADO

The deceased Josefa Delgado was the daughter of Felisa[11] Delgado by one Lucio Campo. Aside from Josefa, five other children were born to the couple, namely, Nazario, Edilberta, Jose, Jacoba, and Gorgonio, all surnamed Delgado. Felisa Delgado was never married to Lucio Campo, hence, Josefa and her full-blood siblings were all natural children of Felisa Delgado.

However, Lucio Campo was not the first and only man in Felisa Delgado's life. Before him was Ramon Osorio[12] with whom Felisa had a son, Luis Delgado. But, unlike her relationship with Lucio Campo which was admittedly one without the benefit of marriage, the legal status of Ramon Osorio's and Felisa Delgado's union is in dispute.

The question of whether Felisa Delgado and Ramon Osorio ever got married is crucial to the claimants because the answer will determine whether their successional rights fall within the ambit of the rule against reciprocal intestate succession between legitimate and illegitimate relatives.[13] If Ramon Osorio and Felisa Delgado had been validly married, then their only child Luis Delgado was a legitimate half-blood brother of Josefa Delgado

and therefore excluded from the latter's intestate estate. He and his heirs would be barred by the principle of absolute separation between the legitimate and illegitimate families. Conversely, if the couple were never married, Luis Delgado and his heirs would be entitled to inherit from Josefa Delgado's intestate estate, as they would all be within the illegitimate line.

Petitioners allege that Ramon Osorio and Felisa Delgado were never married. In support thereof, they assert that no evidence was ever presented to establish it, not even so much as an allegation of the date or place of the alleged marriage. What is clear, however, is that Felisa retained the surname Delgado. So did Luis, her son with Ramon Osorio. Later on, when Luis got married, his Partida de Casamiento[14] stated that he was "hijo natural de Felisa Delgado" (the natural child of Felisa Delgado),[15] significantly omitting any mention of the name and other circumstances of his father.[16] Nevertheless, oppositors (now respondents) insist that the absence of a record of the alleged marriage did not necessarily mean that no marriage ever took place.

Josefa Delgado died on September 8, 1972 without a will. She was survived by Guillermo Rustia and some collateral relatives, the petitioners herein. Several months later, on June 15, 1973, Guillermo Rustia executed an affidavit of self-adjudication of the remaining properties comprising her estate.

THE MARRIAGE OF GUILLERMO RUSTIA AND JOSEFA DELGADO

Sometime in 1917, Guillermo Rustia proposed marriage to Josefa Delgado[17] but whether a marriage in fact took place is disputed. According to petitioners, the two eventually lived together as husband and wife but were never married. To prove their assertion, petitioners point out that no record of the contested marriage existed in the civil registry. Moreover, a baptismal certificate naming Josefa Delgado as one of the sponsors referred to her as "Señorita" or unmarried woman.

The oppositors (respondents here), on the other hand, insist that the absence of a marriage certificate did not of necessity mean that no marriage transpired. They maintain that Guillermo Rustia and Josefa Delgado were married on June 3, 1919 and from then on lived together as husband and wife until the death of Josefa on September 8, 1972. During this period spanning more than half a century, they were known among their relatives and friends to have in fact been married. To support their proposition, oppositors presented the following pieces of evidence:

- Certificate of Identity No. 9592 dated [December 1, 1944] issued to Mrs. Guillermo J. Rustia by Carlos P. Romulo, then Resident Commissioner to the United States of the Commonwealth of the Philippines;
- Philippine Passport No. 4767 issued to Josefa D. Rustia on June 25, 1947;
- Veterans Application for Pension or Compensation for Disability Resulting from Service in the Active Military or Naval Forces of the United States- Claim No. C-4, 004, 503 (VA Form 526) filed with the Veterans Administration of the United States of America by Dr. Guillermo J. Rustia wherein Dr. Guillermo J. Rustia himself [swore] to his marriage to Josefa Delgado in Manila on 3 June 1919;[18]
- Titles to real properties in the name of Guillermo Rustia indicated that he was married to Josefa Delgado.

THE ALLEGED HEIRS OF GUILLERMO RUSTIA

Guillermo Rustia and Josefa Delgado never had any children. With no children of their own, they took into their home the youngsters Guillermina Rustia Rustia and Nanie Rustia. These children, never legally adopted by the couple, were what was known in the local dialect as *ampun-ampunan*.

During his life with Josefa, however, Guillermo Rustia did manage to father an illegitimate child,[19] the

intervenor-respondent Guillerma Rustia, with one Amparo Sagarbarria. According to Guillerma, Guillermo Rustia treated her as his daughter, his own flesh and blood, and she enjoyed open and continuous possession of that status from her birth in 1920 until her father's demise. In fact, Josefa Delgado's obituary which was prepared by Guillermo Rustia, named the intervenor-respondent as one of their children. Also, her report card from the University of Santo Tomas identified Guillermo Rustia as her parent/guardian.[20]

Oppositors (respondents here) nonetheless posit that Guillerma Rustia has no interest in the intestate estate of Guillermo Rustia as she was never duly acknowledged as an illegitimate child. They contend that her right to compulsory acknowledgement prescribed when Guillermo died in 1974 and that she cannot claim voluntary acknowledgement since the documents she presented were not the authentic writings prescribed by the new Civil Code.[21]

On January 7, 1974, more than a year after the death of Josefa Delgado, Guillermo Rustia filed a petition for the adoption[22] of their ampun-ampunan Guillermina Rustia. He stated under oath "[t]hat he ha[d] no legitimate, legitimated, acknowledged natural children or natural children by legal fiction." [23] The petition was overtaken by his death on February 28, 1974.

Like Josefa Delgado, Guillermo Rustia died without a will. He was survived by his sisters Marciana Rustia vda. de Damian and Hortencia Rustia-Cruz, and by the children of his predeceased brother Roman Rustia Sr., namely, Josefina Rustia Albano, Virginia Rustia Paraiso, Roman Rustia, Jr., Sergio Rustia, Francisco Rustia and Leticia Rustia Miranda.[24]

ANTECEDENT PROCEEDINGS

On May 8, 1975, Luisa Delgado vda. de Danao, the daughter of Luis Delgado, filed the original petition for letters of administration of the intestate estates of the "spouses Josefa Delgado and Guillermo Rustia" with the RTC of Manila, Branch 55.[25] This petition was opposed by the following: (1) the sisters of Guillermo Rustia, namely, Marciana Rustia vda. de Damian and Hortencia Rustia-Cruz;[26] (2) the heirs of Guillermo Rustia's late brother, Roman Rustia, Sr., and (3) the ampun-ampunan Guillermina Rustia Rustia. The opposition was grounded on the theory that Luisa Delgado vda. de Danao and the other claimants were barred under the law from inheriting from their illegitimate half-blood relative Josefa Delgado.

In November of 1975, Guillerma Rustia filed a motion to intervene in the proceedings, claiming she was the only surviving descendant in the direct line of Guillermo Rustia. Despite the objections of the oppositors (respondents herein), the motion was granted.

On April 3, 1978, the original petition for letters of administration was amended to state that Josefa Delgado and Guillermo Rustia were never married but had merely lived together as husband and wife.

On January 24, 1980, oppositors (respondents herein) filed a motion to dismiss the petition in the RTC insofar as the estate of Guillermo Rustia was concerned. The motion was denied on the ground that the interests of the petitioners and the other claimants remained in issue and should be properly threshed out upon submission of evidence.

On March 14, 1988, Carlota Delgado vda. de de la Rosa substituted for her sister, Luisa Delgado vda. de Danao, who had died on May 18, 1987.

On May 11, 1990, the RTC appointed Carlota Delgado vda. de de la Rosa as administratrix of both estates.[27] The dispositive portion of the decision read:

WHEREFORE, in view of all the foregoing, petitioner and her co-claimants to the estate of the late Josefa

Delgado listed in the Petitions, and enumerated elsewhere in this Decision, are hereby declared as the only legal heirs of the said Josefa Delgado who died intestate in the City of Manila on September 8, 1972, and entitled to partition the same among themselves in accordance with the proportions referred to in this Decision.

Similarly, the intervenor Guillerma S. Rustia is hereby declared as the sole and only surviving heir of the late Dr. Guillermo Rustia, and thus, entitled to the entire estate of the said decedent, to the exclusion of the oppositors and the other parties hereto.

The Affidavit of Self-Adjudication of the estate of Josefa Delgado executed by the late Guillermo J. Rustia on June 15, 1973 is hereby SET ASIDE and declared of no force and effect.

As the estates of both dece[d]ents have not as yet been settled, and their settlement [is] considered consolidated in this proceeding in accordance with law, a single administrator therefor is both proper and necessary, and, as the petitioner Carlota Delgado Vda. de dela Rosa has established her right to the appointment as administratrix of the estates, the Court hereby APPOINTS her as the ADMINISTRATRIX of the intestate estate of the decedent JOSEFA DELGADO in relation to the estate of DR. GUILLERMO J. RUSTIA.

