

FIRST DIVISION

[G.R. No. 112193, March 13, 1996]

**JOSE E. ARUEGO, JR., SIMEONA SAN JUAN ARUEGO, MA.
IMMACULADA T. ALANON, ROBERTO A. TORRES, CRISTINA A.
TORRES, JUSTO JOSE TORRES AND AGUSTIN TORRES,
PETITIONERS, VS. THE HON. COURT OF APPEALS, THIRTEENTH
DIVISION AND ANTONIA ARUEGO, RESPONDENTS.**

D E C I S I O N

HERMOSISIMA, JR., J.:

On March 7, 1983, a Complaint^[1] for Compulsory Recognition and Enforcement of Successional Rights was filed before Branch 30 of the Regional Trial Court of Manila by the minors, private respondent Antonia F. Aruego and her alleged sister Evelyn F. Aruego, represented by their mother and natural guardian, Luz M. Fabian. Named defendants therein were Jose E. Aruego, Jr. and the five (5) minor children of the deceased Gloria A. Torres, represented by their father and natural guardian, Justo P. Torres, Jr., now the petitioners herein.

In essence, the complaint avers that the late Jose M. Aruego, Sr., a married man, had an amorous relationship with Luz M. Fabian sometime in 1959 until his death on March 30, 1982. Out of this relationship were born Antonia F. Aruego and Evelyn F. Aruego on October 5, 1962 and September 3, 1963, respectively. The complaint prayed for an Order praying that herein private respondent and Evelyn be declared the illegitimate children of the deceased Jose M. Aruego, Sr; that herein petitioners be compelled to recognize and acknowledge them as the compulsory heirs of the deceased Jose M. Aruego; that their share and participation in the estate of their deceased father be determined and ordered delivered to them.

The main basis of the action for compulsory recognition is their alleged "open and continuous possession of the status of illegitimate children" as stated in paragraphs 6 and 7 of the Complaint, to wit:

"6. The plaintiffs' father, Jose M. Aruego, acknowledged and recognized the herein plaintiffs as his children verbally among plaintiffs' and their mother's family friends, as well as by myriad different paternal ways, including but not limited to the following:

- (a) Regular support and educational expenses;
- (b) Allowance to use his surname;
- (c) Payment of maternal bills;
- (d) Payment of baptismal expenses and attendance therein;
- (e) Taking them to restaurants and department stores on occasions of family rejoicing;
- (f) Attendance to school problems of plaintiffs;

- (g) Calling and allowing plaintiffs to his office every now and then;
- (h) Introducing them as such children to family friends.

7. The plaintiffs are thus, in **continuous possession of the status of** (illegitimate) **children** of the deceased Jose M. Aruego who showered them, with the continuous and clear manifestations of paternal care and affection as above outlined."^[2]

Petitioners denied all these allegations.

After trial, the lower court rendered judgment, dated June 15, 1992, the dispositive portion of which reads:

"WHEREFORE, judgment is rendered -

1. Declaring Antonia Aruego as illegitimate daughter of Jose Aruego and Luz Fabian;
2. Evelyn Fabian is not an illegitimate daughter of Jose Aruego with Luz Fabian;
3. Declaring that the estate of deceased Jose Aruego are the following:

x x x x x x x x x

4. Antonia Aruego is entitled to a share equal to ½ portion of share of the legitimate children of Jose Aruego;
5. Defendants are hereby ordered to recognize Antonia Aruego as the illegitimate daughter of Jose Aruego with Luz Fabian;
6. Defendants are hereby ordered to deliver to Antonia Aruego (her) share in the estate of Jose Aruego, Sr.;
7. Defendants to play (sic) plaintiff's (Antonia Aruego) counsel the sum of P10,000.00 as atty.'s fee;
8. Cost against the defendants."^[3]

Herein petitioners filed a Motion for Partial Reconsideration of the decision alleging loss of jurisdiction on the part of the trial court over the complaint by virtue of the passage of Executive Order No. 209 (as amended by Executive Order No. 227), otherwise known as the Family Code of the Philippines which took effect on August 3, 1988. This motion was denied by the lower court in the Order, dated January 14, 1993.

Petitioners interposed an appeal but the lower court refused to give it due course on the ground that it was filed out of time.

A Petition for Prohibition and Certiorari with prayer for a Writ of Preliminary Injunction was filed by herein petitioners before respondent Court of Appeals, the petition was dismissed for lack of merit in a decision promulgated on August 31,

1993. A Motion for Reconsideration when filed was denied by the respondent court in a minute resolution, dated October 13, 1993.

Hence, this Petition for Review on Certiorari under Rule 45 alleging the following grounds:

A

RESPONDENT COURT HAD DECIDED A QUESTION OF SUBSTANCE IN A WAY NOT IN ACCORD WITH THE LAW AND IS DIRECTLY CONTRADICTORY TO THE APPLICABLE DECISION ALREADY ISSUED BY THIS HONORABLE COURT.

B

RESPONDENT COURT ERRED IN HOLDING THAT THE PETITION FILED BY PETITIONERS BEFORE IT DOES NOT INVOLVE A QUESTION OF JURISDICTION.

C

RESPONDENT COURT HAD CLEARLY ERRED IN RULING THAT THERE IS NO PERCEPTIBLE DIFFERENCE BETWEEN THE CIVIL CODE PROVISION AND THOSE OF THE FAMILY CODE ANENT THE TIME AN ACTION FOR COMPULSORY RECOGNITION MAY BE MADE AND THAT THERE IS NO DIFFERENCE UNDER THE CIVIL CODE FROM THAT OF THE FAMILY CODE CONCERNING THE REQUIREMENT THAT AN ACTION FOR COMPULSORY RECOGNITION ON THE GROUND OF CONTINUOUS POSSESSION OF THE STATUS OF AN ILLEGITIMATE CHILD SHOULD BE FILED DURING THE LIFETIME OF THE PUTATIVE PARENT, IN UTTER DISREGARD OF THE RULING OF THIS HONORABLE COURT IN THE UYGUANGCO CASE THAT THE CIVIL CODE PROVISION HAD BEEN SUPERSEDED, OR AT LEAST MODIFIED BY THE CORRESPONDING ARTICLES IN THE FAMILY CODE.

D

RESPONDENT COURT ERRED IN DISMISSING PETITIONERS' PETITION FOR PROHIBITION AND IN HOLDING THAT PETITIONERS REMEDY IS THAT OF AN APPEAL WHICH ALLEGEDLY HAD ALREADY BEEN LOST.^[4]

Private respondent's action for compulsory recognition as an illegitimate child was brought under Book I, Title VIII of the Civil Code on PERSONS, specifically Article 285 thereof, which states the manner by which illegitimate children may prove their filiation, to wit:

"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