Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROMEO F. ARA AND WILLIAM A. GARCIA, Petitioners,	**G.R. No. 187273**
	Present:
	CARPIO, *J., Chairperson,* PERALTA, MENDOZA, LEONEN, and JARDELEZA, *JJ.*
-versus-	
DRA. FELY S. PIZARRO AND HENRY ROSSI, Respondents.	**Promulgated:** 15 FEB 2017

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DECISION

LEONEN, *J.*:

For a claim of filiation to succeed, it must be made within the period allowed, and supported by the evidence required under the Family Code.

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, asking that the Court of Appeals Decision[1] dated August 1, 2008 and Resolution[2] dated March 16, 2009, in CA-G.R. CV No. 00729 entitled "*Romeo F. Ara, Ramon A. Garcia, William A. Garcia, and Henry A. Rossi v. Dra. Fely S. Pizarro,*" which modified the Decision[3] of the Regional Trial Court in Special Civil Action No. 337-03 entitled "*Romeo F. Ara, Ramon A.*

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1 Penned by Associate Justice Jane Aurora C. Lantion. Associate Justices Edgardo A. Camello and Rodrigo F. Lim, Jr. concurred. *Rollo,* pp. 42-56.

2 Id. at 59-60.

3 RTC Records, pp. 154-160.

Garcia, William A. Garcia and Henry A. Rossi vs. Dra. Fely S. Pizarro" for Judicial Partition, be set aside.

Romeo F. Ara and William A. Garcia (petitioners), and Dra. Fely S. Pizarro and Henry A. Rossi (respondents) all claimed to be children of the late Josefa A. Ara (Josefa), who died on November 18, 2002.[4]

Petitioners assert that Fely S. Pizarro (Pizarro) was born to Josefa and her then husband, Vicente Salgado (Salgado), who died during World War II.[5] At some point toward the end of the war, Josefa met and lived with an American soldier by the name of Darwin Gray (Gray).[6] Romeo F. Ara (Ara) was born from this relationship. Josefa later met a certain Alfredo Garcia (Alfredo), and, from this relationship, gave birth to sons Ramon Garcia (Ramon) and William A. Garcia (Garcia).[7] Josefa and Alfredo married on January 24, 1952.[8] After Alfredo passed away, Josefa met an Italian missionary named Frank Rossi, who allegedly fathered Henry Rossi (Rossi).[9]

Respondent Pizarro claims that, to her knowledge, she is the only child of Josefa.[10] Further, petitioner Garcia is recorded as a son of a certain Carmen Bucarin and Pedro Garcia, as evidenced by a Certificate of Live Birth dated July 19, 1950;[11] and petitioner Ara is recorded as a son of spouses Jose Ara and Maria Flores, evidenced by his Certificate of Live Birth.[12]

Petitioners, together with Ramon and herein respondent Rossi (collectively, plaintiffs *a quo*), verbally sought partition of the properties left by the deceased Josefa, which were in the possession of respondent Pizarro.[13] The properties are enumerated as follows:

1. Lot and other improvements located at Poblacion, Valencia City, Bukidnon with an area of One Thousand Two Hundred Sixty Eight (1,268) sq. m. in the name of Josefa Salgado covered by Katibayan ng Original na Titulo No. T-30333;
2. Tamaraw FX; and
3. RCBC Bank Passbook in the amount of One Hundred Eight Thousand Pesos (Php108,000.00) bank deposit.[14]

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4 *Rollo*, pp. 42–43.
5 Id. at 5.
6 Id.
7 Id.
8 Id. at 6.
9 Id. at 5.
10 Id. at 154.
11 Id. at 153–154.
12 Id. at 154.
13 Id. at 43.
14 Id.

Respondent Pizarro refused to partition these properties. Thus, plaintiffs *a quo* referred the dispute to the Barangay Lupon for conciliation and amicable settlement.[15]

The parties were unable to reach an amicable settlement.[16] Thus, the Office of the Barangay Captain issued a Certification to File Action dated April 3, 2003.[17]

Plaintiffs *a quo* filed a Complaint dated April 9, 2003[18] for judicial partition of properties left by the deceased Josefa, before the Regional Trial Court of Malaybalay City, Branch 9 (Trial Court). In her Answer, respondent Pizarro averred that, to her knowledge, she was the only legitimate and only child of Josefa.[19] She denied that any of the plaintiffs *a quo* were her siblings, for lack of knowledge or information to form a belief on that matter.[20] Further, the late Josefa left other properties mostly in the possession of plaintiffs *a quo*, which were omitted in the properties to be partitioned by the trial court in Special Civil Action No. 337-03, enumerated in her counterclaim (Additional Properties).[21]

Respondent Pizarro filed her Pre-Trial Brief dated July 28, 2003, which contained a proposed stipulation that the Additional Properties also form part of the estate of Josefa.[22] Amenable to this proposal, plaintiffs *a quo* moved that the Additional Properties be included in the partition, in a Motion to Include in the Partition the Proposed Stipulation dated August 31, 2003.[23]

At the pre-trial, Ara, Garcia, and Ramon claimed a property of respondent Rossi as part of the estate of Josefa. This property was not alleged nor claimed in the original complaint. This compelled respondent Rossi to engage the services of separate counsel, as the claim of his property constituted a conflict of interest among the plaintiffs *a quo*.[24]

In a Pre-trial Order issued by the Trial Court on October 1, 2003, the following facts were admitted:

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15 Id.
16 Id.
17 Id.
18 RTC Records, p. 1.
19 RTC Records, p. 21.
20 Id.
21 Id. at 22.
22 *Rollo*, p. 45.
23 Id.
24 Id. at 92.

4. All the above mentioned fathers of the children in this case, Mr. Vicente Salgado, Mr. Darwin Grey [sic] and Henry Rosi (sic), are all deceased. Josefa Ara Salgado is also deceased having died on November 18, 2002.

5. The properties mentioned in Paragraph 9 of the counter-claim mentioned in the Answer filed by the defendant thru counsel are also admitted by both counsels to be part of the properties subject of this partition case.

6. The Katibayan Ng Orihinal na Titulo attached thereto as ANNEXES "C"-"C-1", are all admitted as the subject properties.

7. Some properties involved maybe covered by the land reform program of the government and the parties have agreed that only the remainder thereof or the proceeds of compensation shall be partitioned among them. All these properties shall be properly determined during the inventory to be finally submitted to the Court for approval.

8. All the foregoing properties were acquired after the death of Vicente Salgado and presumably all the exclusive properties of Josefa Ara Salgado.[25]

After trial, on February 20, 2006, the Trial Court, issued a Decision. The decretal portion states:

WHEREFORE, the Court renders a DECISION as follows:

1. Awarding the Baguio property to Henry Rossi, to be deducted from his share;

2. Awarding the Valencia property covered by OCT No. T-30333; Tamaraw FX and the RCBC Bank Deposit Passbook to defendant Fely S. Pizarro, to be deducted from her share; and

3. With respect to the other properties that may not be covered by the foregoing, the same are declared under the co-ownership of all the plaintiffs and defendant and in equal shares.

SO ORDERED.[26]

Respondent Pizarro appealed the Trial Court Decision, claiming it erred in finding petitioners Ara and Garcia to be children of Josefa, and including them in the partition of properties.[27]

Petitioners Ara and Garcia, as well as respondent Rossi, also filed their own respective appeals to the Trial Court Decision. Respondent Rossi

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25 Id. at 45–46.
26 Id. at 46.
27 Id.

questioned the inclusion of his property in the inventory of properties of the late Josefa.[28] Petitioners questioned the awarding of particular properties to, and deductions from the respective shares of, respondents Pizarro and Rossi.[29]

The Court of Appeals,[30] on August 1, 2008, promulgated its Decision[31] and held that only respondents Pizarro and Rossi, as well as plaintiff *a quo* Ramon, were the children of the late Josefa, entitled to shares in Josefa's estate:

> WHEREFORE, premises considered, the instant Appeals are PARTIALLY GRANTED. The assailed *Decision* dated 20 February 2006, of the court *a quo*, is hereby AFFIRMED with MODIFICATION. The legitimate children of Josefa Ara, namely, Fely Pizarro and Ramon A. Garcia, are each entitled to one (1) share, while Henry Rossi, the illegitimate child of Josefa Ara, is entitled to one-half (1/2) of the share of a legitimate child, of the total properties of the late Josefa Ara sought to be partitioned[.]
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> . . . .
>
> SO ORDERED.[32]

In omitting petitioners from the enumeration of Josefa's descendants, the Court of Appeals reversed the finding of the Trial Court. The Court of Appeals found that the Trial Court erred in allowing petitioners to prove their status as illegitimate sons of Josefa after her death:

> In holding that appellants William A. Garcia and Romeo F. Ara are the illegitimate sons of Josefa Ara, the court *a quo* ratiocinated:
>
> > Without anymore discussing the validity of their respective birth and baptismal certificates, there is sufficient evidence to hold that all the plaintiffs are indeed the children of the said deceased Josefa Ara for having possessed and enjoyed the status of recognized illegitimate children pursuant to the first paragraph of Article 175 of the Family Code which provides:
> >
> > > "Illegitimate children may establish their filiation in the same way and on the same evidence as legitimate children"
> >
> > in relation to the second paragraph No. (1) of Article 172 of the same code (sic), which provides:
> >
> > > "In the absence of the foregoing

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28 Id. at 47.
29 Id.
30 Id. at 42–56.
31 Id.
32 Id. at 55–56.