Accordingly, let the corresponding LETTERS OF ADMINISTRATION issue to the petitioner CARLOTA DELGADO VDA. DE DE LA ROSA upon her filing of the requisite bond in the sum of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

Finally, oppositor GUILLERMINA RUSTIA RUSTIA is hereby ordered to cease and desist from her acts of administration of the subject estates, and is likewise ordered to turn over to the appointed administratrix all her collections of the rentals and income due on the assets of the estates in question, including all documents, papers, records and titles pertaining to such estates to the petitioner and appointed administratrix CARLOTA DELGADO VDA. DE DE LA ROSA, immediately upon receipt of this Decision. The same oppositor is hereby required to render an accounting of her actual administration of the estates in controversy within a period of sixty (60) days from receipt hereof.

SO ORDERED.[28]

On May 20, 1990, oppositors filed an appeal which was denied on the ground that the record on appeal was not filed on time.[29] They then filed a petition for certiorari and mandamus[30] which was dismissed by the Court of Appeals.[31] However, on motion for reconsideration and after hearing the parties' oral arguments, the Court of Appeals reversed itself and gave due course to oppositors' appeal in the interest of substantial justice.[32]

In a petition for review to this Court, petitioners assailed the resolution of the Court of Appeals, on the ground that oppositors' failure to file the record on appeal within the reglementary period was a jurisdictional defect which nullified the appeal. On October 10, 1997, this Court allowed the continuance of the appeal. The pertinent portion of our decision[33] read:

As a rule, periods prescribed to do certain acts must be followed. However, under exceptional circumstances, a delay in the filing of an appeal may be excused on grounds of substantial justice.

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The respondent court likewise pointed out the trial court's pronouncements as to certain matters of substance, relating to the determination of the heirs of the decedents and the party entitled to the administration of their estate, which were to be raised in the appeal, but were barred absolutely by the denial of the record on appeal upon too technical ground of late filing.

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In this instance, private respondents' intention to raise valid issues in the appeal is apparent and should not

have been construed as an attempt to delay or prolong the administration proceedings.

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A review of the trial court's decision is needed.

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WHEREFORE, in view of the foregoing considerations, the Court hereby AFFIRMS the Resolution dated November 27, 1991 of the Court of Appeals in CA-G.R. SP No. 23415, for the APPROVAL of the private respondents' Record on Appeal and the CONTINUANCE of the appeal from the Manila, Branch LV Regional Trial Court's May 11, 1990 decision.

SO ORDERED.

Acting on the appeal, the Court of Appeals[34] partially set aside the trial court's decision. Upon motion for reconsideration,[35] the Court of Appeals amended its earlier decision.[36] The dispositive portion of the amended decision read:

With the further modification, our assailed decision is RECONSIDERED and VACATED. Consequently, the decision of the trial court is REVERSED and SET ASIDE. A new one is hereby RENDERED declaring: 1.) Dr. Guillermo Rustia and Josefa Delgado Rustia to have been legally married; 2.) the intestate estate of Dr. Guillermo Rustia, Jacoba Delgado-Encinas and the children of Gorgonio Delgado (Campo) entitled to partition among themselves the intestate estate of Josefa D. Rustia in accordance with the proportion referred to in this decision; 3.) the oppositors-appellants as the legal heirs of the late Dr. Guillermo Rustia and thereby entitled to partition his estate in accordance with the proportion referred to herein; and 4.) the intervenor-appellee Guillerma S. Rustia as ineligible to inherit from the late Dr. Guillermo Rustia; thus revoking her appointment as administratrix of his estate.

The letters of administration of the intestate estate of Dr. Guillermo Rustia in relation to the intestate estate of Josefa Delgado shall issue to the nominee of the oppositors-appellants upon his or her qualification and filing of the requisite bond in the sum of FIVE HUNDRED THOUSAND PESOS (P500,000.00).

Oppositor-appellant Guillermina Rustia Rustia is hereby ordered to cease and desist from her acts of administration of the subject estates and to turn over to the appointed administrator all her collections of the rentals and incomes due on the assets of the estates in question, including all documents, papers, records and titles pertaining to such estates to the appointed administrator, immediately upon notice of his qualification and posting of the requisite bond, and to render an accounting of her (Guillermina Rustia Rustia) actual administration of the estates in controversy within a period of sixty (60) days from notice of the administrator's qualification and posting of the bond.

The issue of the validity of the affidavit of self-adjudication executed by Dr. Guillermo Rustia on June 15, 1973 is REMANDED to the trial court for further proceedings to determine the extent of the shares of Jacoba Delgado-Encinas and the children of Gorgonio Delgado (Campo) affected by the said adjudication.

Hence, this recourse.

The issues for our resolution are:

- whether there was a valid marriage between Guillermo Rustia and Josefa Delgado;
- who the legal heirs of the decedents Guillermo Rustia and Josefa Delgado are;
- who should be issued letters of administration.

