

SECOND DIVISION

[G.R. No. 174680, March 24, 2008]

VICTORIA C. TAYAG, Petitioner, vs. FELICIDAD A. TAYAG-GALLOR, Respondent.

D E C I S I O N

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