> evidence, legitimate filiation shall be proven by:
>
> (1) the open and continuous possession of the status of a legitimate child."
>
> All the plaintiffs and defendant were taken care of and supported by their mother Josefa Ara, including their education, since their respective birth and were all united and lived as one family even up to the death and burial of their said mother, Josefa Ara. Their mother had acknowledged all of them as her children throughout all her life directly, continuously, spontaneously and without concealment.[33] (Emphasis omitted.)

Petitioners, together with Garcia, and respondent Rossi filed separate Motions for Reconsideration, which were both denied by the Court of Appeals on March 16, 2009.[34]

Petitioners bring this Petition for Review on Certiorari.[35]

Respondents Pizarro and Rossi filed their respective Comments on the Petition.[36] Petitioners filed a Reply to respondents' Comments, as well as a Motion to Submit Parties to DNA Testing,[37] which this Court denied. Memoranda were submitted by all the parties.

Petitioners argue that the Court of Appeals erroneously applied Article 285 of the Civil Code, which requires that an action for the recognition of natural children be brought during the lifetime of the presumed parents, subject to certain exceptions.[38] Petitioners assert that during Josefa's lifetime, Josefa acknowledged all of them as her children directly, continuously, spontaneously, and without concealment.[39]

Petitioners claim that the Court of Appeals did not apply the second paragraph of Article 172 of the Family Code, which states that filiation may be established even without the record of birth appearing in the civil register, or an admission of filiation in a public or handwritten document.[40]

Further, petitioners aver that the Court of Appeals erred in its asymmetric application of the rule on establishing filiation. Thus, the Court

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33 Id. at 48.
34 Id. at 59.
35 Id. at 3–40.
36 Id. at 90–103 and 105–111.
37 Id. at 114–116.
38 Id. at 34.
39 Id.
40 Id.

of Appeals erred in finding that respondent Pizarro was a daughter of Josefa Ara and Vicente Salgado, asserting there was no basis for the same. Petitioners claim that, in her Formal Offer of Exhibits dated May 26, 2005, respondent Pizarro offered as evidence only a Certificate of Marriage of Salgado and Josefa to support her filiation to Josefa.[41]

On respondent Rossi, petitioners claim that there is no direct evidence to prove his filiation to Josefa, except for his Baptismal Certificate, which was testified to only by respondent Rossi.[42]

The primordial issue for this Court to resolve is whether petitioners may prove their filiation to Josefa through their open and continuous possession of the status of illegitimate children, found in the second paragraph of Article 172 of the Family Code.

This Petition is denied.

I

On establishing the filiation of illegitimate children, the Family Code provides:

> Article 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.

Articles 172 and 173 of the Family Code provide:

> Article 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:

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41 Id. at 34–35.
42 Id. at 196.

(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. (265a, 266a, 267a)

Article 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. (268a)

Thus, a person who seeks to establish illegitimate filiation after the death of a putative parent must do so via a record of birth appearing in the civil register or a final judgment, or an admission of legitimate filiation. In *Uyguangco v. Court of Appeals:*[43]

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

Article. 172. The filiation of legitimate children is established by any of the following:

. . . .

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

[43] 258-A Phil. 467 (1989) [Per J. Cruz, First Division].

> 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.
>
> 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.
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> 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:
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> > 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.
>
> 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.[44]

Petitioners did not present evidence that would prove their illegitimate filiation to their putative parent, Josefa, after her death as provided under Articles 172 and 175 of the Family Code.

To recall, petitioners submitted the following to establish their filiation:

(1) Garcia's Baptismal Certificate listing Josefa as his mother, showing that the baptism was conducted on June 1, 1958, and that Garcia was born on June 23, 1951;[45]
(2) Garcia's Certificate of Marriage, listing Josefa as his mother;[46]
(3) A picture of Garcia's wedding, with Josefa and other relatives;[47]
(4) Certificate of Marriage showing that Alfredo and Josefa were married on January 24, 1952;[48]
(5) Garcia's Certificate of Live Birth from Paniqui, Tarlac, issued

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44 Id. at 471–473.
45 *Rollo*, p. 188.
46 Id.
47 Id.
48 Id.

on October 23, 2003,[49] under Registry No. 2003-1447, which is a late registration of his birth, showing he was born on June 23, 1951 to Alfredo and Josefa;[50]

(6) A group picture of all the parties in the instant case.[51]

(7) In the Comment of Rossi to the Formal Offer of Exhibits of Pizarro, Rossi stated:

> 1. That William Garcia and Romeo Flores Ara are half brothers of Dr. Henry Rossi their mother being Josefa Ara, who did not register them as her children for fear of losing her pension from the U.S. Veterans Office;[52]

(8) Ara testified that he was a son of the late Josefa and Gray, and that his record of birth was registered at camp Murphy, Quezon City;[53] and

(9) Nelly Alipio, first degree cousin of Josefa, testified that Ara was a son of Josefa and Gray.[54]

None of the foregoing constitutes evidence under the first paragraph of Article 172 of the Family Code.

Although not raised by petitioners, it may be argued that petitioner Garcia's Certificate of Live Birth obtained in 2003 through a late registration of his birth is a record of birth appearing in the civil register under Article 172 of the Family Code.

True, birth certificates offer *prima facie* evidence of filiation. To overthrow the presumption of truth contained in a birth certificate, a high degree of proof is needed.[55] However, the circumstances surrounding the delayed registration prevent us from according it the same weight as any other birth certificate.

There is a reason why birth certificates are accorded such high evidentiary value. Act No. 3753, or An Act to Establish a Civil Register, provides:

> Section 5. *Registration and Certification of Births.* — The declaration of the physician or midwife in attendance at the birth or, in default thereof, the declaration of either parent of the newborn child, shall

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49 Id. at 154.
50 Id. at 188–189.
51 Id. at 190.
52 Id. at 192.
53 Id.
54 Id.
55 *Heirs of Cabais v. Court of Appeals*, 374 Phil. 681, 688 (1999) [Per J. Purisima, Third Division].

> be sufficient for the registration of a birth in the civil register. Such declaration shall be exempt from the documentary stamp tax and shall be sent to the local civil registrar not later than thirty days after the birth, by the physician, or midwife in attendance at the birth or by either parent of the newly born child.
>
> In such declaration, the persons above mentioned shall certify to the following facts: (a) date and hour of birth; (b) sex and nationality of infant; (c) names, citizenship, and religion of parents or, in case the father is not known, of the mother alone; (d) civil status of parents; (e) place where the infant was born; (f) and such other data may be required in the regulation to be issued.
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> In the case of an exposed child, the person who found the same shall report to the local civil registrar the place, date and hour of finding and other attendant circumstances.
>
> In case of an illegitimate child, the birth certificate shall be signed and sworn to jointly by the parents of the infant or only the mother if the father refuses. In the latter case, it shall not be permissible to state or reveal in the document the name of the father who refuses to acknowledge the child, or to give therein any information by which such father could be identified.
>
> Any foetus having human features which dies after twenty four hours of existence completely disengaged from the maternal womb shall be entered in the proper registers as having been born and having died.

Further, Rule 21 of National Statistics Office Administrative Order No. 1-93, or the Implementing Rules and Regulations of Act No. 3753, provides that a person's birth be registered with the Office of the Civil Registrar-General by one of the following individuals:

> Rule 21. *Persons Responsible to Report the Event.* — (1) When the birth occurred in a hospital or clinic or in a similar institution, the administrator thereof shall be responsible in causing the registration of such birth. However, it shall be the attendant at birth who shall certify the facts of birth.
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> (2) When the birth did not occur in a hospital or clinic or in a similar institution, the physician, nurse, midwife, "hilot", or anybody who attended to the delivery of the child shall be responsible both in certifying the facts of birth and causing the registration of such birth.
>
> (3) In default of the hospital/clinic administrator or attendant at birth, either or both parents of the child shall cause the registration of the birth.
>
> (4) When the birth occurs aboard a vehicle, vessel or airplane while in transit, registration of said birth shall be a joint responsibility of the driver, captain or pilot and the parents, as the case may be.

Further, the birth must be registered within 30 days from the time of

birth.[56] Thus, generally, the rules require that facts of the report be certified by an attendant at birth, within 30 days from birth. The attendant is not only an eyewitness to the event, but also presumably would have no reason to lie on the matter. The immediacy of the reporting, combined with the participation of disinterested attendants at birth, or of both parents, tend to ensure that the report is a factual reporting of birth. In other words, the circumstances in which registration is made obviate the possibility that registration is caused by ulterior motives. The law provides in the case of illegitimate children that the birth certificate shall be signed and sworn to jointly by the parents of the infant or only by the mother if the father refuses. This ensures that individuals are not falsely named as parents.