THE MARRIAGE OF GUILLERMO RUSTIA AND JOSEFA DELGADO

A presumption is an inference of the existence or non-existence of a fact which courts are permitted to draw from proof of other facts. Presumptions are classified into presumptions of law and presumptions of fact. Presumptions of law are, in turn, either conclusive or disputable.[37]

Rule 131, Section 3 of the Rules of Court provides:

Sec. 3. Disputable presumptions. — The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

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(aa) That a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage;

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In this case, several circumstances give rise to the presumption that a valid marriage existed between Guillermo Rustia and Josefa Delgado. Their cohabitation of more than 50 years cannot be doubted. Their family and friends knew them to be married. Their reputed status as husband and wife was such that even the original petition for letters of administration filed by Luisa Delgado vda. de Danao in 1975 referred to them as "spouses."

Yet, petitioners maintain that Josefa Delgado and Guillermo Rustia had simply lived together as husband and wife without the benefit of marriage. They make much of the absence of a record of the contested marriage, the testimony of a witness[38] attesting that they were not married, and a baptismal certificate which referred to Josefa Delgado as "Señorita" or unmarried woman.[39]

We are not persuaded.

First, although a marriage contract is considered a primary evidence of marriage, its absence is not always proof that no marriage in fact took place.[40] Once the presumption of marriage arises, other evidence may be presented in support thereof. The evidence need not necessarily or directly establish the marriage but must at least be enough to strengthen the presumption of marriage. Here, the certificate of identity issued to Josefa Delgado as Mrs. Guillermo Rustia,[41] the passport issued to her as Josefa D. Rustia,[42] the declaration under oath of no less than Guillermo Rustia that he was married to Josefa Delgado[43] and the titles to the properties in the name of "Guillermo Rustia married to Josefa Delgado," more than adequately support the presumption of marriage. These are public documents which are prima facie evidence of the facts stated therein.[44] No clear and convincing evidence sufficient to overcome the presumption of the truth of the recitals therein was presented by petitioners.

Second, Elisa vda. de Anson, petitioners' own witness whose testimony they primarily relied upon to support their position, confirmed that Guillermo Rustia had proposed marriage to Josefa Delgado and that eventually, the two had "lived together as husband and wife." This again could not but strengthen the presumption of marriage.

Third, the baptismal certificate[45] was conclusive proof only of the baptism administered by the priest who baptized the child. It was no proof of the veracity of the declarations and statements contained therein,[46] such as the alleged single or unmarried ("Señorita") civil status of Josefa Delgado who had no hand in its preparation.

Petitioners failed to rebut the presumption of marriage of Guillermo Rustia and Josefa Delgado. In this jurisdiction, every intendment of the law leans toward legitimizing matrimony. Persons dwelling together apparently in marriage are presumed to be in fact married. This is the usual order of things in society and, if the parties are not what they hold themselves out to be, they would be living in constant violation of the common

rules of law and propriety. *Semper praesumitur pro matrimonio*. Always presume marriage.[47]

THE LAWFUL HEIRS OF JOSEFA DELGADO

To determine who the lawful heirs of Josefa Delgado are, the questioned status of the cohabitation of her mother Felisa Delgado with Ramon Osorio must first be addressed.

As mentioned earlier, presumptions of law are either conclusive or disputable. Conclusive presumptions are inferences which the law makes so peremptory that no contrary proof, no matter how strong, may overturn them.[48] On the other hand, disputable presumptions, one of which is the presumption of marriage, can be relied on only in the absence of sufficient evidence to the contrary.

Little was said of the cohabitation or alleged marriage of Felisa Delgado and Ramon Osorio. The oppositors (now respondents) chose merely to rely on the disputable presumption of marriage even in the face of such countervailing evidence as (1) the continued use by Felisa and Luis (her son with Ramon Osorio) of the surname Delgado and (2) Luis Delgado's and Caridad Concepcion's Partida de Casamiento[49] identifying Luis as "hijo natural de Felisa Delgado" (the natural child of Felisa Delgado).[50]

All things considered, we rule that these factors sufficiently overcame the rebuttable presumption of marriage. Felisa Delgado and Ramon Osorio were never married. Hence, all the children born to Felisa Delgado out of her relations with Ramon Osorio and Lucio Campo, namely, Luis and his half-blood siblings Nazario, Edilberta, Jose, Jacoba, Gorgonio and the decedent Josefa, all surnamed Delgado,[51] were her natural children.[52]

Pertinent to this matter is the following observation:

Suppose, however, that A begets X with B, and Y with another woman, C; then X and Y would be natural brothers and sisters, but of half-blood relationship. Can they succeed each other reciprocally?

