

VICTORIA C. TAYAG, Petitioner, vs. FELICIDAD A. TAYAG-GALLOR, Respondent.*G.R. No. 174680. March 24, 2008*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-174680/>**TINGA, J.:**

This is a petition for review on certiorari seeking the reversal of the Decision[1] of the Court of Appeals dated 29 May 2006, and its Resolution[2] dated 28 August 2006 in CA-G.R. SP No. 79205.

The antecedents are as follows:

On 15 January 2001, respondent herein, Felicidad A. Tayag-Gallor, filed a petition for the issuance of letters of administration over the estate of Ismael Tayag.[3] Respondent alleged in the petition, docketed as Special Proceeding No. 5994 (SP 5994), that she is one of the three (3) illegitimate children of the late Ismael Tayag and Ester C. Angeles. The decedent was married to petitioner herein, Victoria C. Tayag, but the two allegedly did not have any children of their own.

On 7 September 2000, Ismael Tayag died intestate, leaving behind two (2) real properties both of which are in the possession of petitioner, and a motor vehicle which the latter sold on 10 October 2000 preparatory to the settlement of the decedent's estate. Petitioner allegedly promised to give respondent and her brothers P100,000.00 each as their share in the proceeds of the sale. However, petitioner only gave each of them half the amount she promised.

Respondent further averred that on 20 November 2000, petitioner has caused the annotation of 5 September 1984 affidavit executed by Ismael Tayag declaring the properties to be the paraphernal properties of petitioner. The latter allegedly intends to dispose of these properties to the respondent's and her brothers' prejudice.

Petitioner opposed the petition, asserting that she purchased the properties subject of the petition using her own money. She claimed that she and Ismael Tayag got married in Las Vegas, Nevada, USA on 25 October 1973, and that they have an adopted daughter, Carmela Tayag, who is presently residing in the USA. It is allegedly not true that she is planning to sell the properties. Petitioner prayed for the dismissal of the suit because respondent failed to state a cause of action.[4]

In a Motion[5] dated 31 August 2001, petitioner reiterated her sole ownership of the properties and presented the transfer certificates of title thereof in her name. She also averred that it is necessary to allege that respondent was acknowledged and recognized by Ismael Tayag as his illegitimate child. There being no such allegation, the action becomes one to compel recognition which cannot be brought after the death of the putative father. To prevent further encroachment upon the court's time, petitioner moved for a hearing on her affirmative defenses.

The Motion was denied in an Order[6] dated 3 April 2003. Petitioner's motion for reconsideration was likewise denied in an Order[7] dated 16 July 2003.

The appellate court, in a Decision[8] dated 29 May 2006, upheld the denial of petitioner's motion and directed the trial court to proceed with the case with dispatch. The Court of Appeals ruled, in essence, that the allegation that

respondent is an illegitimate child suffices for a cause of action, without need to state that she had been recognized and acknowledged as such. However, respondent still has to prove her allegation and, correspondingly, petitioner has the right to refute the allegation in the course of the settlement proceedings.

The Court of Appeals denied reconsideration in a Resolution[9] dated 28 August 2006.

In her Petition[10] 17 dated September 2006, petitioner asserts that respondent should not be allowed to prove her filiation in the settlement of Ismael Tayag's estate. If, following the case of *Uyguanco v. Court of Appeals*, [11] the claim of filiation may no longer be proved in an action for recognition, with more reason that it should not be allowed to be proved in an action for the settlement of the decedent's estate. Thus, petitioner claims, respondent may no longer maintain an action to prove that she is the illegitimate child of the decedent after the latter's death.

Unfortunately, the two-page Comment,[12] dated 17 April 2007, fails to shed any more light on the present controversy.

The Reply[13] dated 3 September 2007 reiterates the arguments in the petition.

The main issue in this case is deceptively simple. As crafted by the Court of Appeals, it is whether respondent's petition for the issuance of letters of administration sufficiently states a cause of action considering that respondent merely alleged therein that she is an illegitimate child of the decedent, without stating that she had been acknowledged or recognized as such by the latter. The appellate court held that the mere allegation that respondent is an illegitimate child suffices.

Rule 79 of the Rules of Court provides that a petition for the issuance of letters of administration must be filed by an interested person. In *Saguinsin v. Lindayag*, [14] the Court defined an interested party as one who would be benefited by the estate, such as an heir, or one who has a claim against the estate, such as a creditor. This interest, furthermore, must be material and direct, not merely indirect or contingent.

Hence, where the right of the person filing a petition for the issuance of letters of administration is dependent on a fact which has not been established or worse, can no longer be established, such contingent interest does not make her an interested party. Here lies the complication in the case which the appellate court had not discussed, although its disposition of the case is correct.