National Statistics Office Administrative Order No. 1-93 also contemplates that reports of birth may be made beyond the 30-day period:

> Rule 25.*Delayed Registration of Birth.* — (1) The requirements are:
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> a) if the person is less than eighteen (18) years old, the following shall be required:
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> i) four (4) copies of the Certificate of Live Birth duly accomplished and signed by the proper parties;
> ii) accomplished Affidavit for Delayed Registration at the back of the Certificate of Live Birth by the father, mother or guardian, declaring therein, among other things, the following:
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> > name of child;
> > date and place of birth;
> > name of the father if the child is illegitimate and has been acknowledged by him;
> > if legitimate, the date and place of marriage of parents; and
> > reason for not registering the birth within thirty (30) days after the date of birth.
>
> In case the party seeking late registration of the birth of an illegitimate child is not the mother, the party shall, in addition to the foregoing facts, declare in a sworn statement the present whereabouts of the mother.
>
> iii) any two of the following documentary evidences which may show the name of the child, date and place of birth, and name of mother (and name of father, if the child has been acknowledged);
>
> > baptismal certificate;
> > school records (nursery, kindergarten, or preparatory);

[56] NSO Adm. O. No. 1-93 (1992), Rule 19.

> income tax return of parent/s;
> insurance policy;
> medical records; and
> others, such as barangay captain's certification.

iv) affidavit of two disinterested persons who might have witnessed or known the birth of the child. (46:1aa)

b) If the person is eighteen (18) years old or above, he shall apply for late registration of his birth and the requirements shall be:
i) all the requirements for a child who is less than eighteen (18) years old; and
ii) Certificate of Marriage, if married. (46:1ba)

(2) Delayed registration of birth, like ordinary registration made at the time of birth, shall be filed at the Office of the Civil Registrar of the place where the birth occurred. (46:3)

(3) Upon receipt of the application for delayed registration of birth, the civil registrar shall examine the Certificate of Live Birth presented whether it has been completely and correctly filled up and all requirements complied with. (47a)

(4) In the delayed registration of the birth of an alien, travel documents showing the origin and nationality of the parents shall be presented in addition to the requirements mentioned in Rule 25 (1). (49:2a)

Thus, petitioners submitted in evidence a delayed registration of birth of Garcia, pursuant to this rule. Petitioners point out that a hearing on the delayed registration was held at the Office of the Municipal Civil Registrar of Paniqui, Tarlac. No one appeared to oppose the delayed registration, despite a notice of hearing posted at the Office of the Civil Registrar.[57]

It is analogous to cases where a putative father's name is written on a certificate of live birth of an illegitimate child, without any showing that the putative father participated in preparing the certificate. In *Fernandez v. Court of Appeals*:[58]

> Fourth, the certificates of live birth (Exh. "A"; Exh. "B") of the petitioners identifying private respondent as their father are not also competent evidence on the issue of their paternity. Again, the records do not show that private respondent had a hand in the preparation of said certificates. In rejecting these certificates, the ruling of the respondent court is in accord with our pronouncement in *Roces vs. Local Civil Registrar, 102 Phil. 1050 (1958),viz*:

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57 *Rollo*, p. 178.
58 300 Phil. 131 (1994) [Per J. Puno, Second Division].

> ". . . Section 5 of Act No. 3793 and Article 280 of the Civil Code of the Philippines explicitly prohibited, not only the naming of the father or the child born outside wedlock, when the birth certificates, or the recognition, is not filed or made by him, but, *also, the statement of any information or circumstances by which he could be identified. Accordingly, the Local Civil Registrar had no authority to make or record the paternity of an illegitimate child upon the information of a third person and the certificate of birth of an illegitimate child, when signed only by the mother of the latter, is incompetent evidence of fathership of said child.*

We reiterated this rule in *Berciles, op. cit.,* when we held that "a birth certificate not signed by the alleged father therein indicated is not competent evidence of paternity."[59] (Emphasis in the original).

In *Berciles v. Government Service Insurance System:*[60]

> The evidence considered by the Committee on Claims Settlement as basis of its finding that Pascual Voltaire Berciles is an acknowledged natural child of the late Judge Pascual Berciles is the birth certificate of said Pascual Voltaire Berciles marked Exh. "6". We have examined carefully this birth certificate and We find that the same is not signed by either the father or the mother; We find no participation or intervention whatsoever therein by the alleged father, Judge Pascual Berciles. Under our jurisprudence, if the alleged father did not intervene in the birth certificate, the putting of his name by the mother or doctor or registrar is null and void. Such registration would not be evidence of paternity. (Joaquin P. Roces et al. vs. Local Civil Registrar of Manila, 102 Phil. 1050). The mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on his part (Dayrit vs. Piccio, 92 Phil. 729). A birth certificate does not constitute recognition in a public instrument. (Pareja vs. Pareja, et al., 95 Phil. 167). A birth certificate, to evidence acknowledgment, must, under Section 5 of Act 3753, bear the signature under oath of the acknowledging parent or parents. (Vidaurrazaga vs. Court of Appeals and Francisco Ruiz, 91 Phil. 492).
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> ....
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> In the case of Mendoza, et al. vs. Mella, 17 SCRA 788, the Supreme Court speaking through Justice Makalintal who later became chief Justice, said:
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> > It should be noted, however, that a Civil Registry Law was passed in 1930 (Act No. 3753) containing provisions for the registration of births, including those of illegitimate parentage; and the record of birth under such law, if sufficient in contents for the purpose, would meet the requisites for voluntary recognition even under Article 131. Since Rodolfo was born in 1935, after the registry law

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[59] Id. at 137–138.

[60] 213 Phil. 48 (1984) [Per J. Guerrero, En Banc].

> was enacted, the question here really is whether or not his birth certificate (Exhibit 1), which is merely a certified copy of the registry record, may be relied upon as sufficient proof of his having been voluntarily recognized. No such reliance, in our judgment, may be placed upon it. While it contains the names of both parents, there is no showing that they signed the original, let alone swore to its contents as required in Section 5 of Act No. 3753 (Vidaurrazaga vs. Court of Appeals, 91 Phil. 493; In re Adoption of Lydia Duran, 92 Phil. 729). For all that might have happened, it was not even they or either of them who furnished the data to be entered in the civil register. Petitioners say that in any event the birth certificate is in the nature of a public document wherein voluntary recognition of a natural child may also be made, according to the same Article 131. True enough, but in such a case there must be a clear statement in the document that the parent recognizes the child as his or her own (Madridejo vs. De Leon, 55 Phil. 1); and in Exhibit 1 no such statement appears. The claim of voluntary recognition is without basis."[61]

Further, in *People v. Villar*,[62] this Court sustained the Trial Court's rejection of a delayed registration of birth as conclusive evidence of the facts stated therein:

> In the resolution of the sole assignment of error we find as well-taken and accordingly adopt as our own the lower court's ratiocination, thus:
>
> > After going over the evidence in support of the alleged minority of the accused Francisco Villar when he committed the crime on or about August 24, 1977, the Court finds that Exhibit 1 and the testimonies of the defense witnesses can not have more probative value than the written statement of Francisco Villar, Exhibit E. It is to be noted that Exhibit 1 is a delayed registration of a supposed birth accomplished and submitted only on January 12, 1979 to the Local Civil Registrar of Caloocan City by the witness Leonor Villar, long after the offense was committed and after the prosecution finally rested its case on November 21, 1978, thus exposing the basis of Exhibit 1 to be resting on a slender and shaky foundation, and more so, in the absence of explanation from the defense of the reason for said late registration. Hence, the Court rejects Exhibit 1....
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> The appellant invokes Art. 410 of the Civil Code which reads:
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> > Art. 410. The books making up the civil register and all documents relating thereto shall be considered public documents and shall be prima facie evidence of the facts

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61 Id. at 49–72.

62 193 Phil. 203 (1981) [Per J. Abad Santos, Second Division].

herein contained.

> Suffice it to say that the above-quoted provision makes the information given in Exhibit 1 only *prima facie* but not conclusive evidence. This must be so because the Local Civil Registrar merely receives the information submitted to him; he does not inquire into its veracity. Moreover, to regard as conclusive the content of a certificate of live birth can lead to absurd results. Supposing that Leonor had given John F. Kennedy as the father of Francisco, are we to accept that as an incontestable fact? In the light of the circumstances already narrated concerning the preparation and submission of Exhibit 1, the lower court committed no error in disregarding it.[63]

A delayed registration of birth, made after the death of the putative parent, is tenuous proof of filiation.

Thus, we are unable to accord petitioner Garcia's delayed registration of birth the same evidentiary weight as regular birth certificates.