The law prohibits reciprocal succession between illegitimate children and legitimate children of the same parent, even though there is unquestionably a tie of blood between them. It seems that to allow an illegitimate child to succeed *ab intestato* (from) another illegitimate child begotten with a parent different from that of the former, would be allowing the illegitimate child greater rights than a legitimate child. Notwithstanding this, however, we submit that succession should be allowed, even when the illegitimate brothers and sisters are only of the half-blood. The reason impelling the prohibition on reciprocal successions between legitimate and illegitimate families does not apply to the case under consideration. That prohibition has for its basis the difference in category between illegitimate and legitimate relatives. There is no such difference when all the children are illegitimate children of the same parent, even if begotten with different persons. They all stand on the same footing before the law, just like legitimate children of half-blood relation. We submit, therefore, that the rules regarding succession of legitimate brothers and sisters should be applicable to them. Full blood illegitimate brothers and sisters should receive double the portion of half-blood brothers and sisters; and if all are either of the full blood or of the half-blood, they shall share equally.[53]

Here, the above-named siblings of Josefa Delgado were related to her by full-blood, except Luis Delgado, her half-brother. Nonetheless, since they were all illegitimate, they may inherit from each other. Accordingly, all of them are entitled to inherit from Josefa Delgado.

We note, however, that the petitioners before us are already the nephews, nieces, grandnephews and grandnieces of Josefa Delgado. Under Article 972 of the new Civil Code, the right of representation in the collateral line takes place only in favor of the children of brothers and sisters (nephews and nieces). Consequently, it cannot be exercised by grandnephews and grandnieces.[54] Therefore, the only collateral relatives of Josefa Delgado who are entitled to partake of her intestate estate are her brothers and sisters, or their children who were still alive at

the time of her death on September 8, 1972. They have a vested right to participate in the inheritance.[55] The records not being clear on this matter, it is now for the trial court to determine who were the surviving brothers and sisters (or their children) of Josefa Delgado at the time of her death. Together with Guillermo Rustia,[56] they are entitled to inherit from Josefa Delgado in accordance with Article 1001 of the new Civil Code:[57]

Art. 1001. Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other one-half.

Since Josefa Delgado had heirs other than Guillermo Rustia, Guillermo could not have validly adjudicated Josefa's estate all to himself. Rule 74, Section 1 of the Rules of Court is clear. Adjudication by an heir of the decedent's entire estate to himself by means of an affidavit is allowed only if he is the sole heir to the estate:

SECTION 1. Extrajudicial settlement by agreement between heirs. – If the decedent left no will and no debts and the heirs are all of age, or the minors are represented by their judicial or legal representatives duly authorized for the purpose, the parties may, without securing letters of administration, divide the estate among themselves as they see fit by means of a public instrument filed in the office of the register of deeds, and should they disagree, they may do so in an ordinary action of partition. If there is only one heir, he may adjudicate to himself the estate by means of an affidavit filed in the office of the register of deeds. x x x (emphasis supplied)

THE LAWFUL HEIRS OF GUILLERMO RUSTIA

Intervenor (now co-respondent) Guillerma Rustia is an illegitimate child[58] of Guillermo Rustia. As such, she may be entitled to successional rights only upon proof of an admission or recognition of paternity.[59] She, however, claimed the status of an acknowledged illegitimate child of Guillermo Rustia only after the death of the latter on February 28, 1974 at which time it was already the new Civil Code that was in effect.

Under the old Civil Code (which was in force till August 29, 1950), illegitimate children absolutely had no hereditary rights. This draconian edict was, however, later relaxed in the new Civil Code which granted certain successional rights to illegitimate children but only on condition that they were first recognized or acknowledged by the parent.

Under the new law, recognition may be compulsory or voluntary.[60] Recognition is compulsory in any of the following cases:

- (1) in cases of rape, abduction or seduction, when the period of the offense coincides more or less with that of the conception;
- (2) when the child is in continuous possession of status of a child of the alleged father (or mother)[61] by the direct acts of the latter or of his family;
- (3) when the child was conceived during the time when the mother cohabited with the supposed father;
- (4) when the child has in his favor any evidence or proof that the defendant is his father. [62]

On the other hand, voluntary recognition may be made in the record of birth, a will, a statement before a court of record or in any authentic writing.[63]

Intervenor Guillerma sought recognition on two grounds: first, compulsory recognition through the open and continuous possession of the status of an illegitimate child and second, voluntary recognition through authentic writing.