Essentially, the petition for the issuance of letters of administration is a suit for the settlement of the intestate estate of Ismael Tayag. The right of respondent to maintain such a suit is dependent on whether she is entitled to successional rights as an illegitimate child of the decedent which, in turn, may be established through voluntary or compulsory recognition.

Voluntary recognition must be express such as that in a record of birth appearing in the civil register, a final judgment, a public instrument or private handwritten instrument signed by the parent concerned.[15] The voluntary recognition of an illegitimate child by his or her parent needs no further court action and is, therefore, not subject to the limitation that the action for recognition be brought during the lifetime of the putative parent.[16] Judicial or compulsory recognition, on the other hand, may be demanded by the illegitimate child of his parents and must be brought during the lifetime of the presumed parents.[17]

Petitioner's thesis is essentially based on her contention that by Ismael Tayag's death, respondent's illegitimate filiation and necessarily, her interest in the decedent's estate which the Rules require to be material and direct, may no longer be established. Petitioner, however, overlooks the fact that respondent's successional rights may be established not just by a judicial action to compel recognition but also by proof that she had been voluntarily acknowledged and recognized as an illegitimate child.

In *Uyguangco v. Court of Appeals*, supra, Graciano Uyguangco, claiming to be an illegitimate child of the decedent, filed a complaint for partition against the latter's wife and legitimate children. However, an admission was elicited from him in the course of his presentation of evidence at the trial that he had none of the documents mentioned in Article 278[18] of the 1950 Civil Code to show that he was the illegitimate son of the decedent. The wife and legitimate children of the decedent thereupon moved for the dismissal of the case on the ground that he could no longer prove his alleged filiation under the applicable provision of the Civil Code.

The Court, applying the provisions of the Family Code which had then already taken effect, ruled that since Graciano was claiming illegitimate filiation under the second paragraph of Article 172 of the Family Code, i.e., open and continuous possession of the status of an illegitimate child, the action was already barred by the death of the alleged father.

In contrast, respondent in this case had not been given the opportunity to present evidence to show whether she had been voluntarily recognized and acknowledged by her deceased father because of petitioner's opposition to her petition and motion for hearing on affirmative defenses. There is, as yet, no way to determine if her petition is actually one to compel recognition which had already been foreclosed by the death of her father, or whether indeed she has a material and direct interest to maintain the suit by reason of the decedent's voluntary acknowledgment or recognition of her illegitimate filiation.

We find, therefore, that the allegation that respondent is an illegitimate child of the decedent suffices even without further stating that she has been so recognized or acknowledged. A motion to dismiss on the ground of failure to state a cause of action in the complaint hypothetically admits the truth of the facts alleged therein.[19] Assuming the fact alleged to be true, i.e., that respondent is the

decedent's illegitimate child, her interest in the estate as such would definitely be material and direct. The appellate court was, therefore, correct in allowing the proceedings to continue, ruling that, "respondent still has the duty to prove the allegation (that she is an illegitimate child of the decedent), just as the petitioner has the right to disprove it, in the course of the settlement proceedings."

WHEREFORE, the instant petition is DENIED. The Decision of the Court of Appeals dated 29 May 2006 and its Resolution dated 28 August 2006 are AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Chico-Nazario, and Velasco, J.r., JJ., concur.

[1] Rollo, pp. 16-23.

[2] Id. at 25.

[3] Records, pp. 2-6.

[4] Id. at 18-22; Opposition dated March 30, 2001.

[5] Id. at 68.

[6] CA rollo, p. 12.

[7] Id. at 13.

[8] Rollo, pp. 16-22.

[9] Id. at 25.

[10] Id. at 3-14.

[11] G.R. No. 76873, 26 October 1989, 178 SCRA 684.

[12] Rollo, pp. 72-73.

[13] Id. at 79-81.

[14] No. L-17759, 17 December 1962, 6 SCRA 874, citing *Trillana v. Crisostom and Espinosa v. Barrios*, 70 Phil. 311 (1951).

[15] Art. 175 in relation to Art. 172 and Art. 173, New Civil Code.

Art. 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, 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.

Art. 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.

Art. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

See also *In the Matter of the Intestate Estate of the Deceased Josefa Delgado and Guillermo Rustia*, G.R. No. 155733, 27 January 2006, 480 SCRA 334.

[16] *Divinagracia v. Bellosillo*, No. L-47407, 12 August 1986, 143 SCRA 356.

[17] Id.

[18] Art. 278. Recognition shall be made in the record of birth, a will, statement before a court of record, or in any authentic writing.

[19] *Drilon v. Court of Appeals*, G.R. No. 106922, 20 April 2001, 357 SCRA 13.

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.