Even without a record of birth appearing in the civil register or a final judgment, filiation may still be established after the death of a putative parent through an admission of filiation in a public document or a private handwritten instrument, signed by the parent concerned.[64] However, petitioners did not present in evidence any admissions of filiation.

An admission is an act, declaration, or omission of a party on a relevant fact, which may be used in evidence against him.[65]

The evidence presented by petitioners such as group pictures with Josefa and petitioners' relatives, and testimonies do not show that Josefa is their mother. They do not contain any acts, declarations, or omissions attributable directly to Josefa, much less ones pertaining to her filiation with petitioners. Although petitioner Garcia's Baptismal Certificate, Certificate of Marriage, and Certificate of Live Birth obtained via late registration all state that Josefa is his mother, they do not show any act, declaration, or omission on the part of Josefa. Josefa did not participate in making any of them. The same may be said of the testimonies presented. Although Josefa may have been in the photographs, the photographs do not show any filiation. By definition, none of the evidence presented constitutes an admission of filiation under Article 172 of the Family Code.

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63 Id. at 207–208.

64 FAMILY CODE, art. 172.

65 RULES OF COURT, Rule 130, sec. 26.

II

The Trial Court bypassed the issue of the birth certificates and did not consider the first paragraph of Article 172 of the Family Code. Instead, it ruled only on the open and continuous possession of status of filiation:

> Without anymore discussing the validity of their respective birth and baptismal certificates, there is sufficient evidence to hold that all the plaintiffs are indeed the children of the said deceased Josefa Ara for having possessed and enjoyed the status of recognized illegitimate children pursuant to the first paragraph of Article 175 of the Family Code[.]
>
> . . . .
>
> All the plaintiffs and defendant were taken care of and supported by their mother Josefa Ara, including their education, since their respective birth and were all united and lived as one family even up to the death and burial of their said mother, Josefa Ara. Their mother had acknowledged all of them as her children throughout all her life directly, continuously, spontaneously and without concealment.[66]

Thus, the Court of Appeals found that the Trial Court had erred in allowing petitioners to prove their illegitimate filiation through the open and continuous possession of the status of illegitimate children *after* the death of the putative parent:

> However, the trial court's finding cannot be sustained. Even granting for the sake of argument that appellants Romeo F. Ara and William Garcia did enjoy open and continuous possession of the status of an illegitimate child, still, they should have proven this during the lifetime of the putative parent. *Article 285 of the Civil Code* provides the period for filing and (*sic*) action for recognition 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.

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[66] RTC Records, pp. 158–159.

> In this case, the action must be commenced within four years from the finding of the document.
>
> The two exceptions provided under the foregoing provision, have however been omitted by *Articles 172, 173* and *175 of the Family Code*, which We quote:
>
> ...
>
> The law is very clear. If filiation is sought to be proved under the *second paragraph of Article 172 of the Family Code*, the action must be brought during the lifetime of the alleged parent. It is evident that appellants Romeo F. Ara and William Garcia can no longer be allowed at this time to introduce evidence of their open and continuous possession of the status of an illegitimate child or prove their alleged filiation through any of the means allowed by the Rules of Court or special laws. The simple reason is that Josefa Ara is already dead and can no longer be heard on the claim of her alleged sons' illegitimate filiation.[67]

The Court of Appeals did not adopt the Trial Court's appreciation of evidence. It ruled that, because petitioners' putative parent Josefa had already passed away, petitioners were proscribed from proving their filiation under the second paragraph of Article 172 of the Family Code.

The Court of Appeals properly did not give credence to the evidence submitted by petitioners regarding their status.

Josefa passed away in 2002.[68] After her death, petitioners could no longer be allowed to introduce evidence of open and continuous illegitimate filiation to Josefa. The only evidence allowed under the law would be a record of birth appearing in the civil register or a final judgment, or an admission of legitimate filiation in a public document or a private signed, handwritten instruction by Josefa.

An alleged parent is the best person to affirm or deny a putative descendant's filiation. Absent a record of birth appearing in a civil register or a final judgment, an express admission of filiation in a public document, or a handwritten instrument signed by the parent concerned, a deceased person will have no opportunity to contest a claim of filiation.

In truth, it is the mother and in some cases, the father, who witnesses the actual birth of their children. Descendants normally only come to know of their parents through nurture and family lore. When they are born, they do not have the consciousness required to be able to claim personal knowledge of their parents. It thus makes sense for the parents to be present

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67 *Rollo*, pp. 48–50.

68 Id. at 43.

when evidence under the second paragraph of Article 172 is presented.