There was apparently no doubt that she possessed the status of an illegitimate child from her birth until the death

of her putative father Guillermo Rustia. However, this did not constitute acknowledgment but a mere ground by which she could have compelled acknowledgment through the courts.[64] Furthermore, any (judicial) action for compulsory acknowledgment has a dual limitation: the lifetime of the child and the lifetime of the putative parent.[65] On the death of either, the action for compulsory recognition can no longer be filed.[66] In this case, intervenor Guillerma's right to claim compulsory acknowledgment prescribed upon the death of Guillermo Rustia on February 28, 1974.

The claim of voluntary recognition (Guillerma's second ground) must likewise fail. An authentic writing, for purposes of voluntary recognition, is understood as a genuine or indubitable writing of the parent (in this case, Guillermo Rustia). This includes a public instrument or a private writing admitted by the father to be his.[67] Did intervenor's report card from the University of Santo Tomas and Josefa Delgado's obituary prepared by Guillermo Rustia qualify as authentic writings under the new Civil Code? Unfortunately not. The report card of intervenor Guillerma did not bear the signature of Guillermo Rustia. The fact that his name appears there as intervenor's parent/guardian holds no weight since he had no participation in its preparation. Similarly, while witnesses testified that it was Guillermo Rustia himself who drafted the notice of death of Josefa Delgado which was published in the SUNDAY TIMES on September 10, 1972, that published obituary was not the authentic writing contemplated by the law. What could have been admitted as an authentic writing was the original manuscript of the notice, in the handwriting of Guillermo Rustia himself and signed by him, not the newspaper clipping of the obituary. The failure to present the original signed manuscript was fatal to intervenor's claim.

The same misfortune befalls the ampun-ampunan, Guillermina Rustia Rustia, who was never adopted in accordance with law. Although a petition for her adoption was filed by Guillermo Rustia, it never came to fruition and was dismissed upon the latter's death. We affirm the ruling of both the trial court and the Court of Appeals holding her a legal stranger to the deceased spouses and therefore not entitled to inherit from them ab intestato. We quote:

Adoption is a juridical act, a proceeding in rem, which [created] between two persons a relationship similar to that which results from legitimate paternity and filiation. Only an adoption made through the court, or in pursuance with the procedure laid down under Rule 99 of the Rules of Court is valid in this jurisdiction. It is not of natural law at all, but is wholly and entirely artificial. To establish the relation, the statutory requirements must be strictly carried out, otherwise, the adoption is an absolute nullity. The fact of adoption is never presumed, but must be affirmatively [proven] by the person claiming its existence.[68]

Premises considered, we rule that two of the claimants to the estate of Guillermo Rustia, namely, intervenor Guillerma Rustia and the ampun-ampunan Guillermina Rustia Rustia, are not lawful heirs of the decedent. Under Article 1002 of the new Civil Code, if there are no descendants, ascendants, illegitimate children, or surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased. Therefore, the lawful heirs of Guillermo Rustia are the remaining claimants, consisting of his sisters,[69] nieces and nephews.[70]

ENTITLEMENT TO LETTERS OF ADMINISTRATION

An administrator is a person appointed by the court to administer the intestate estate of the decedent. Rule 78, Section 6 of the Rules of Court prescribes an order of preference in the appointment of an administrator:

Sec. 6 When and to whom letters of administration granted. – If no executor is named in the will, or the executor or executors are incompetent, refuse the trust, or fail to give a bond, or a person dies intestate, administration shall be granted:

(a) To the surviving husband or wife, as the case may be, or next of kin, or both, in the discretion of the court, or to such person as such surviving husband or wife, or next of kin, requests to have appointed, if competent

and willing to serve;

(b) If such surviving husband or wife, as the case may be, or next of kin, or the person selected by them, be incompetent or unwilling, or if the husband or widow or next of kin, neglects for thirty (30) days after the death of the person to apply for administration or to request that the administration be granted to some other person, it may be granted to one or more of the principal creditors, if competent and willing to serve;

(c) If there is no such creditor competent and willing to serve, it may be granted to such other person as the court may select.

In the appointment of an administrator, the principal consideration is the interest in the estate of the one to be appointed.[71] The order of preference does not rule out the appointment of co-administrators, specially in cases where

justice and equity demand that opposing parties or factions be represented in the management of the estates,[72] a situation which obtains here.

It is in this light that we see fit to appoint joint administrators, in the persons of Carlota Delgado vda. de de la Rosa and a nominee of the nephews and nieces of Guillermo Rustia. They are the next of kin of the deceased spouses Josefa Delgado and Guillermo Rustia, respectively.

WHEREFORE, the petition (which seeks to reinstate the May 11, 1990 decision of the RTC Manila, Branch 55) is hereby DENIED. The assailed October 24, 2002 decision of the Court of Appeals is AFFIRMED with the following modifications:

- Guillermo Rustia's June 15, 1973 affidavit of self-adjudication is hereby ANNULLED.
- the intestate estate of Guillermo Rustia shall inherit half of the intestate estate of Josefa Delgado. The remaining half shall pertain to (a) the full and half-siblings of Josefa Delgado who survived her and (b) the children of any of Josefa Delgado's full- or half-siblings who may have predeceased her, also surviving at the time of her death. Josefa Delgado's grandnephews and grandnieces are excluded from her estate. In this connection, the trial court is hereby ordered to determine the identities of the relatives of Josefa Delgado who are entitled to share in her estate.
- Guillermo Rustia's estate (including its one-half share of Josefa Delgado's estate) shall be inherited by Marciana Rustia vda. de Damian and Hortencia Rustia Cruz (whose respective shares shall be per capita) and the children of the late Roman Rustia, Sr. (who survived Guillermo Rustia and whose respective shares shall be per stirpes). Considering that Marciana Rustia vda. de Damian and Hortencia Rustia Cruz are now deceased, their respective shares shall pertain to their estates.
- Letters of administration over the still unsettled intestate estates of Guillermo Rustia and Josefa Delgado shall issue to Carlota Delgado vda. de de la Rosa and to a nominee from among the heirs of Guillermo Rustia, as joint administrators, upon their qualification and filing of the requisite bond in such amount as may be determined by the trial court.

No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1]Oppositors in SP Case No. 97668 with the RTC Manila, Branch 55.

[2]Intervenor in SP Case No. 97668 with the RTC Manila, Branch 55.

[3] In the petition for review on certiorari filed by petitioners, the oppositors were identified as

"oppositors-respondents," while intervenor was identified as "intervenor-respondent." For clarity, we shall refer to them collectively as "respondents" in this decision. The Court of Appeals was also impleaded as public respondent but this was not necessary since this is a petition for review under Rule 45 of the Rules of Court.

[4] Judge Hermogenes Liwag, Rollo, pp. 92-106.

[5] Penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justices Oswaldo D. Agcaoili and Sergio L. Pestaño of the former 15th Division, Rollo, pp. 75-90.

[6] The original action was a petition for letters of administration of the intestate estates of Guillermo Rustia and Josefa Delgado, Rollo, p. 92.

[7] Marciana Rustia vda. de Damian and Hortencia Rustia Cruz, both deceased and now substituted by their respective heirs.

[8] The children of Guillermo Rustia's deceased brother Roman Rustia, Sr.

[9] Intervenor Guillerma Rustia.

[10] Oppositor Guillermina Rustia Rustia.

[11] In some pleadings, this was spelled as "Feliza."

[12] In some pleadings, this was spelled as "Osario" and in others, "Oscorro."

[13] Art. 992, new CIVIL CODE. An illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; nor shall such children or relatives inherit in the same manner from the illegitimate child.

[14] Rollo, p. 1262.

[15] Id., pp. 1200-1201.

[16] In relation, the Civil Code of Spain (the old Civil Code) provided that when the acknowledgment was made separately by either parent, the name of the other parent shall not be revealed. Nor shall any circumstance be mentioned by which such person might be recognized (Article 132). This showed the intent of the said Code to protect the identity of the non-acknowledging parent.

[17] One of the children of Felisa Delgado with Lucio Campo.

[18] CA decision, Rollo, pp. 77-78.

[19] Under the old Civil Code, which was in effect at the time of Guillerma Rustia's birth in 1920, she was an illegitimate child, not a natural child, since she was born of parents who at the time of conception were disqualified to marry each other.

[20] Rollo, p. 920.

[21] Law in effect at the time of the death of Guillermo Rustia.

[22] Filed before the then Juvenile and Domestic Relations Court of Manila.

[23] Rollo, p. 1149.

[24] Most of the respondents herein.

[25] Filed on behalf of the surviving brothers, sisters, nephews, nieces, grandnephews and grandnieces of Josefa

Delgado.

[26] Now represented by their heirs as respondents.

[27] Id.

[28] Rollo, pp. 105-106.

[29] Dated September 25, 1990.

[30] This petition was initially filed with the Supreme Court but was referred to the Court of Appeals, the latter having concurrent jurisdiction with the Supreme Court over the petition.

[31] Penned by Associate Justice Artemon Luna, and concurred in by Associate Justices Serafin Camilon and Celso Magsino of the Seventh Division, dated March 20, 1991, Rollo, pp. 627-644.

[32] Resolution dated November 27, 1991, Rollo, pp. 656-671.

[33] *De la Rosa v. Court of Appeals*, 345 Phil. 678 (1997).

[34] Decision penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justices Oswaldo D. Agcaoili and Sergio L. Pestaño of the 15th Division, dated January 31, 2002, Rollo, pp. 46-63.

[35] Both the petitioner and the oppositors filed a motion for reconsideration of the January 31, 2002 decision of the Court of Appeals.

[36] Dated October 24, 2002.

[37] II Florenz D. Regalado, *REMEDIAL LAW COMPENDIUM* 672 (9th rev. ed. 2001).

[38] *Elisa vda. de Anson*.

[39] Rollo, p. 1266.

[40] *Balogbog v. Court of Appeals*, 336 Phil. 252 (1997).

[41] Certificate of Identity No. 9592 dated December 1, 1944 issued to Mrs. Guillermo J. Rustia by Carlos P. Romulo, then Resident Commissioner to the United States of the Commonwealth of the Philippines.

[42] Philippine Passport No. 4767 issued to Josefa D. Rustia on June 25, 1947.

[43] Veterans Application for Pension or Compensation for Disability Resulting from Service in the Active Military or Naval Forces of the United States- Claim No. C-4, 004, 503 (VA Form 526) filed with the Veterans Administration of the United States of America by Dr. Guillermo J. Rustia wherein Dr. Guillermo J. Rustia himself stated under oath to his marriage to Josefa Delgado in Manila on June 3, 1919.

[44] Rule 132, Section 23, Rules of Court.

[45] Josefa Delgado stood as sponsor in the baptism of Luisa Delgado on September 14, 1919, Rollo, p. 1266. In 1975, Luisa Delgado vda. de Danao filed a petition for letters of administration for the intestate estate of Josefa Delgado; *supra*, note 25.

[46] *Acebedo v. Arquero*, 447 Phil. 76 (2003).

[47] *Vda. de Jacob v. Court of Appeals*, 371 Phil. 693 (1999), citing *Perido v. Perido*, No. L-28248, 12 March 1975, 63 SCRA 97.

[48]Ricardo Francisco, EVIDENCE 400 (3rd ed. 1996).

[49] Rollo, p. 1262.

[50] Id., pp. 1200-1201.

[51] Old CIVIL CODE, art. 134. An acknowledged natural child is entitled:

- To bear the surname of the person acknowledging it.
- To receive support from such person, in accordance with article 143.
- To receive the hereditary portion, if available, determined by this Code.

[52] The records do not indicate the dates of birth of Felisa Delgado's children. The dates when Felisa Delgado cohabited with Ramon Osorio and Lucio Campo were likewise not stated. From the limited facts of the case on this issue, it is safe to assume that they were all born during the effectivity of the old Civil Code. Under the said Code, children born out of wedlock of parents who, at the time of conception, could have married, were natural children.

[53] III Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 493-494 (1979 ed.) citing 7 Manresa 139.

[54] Desiderio P. Jurado, COMMENTS AND JURISPRUDENCE ON SUCCESSION 391 (8th ed. 1991).

[55] In case the surviving collateral relatives are already deceased at the time of execution of this judgment, their shares in the inheritance of Josefa Delgado shall accrue to their respective estates.

[56]Then surviving spouse, now represented by his intestate estate.

[57] Law in effect at the time of the death of Josefa Delgado.

[58] Under the old Civil Code, which was in effect at the time of Guillerma Rustia's birth in 1920, she is an illegitimate child, not a natural child, since she was born of parents who, at the time of conception, were disqualified to marry each other.

[59] Paterno v. Paterno, No. L- 23060, 30 June 1967, 20 SCRA 585.

[60] I Arturo M. Tolentino, COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES 577 (1985 ed.).

[61] Art. 284 of the new Civil Code provided that the mother is obliged to recognize her natural child in any of the cases referred to in Art. 283.

[62] New CIVIL CODE, Art. 283.

[63]New CIVIL CODE, Art. 278.

[64]Supra, note 60, at 283.

[65]This was provided in Article 285 of the new Civil Code and carried over to Article 175 of the Family Code. While there are exceptions to this rule, Guillerma's case does not fall within the exceptions.

[66] Subject to exceptions provided in paragraphs (1) and (2) of Article 285 of the new Civil Code.

[67] I Tolentino, supra note 60, at 585-586.

[68] RTC decision, Rollo, p. 104.

[69] Marciana Rustia vda. de Damian and Hortencia Rustia Cruz, represented by their heirs in this petition.

[70] Children of his predeceased brother Roman Rustia, Sr.

[71]II Regalado, supra note 37, at 39.

[72] Gabriel et al. v. Court of Appeals, G.R. No. 101512, 7 August 1992, 212 SCRA 413.

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