

**DOROTEA, VIRGILIO, APOLINARIO, JR., SULPICIO &
DOMINADOR, ALL SURNAMED UYGUANGCO, PETITIONERS, VS.
COURT OF APPEALS, JUDGE SENEN PEÑARANDA AND GRACIANO
BACJAO UYGUANGCO, RESPOND...**

G.R. No. 76873. October 26, 1989

Ponente: CRUZ, J.

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CRUZ, J.:

The issue before the Court is not the status of the private respondent, who has been excluded from the family and inheritance of the petitioners. What we are asked to decide is whether he should be allowed to prove that he is an illegitimate child of his claimed father, who is already dead, in the absence of the documentary evidence required by the Civil Code.

The trial court said he could and was sustained by the respondent Court of Appeals.[1] The latter court held that the trial judge had not committed any grave abuse of discretion or acted without jurisdiction in allowing the private respondent to prove his filiation. Moreover, the proper remedy was an ordinary appeal and not a petition for prohibition. The petitioners ask for a reversal of these rulings on the ground that they are not in accordance with law and jurisprudence.

Apolinario Uyguangco died intestate in 1975, leaving his wife, Dorotea, four legitimate children (her co-petitioners herein), and considerable properties which they divided among themselves.[2] Claiming to be an illegitimate son of the deceased Apolinario, and having been left out in the extrajudicial settlement of his estate, Graciano Bacjao Uyguangco filed a complaint for partition against all the petitioners.[3]

Graciano alleged that he was born in 1952 to Apolinario Uyguangco and Anastacia Bacjao and that at the age of 15 he moved to his father's hometown at Medina, Misamis Oriental, at the latter's urging and also of Dorotea and his half-brothers. Here he received support from his father while he was studying at the Medina High School, where he eventually graduated. He was also assigned by his father, without objection from the rest of the family, as storekeeper at the Uyguangco store in Mananom from 1967 to 1973.[4]

In the course of his presentation of evidence at the trial, the petitioners elicited an admission from Graciano that he had none of the documents mentioned in Article 278 to show that he was the illegitimate son of Apolinario Uyguangco.[5] These are "the record of birth, a will, a statement before a court of record, or (in) any authentic writing." The petitioners thereupon moved for the dismissal of the case on the ground that the private respondent could no longer prove his alleged filiation under the applicable provisions of the Civil Code.[6]

Specifically, the petitioners argued that the only evidence allowed under Article 278 to prove the private respondent's claim was not available to him as he himself had admitted. Neither could he now resort to the provisions of Article 285 because he was already an adult when his alleged father died in 1975, and his claim did not come under the exceptions. The said article provides as follows:

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;
- (2) If after the death of the father or of the mother a document should appear of which nothing had been heard and in which either or both parents recognize the child.

In this case, the action must be commenced within four years from the finding of the document.

As earlier related, the motion to dismiss was denied, prompting the petitioners to seek relief in vain from the respondent court. In the case now before us, the petitioners reiterate and emphasize their position that allowing the trial to proceed would only be a waste of time and effort. They argue that the complaint for partition is actually an action for recognition as an illegitimate child, which, being already barred, is a clear attempt to circumvent the said provisions. The private respondent insists, on the other hand, that he has a right to show under Article 283 that he is "in continuous possession of the status of a child of his alleged father by the direct acts of the latter or of his family."

We find that this case must be decided under a new if not entirely dissimilar set of rules because the parties have been overtaken by events, to use the popular phrase. The Civil Code provisions they invoke have been superseded, or at least modified, by the corresponding articles in the Family Code, which became effective on August 3, 1988.

Under the Family Code, it is provided that:

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

The following provision is therefore also available to the private respondent in proving his illegitimate filiation:

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.

While the private respondent has admitted that he has none of the documents mentioned in the first paragraph (which are practically the same documents mentioned in Article 278 of the Civil Code except for the "private handwritten instrument signed by the parent himself"), he insists that he has nevertheless been "in open and continuous possession of the status of an illegitimate child," which is now also admissible as evidence of filiation.

Thus, he claims that he lived with his father from 1967 until 1973, receiving support from him during that time; that he has been using the surname Uyguangco without objection from his father and the petitioners as shown in his high school diploma, a special power of attorney executed in his favor by Dorotea Uyguangco, and another one by Sulpicio Uyguangco; that he has shared in the profits of the copra business of the Uyguangcos, which is a strictly family business; that he was a director, together with the petitioners, of the Alu and Sons Development

Corporation, a family corporation; and that in the addendum to the original extrajudicial settlement concluded by the petitioners he was given a share in his deceased father's estate.[7]

It must be added that the illegitimate child is now also allowed to establish his claimed filiation by "any other means allowed by the Rules of Court and special laws," like his baptismal certificate, a judicial admission, a family Bible in which his name has been entered, common reputation respecting his pedigree, admission by silence, the testimonies of witnesses, and other kinds of proof admissible under Rule 130 of the Rules of Court.[8]

The problem of the private respondent, however, is that, since he seeks to prove his filiation under the second paragraph of Article 172 of the Family Code, his action is now barred because of his alleged father's death in 1975. The second paragraph of this Article 175 reads as follows:

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. (Emphasis supplied.)

It is clear that the private respondent can no longer be allowed at this time to introduce evidence of his open and continuous possession of the status of an illegitimate child or prove his alleged filiation through any of the means allowed by the Rules of Court or special laws. The simple reason is that Apolinario Uyguangco is already dead and can no longer be heard on the claim of his alleged son's illegitimate filiation.

In her Handbook on the Family Code of the Philippines, Justice Alicia Sempio-Diy explains the rationale of the rule, thus: "It is a truism that unlike legitimate children who are publicly recognized, illegitimate children are usually begotten and raised in secrecy and without the legitimate family being aware of their existence. Who then can be sure of their filiation but the parents themselves? But suppose the child claiming to be the illegitimate child of a certain person is not really the child of the latter? The putative parent should thus be given the opportunity to affirm or deny the child's filiation, and this, he or she cannot do if he or she is already dead." [9]

Finally, it must be observed that the provisions invoked by the parties are among those affected by the following articles in the Family Code:

Art. 254. Titles III, IV, V, VI, VII, VIII, IX, XI and XV of Book I of Republic Act No. 386, otherwise known as the Civil Code of the Philippines, as amended, and Articles 17, 18, 19, 27, 28, 29, 30, 31, 39, 40, 41 and 42 of Presidential Decree No. 603, otherwise known as the Child and Youth Welfare Code, as amended, and all laws, decrees, executive orders, proclamations, rules and regulations, or parts thereof, inconsistent herewith are hereby repealed.

Art. 256. 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.

Graciano's complaint is based on his contention that he is the illegitimate child of Apolinario Uyguangco, whose estate is the subject of the partition sought. If this claim can no longer be proved in an action for recognition, with more reason should it be rejected in the said complaint, where the issue of Graciano's filiation is being raised only collaterally. The complaint is indeed a circumvention of Article 172, which allows proof of the illegitimate child's filiation under the second paragraph thereof only during the lifetime of the alleged parent.

Considering that the private respondent has, as we see it, established at least prima facie proof of his alleged filiation, we find it regrettable that his action should be barred under the said article. But that is the law and we have no choice but to apply it. Even so, the Court expresses the hope that the parties will arrive at some kind of rapprochement, based on fraternal and moral ties if not the strict language of the law, that will allow the private respondent an equitable share in the disputed estate. Blood should tell.

WHEREFORE, the petition is GRANTED, and Civil Case No. 9067 in the Regional Trial Court of Misamis Oriental, Branch 20, is hereby DISMISSED. It is so ordered.

Narvasa, (Chairman), Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Kalalo, J., ponente, with Castro-Bartolome and Lising, JJ., concurring. The challenged decision was issued by Judge Senen C. Peñaranda of the Regional Trial Court of Misamis Oriental, Branch 20.

[2] Rollo, pp. 51-60

[3] Records, pp. 9-11.

[4] TSN, September 17, 1985, pp. 22-24.

[5] Ibid., pp. 5, 6, 64-71.

[6] Records, p. 30.

[7] TSN, September 17, 1985, pp. 27-46, 53-54.

[8] Handbook on the Family Code of the Philippines by Justice Alicia V. Sempio-Diy, p. 246.

[9] Ibid., p. 250.

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