The limitation that an action to prove filiation as an illegitimate child be brought within the lifetime of an alleged parent acknowledges that there may be other persons whose rights should be protected from spurious claims. This includes other children, legitimate and illegitimate, whose statuses are supported by strong evidence of a categorical nature.

Respondent Pizarro has submitted petitioners' certificates of live birth to further disprove petitioners' filiation with Josefa. A Certificate of Live Birth issued in Paniqui, Tarlac on July 19, 1950 shows that Garcia's parents are Pedro Garcia and Carmen Bugarin[69] while another Certificate of Live Birth issued in petitioner Ara's birthplace, Bauang, La Union, shows that he is the son of spouses Jose Ara and Maria Flores.[70]

The Court of Appeals gave credence to these birth certificates submitted by respondent Pizarro:

> The trustworthiness of public documents and the value given to the entries made therein could be grounded on 1) the sense of official duty in the preparation of the statement made, 2) the penalty which is usually affixed to a breach of that duty, 3) the routine and disinterested origin of most such statements, and 4) the publicity of record which makes more likely the prior exposure of such errors as might have occurred.
>
> Therefore, this Court upholds the birth certificates of William Garcia and Romeo F. Ara, as issued by the Civil Registry, in line with *Legaspi v. Court of Appeals*, where the High Court ruled that the evidentiary nature of public documents must be sustained in the absence of strong, complete and conclusive proof of its falsity or nullity. Consequently, appellants Romeo F. Ara and William Garcia are deemed not to be the illegitimate sons of the late Josefa Ara.[71]

Thus, the Court of Appeals made a determination on the evidence and found that the birth certificates submitted by respondent Pizarro belong to petitioners Garcia and Ara. These birth certificates name Carmen Bugarin[72] and Maria Flores,[73] as the respective mothers of petitioners Garcia and Ara. Considering that these birth certificates do not name Josefa as a parent of either petitioner, petitioners are properly determined not to be Josefa's children.

Petitioners point out that the Certificate of Birth does not contain

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69 Id. at 190.
70 Id. at 154.
71 Id. at 51.
72 Id. at 190.
73 Id. at 154.

petitioner Garcia's correct birth date. They claim that the birth date of petitioner Garcia as recorded in his baptismal certificate is June 23, 1951. This birth date is also reflected on his Certificate of Live Birth issued by the Municipal Civil Registrar of Paniqui, Tarlac, as well as in the Notice of Hearing of the delayed registration of birth certificate of petitioner Garcia. Thus, petitioners speculate that the birth certificate submitted by respondent Pizarro is of a different "William Garcia":

> Perhaps, defendant-appellant Fely Pizarro obtained a Certificate of Live Birth and Cedula de Baotismo of a wrong person bearing the same name William Garcia which always happened (*sic*) in our country considering that the family name Garcia is very much common because in the said documents the birthdate of a certain William Garcia was June 23, 1950 not June 23, 1951, the actual birth of William Garcia.[74]

On this point, respondent Pizarro argues:

> It may be noted that William Garcia obtained said Certificate more than six (6) months after he, with his co-plaintiffs, had filed the case of judicial partition on 9 April 2003. Obviously, he found the need to apply for the late registration of his birth when he learned from respondent's Answer that from her knowledge she is the only child of Josefa Ara. Very likely, William Garcia already knew that he already has a record of birth in the municipality of Paniqui, Tarlac, showing that her mother was not Josefa Ara.[75]

These are matters of appreciation of evidence, however, which cannot be subject of inquiry in a petition for review under Rule 45. Nonetheless, considering that there were two reports of birth for William Garcia, and considering further that one of the reports was made only *after* initiating a case which would directly use said report, we cannot find error in the Court of Appeals' decision to disregard the delayed registration.

Finally, petitioners' claim that there was no basis for the Court of Appeals to find that respondents are the children of Josefa is untenable. Respondents' filiation with Josefa was not put in question before the Trial Court. Even petitioners admitted in their Complaint that respondents were Josefa's children.[76] Further, on appeal, no party questioned the Trial Court's determination that respondents Pizarro and Rossi were the children of Josefa. Consequently, the Court of Appeals did not err in sustaining these findings without requiring further proof.

WHEREFORE, the petition for review on certiorari is **DENIED**. The August 1, 2008 Decision and the March 16, 2009 Resolution of the Court of

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74 Id. at 181.
75 Id. at 154.
76 RTC Records, p. 1.

Appeals in CA-G.R. CV No. 00729 are **AFFIRMED**.

SO ORDERED.

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

JOSE CATRAL MENDOZA
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice