

## SECOND DIVISION

[ G.R. No. 95551, March 20, 1997 ]

**REPUBLIC OF THE PHILIPPINES, PETITIONER, VS. HON. CONCEPCION S. ALARCON VERGARA, IN HER CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, THIRD JUDICIAL REGION, BRANCH 62, ANGELES CITY AND SPOUSES SAMUEL ROBERT DYE, JR. AND ROSALINA D. DYE, RESPONDENTS.**

### DECISION

**ROMERO, J.:**

On June 25, 1990, the spouses Samuel R. Dye, Jr. and Rosalina Due Dye filed a petition before the Regional Trial Court of Angeles City<sup>[1]</sup> to adopt Maricel R. Due and Alvin R. Due, ages 13 and 12 years old, respectively, younger siblings of Rosalina. Samuel R. Dye, Jr, a member of the United States Air Force, is an American citizen who resided at the Clark Air Base in Pampanga. His wife Rosalina is a former Filipino who became a naturalized American. They have two children. Both Maricel and Alvin Due, as well as their natural parents, gave their consent to the adoption.

After trial, the lower court rendered its decision on September 10, 1990 granting the petition and declaring Alvin and Maricel to be the children of the spouses Dye by adoption.<sup>[2]</sup> Respondent Regional Trial Court disregarded the sixteen-year age gap requirement of the law, the spouses being only fifteen years and three months and fifteen years and nine months older than Maricel Due, on the ground that a literal implementation of the law would defeat the very philosophy behind adoption statutes, namely, to promote the welfare of a child.<sup>[3]</sup> The court also found that the petitioning spouses are mentally and physically fit to adopt, possess good moral character, sufficient financial capability and love and affection for the intended adoptees.

The Republic filed this petition for review on a pure question of law, contending that the spouses Dye are not qualified under the law to adopt Maricel and Alvin Due.

The Court finds the petition meritorious and hereby grants it.

As a general rule, aliens cannot adopt Filipino citizens as this is proscribed under Article 184 of the Family Code which states:

"Art. 184. The following persons may not adopt:

xxx  
xxx

xxx

(3) An alien, except: