

WHEREFORE, the Court finds Clemente U. Ugale, Interpreter II of the Municipal Trial Court in Cities, Branch 1, Tuguegarao City, Cagayan, *GUILTY of INCOMPETENCE, HABITUAL DRUNKENNESS and LOAFING*, and is *ORDERED* to pay a *FINE* equivalent to his eight (8) months salary to be deducted from his retirement benefits.

SO ORDERED.

Quisumbing,* *Carpio* (Chairperson), *Chico-Nazario*, and *Abad*,** *JJ.*, concur.

THIRD DIVISION

[G.R. No. 163209. October 30, 2009]

SPOUSES PRUDENCIO and FILOMENA LIM, *petitioners*,
vs. MA. CHERYL S. LIM, *for herself and on behalf of*
her minor children LESTER EDWARD S. LIM, CANDICE
GRACE S. LIM, and MARIANO S. LIM, III, respondents.

SYLLABUS

- 1. CIVIL LAW; FAMILY CODE; SUPPORT; SCOPE OF OBLIGATION TO GIVE SUPPORT UNDER TITLE VIII OF THE CIVIL CODE AS AMENDED ON SUPPORT DISTINGUISHED FROM TITLE IX ON PARENTAL AUTHORITY.**—While both areas share a common ground in that parental authority encompasses the obligation to provide legal support, they differ in other concerns including the

* Designated to sit as an additional member in lieu of Associate Justice Antonio Eduardo B. Nachura per Special Order No. 755 dated October 12, 2009.

** Designated to sit as an additional member in lieu of Associate Justice Presbitero J. Velasco, Jr. per Special Order No. 753 dated October 12, 2009.

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duration of the obligation and its *concurrence* among relatives of differing degrees. Thus, although the obligation to provide support arising from parental authority ends upon the emancipation of the child, the same obligation arising from spousal and general familial ties ideally lasts during the obligee's lifetime. Also, while parental authority under Title IX (and the correlative parental rights) pertains to parents, passing to ascendants only upon its termination or suspension, the obligation to provide legal support passes on to ascendants not only upon default of the parents but also for the latter's inability to provide sufficient support.

2. ID.; ID.; ID.; OBLIGATION OF ASCENDANTS EXTENDS TO DESCENDANTS ONLY; CASE AT BAR.—

However, petitioners' partial concurrent obligation extends only to their *descendants* as this word is commonly understood to refer to relatives, by blood of lower degree. As petitioners' grandchildren by blood, only respondents Lester Edward, Candice Grace and Mariano III belong to this category. Indeed, Cheryl's right to receive support from the Lim family extends only to her husband Edward, arising from their marital bond.

3. ID.; ID.; ID.; ID.; ALTERNATIVE GIVEN IN ARTICLE 204 OF THE CIVIL CODE CANNOT BE AVAILED OF WHERE A MORAL OR LEGAL OBSTACLE EXISTS; CASE AT BAR.—

The application of Article 204 which provides that — The person obliged to give support shall have the option to fulfill the obligation either by paying the allowance fixed, or by receiving and maintaining in the family dwelling the person who has a right to receive support. **The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto.** x x x is subject to its exception clause. Here, the persons entitled to receive support are petitioners' grandchildren and daughter-in-law. Granting petitioners the option in Article 204 will secure to the grandchildren a well-provided future; however, it will also force Cheryl to return to the house which, for her, is the scene of her husband's infidelity. While not rising to the level of a *legal* obstacle, as indeed, Cheryl's charge against Edward for concubinage did not prosper for insufficient evidence, her steadfast insistence on its occurrence amounts to a *moral* impediment bringing the case within the ambit of the exception clause of Article 204, precluding its application.

APPEARANCES OF COUNSEL

Fortun Narvasa & Salazar for petitioners.

Bonete Law Office for respondents.

D E C I S I O N

CARPIO, J.:

The Case

For review¹ is the Decision² of the Court of Appeals, dated 28 April 2003, ordering petitioners Prudencio and Filomena Lim (petitioners) to provide legal support to respondents Cheryl, Lester Edward, Candice Grace and Mariano III, all surnamed Lim (respondents).

The Facts

In 1979, respondent Cheryl S. Lim (Cheryl) married Edward Lim (Edward), son of petitioners. Cheryl bore Edward three children, respondents Lester Edward, Candice Grace and Mariano III. Cheryl, Edward and their children resided at the house of petitioners in Forbes Park, Makati City, together with Edward's ailing grandmother, Chua Giak and her husband Mariano Lim (Mariano). Edward's family business, which provided him with a monthly salary of P6,000, shouldered the family expenses. Cheryl had no steady source of income.

On 14 October 1990, Cheryl abandoned the Forbes Park residence, bringing the children with her (then all minors), after a violent confrontation with Edward whom she caught with the in-house midwife of Chua Giak in what the trial court described "a very compromising situation."³

¹ Under Rule 45 of the 1997 Rules of Civil Procedure.

² Penned by Associate Justice Elvi John S. Asuncion with Associate Justices Ruben T. Reyes and Lucas P. Bersamin (now a member of this Court), concurring.

³ CA *rollo*, p. 99. Cheryl filed criminal charges against Edward (for concubinage, physical injuries, and grave threats) which, however, the investigating

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Cheryl, for herself and her children, sued petitioners, Edward, Chua Giak and Mariano (defendants) in the Regional Trial Court of Makati City, Branch 140 (trial court) for support. The trial court ordered Edward to provide monthly support of P6,000 *pendente lite*.⁴

The Ruling of the Trial Court

On 31 January 1996, the trial court rendered judgment ordering Edward and petitioners to “jointly” provide P40,000 monthly support to respondents, with Edward shouldering P6,000 and petitioners the balance of P34,000 subject to Chua Giak’s subsidiary liability.⁵

prosecutor dismissed. It appears that Edward, in turn, sued Cheryl for the declaration of nullity of their marriage (Civil Case No. 99-1852) which the Regional Trial Court of Makati City, Branch 140, granted. Cheryl’s appeal of the ruling awaits resolution.

⁴ In an Order dated 28 June 1991.

⁵ The dispositive portion of the ruling provides (Records, pp. 1021-1022):
WHEREFORE, premises considered, judgment is hereby rendered as follows:
1. Defendant/s EDWARD N. LIM and Spouses PRUDENCIO and FILOMENA NG LIM are ordered to jointly provide monthly support for the plaintiff, Ma. Cheryl S. Lim and the three (3) minor children, in the total amount of FORTY THOUSAND (P40,000.00) Pesos to be adjusted as may be needed, and to be given in the following manner:
a) Six Thousand (P6,000.00) Pesos to be paid by defendant EDWARD N. LIM;
b) The remaining balance of Thirty Four Thousand (P34,000.00) Pesos shall be shouldered by defendant/spouses PRUDENCIO and FILOMENA NG LIM, they, being in the remoter line pursuant to Article 199 of the Family Code. However, in the event that spouses Prudencio and Filomena Ng Lim fail to provide plaintiffs the amount they are entitled to receive, the obligation shall be borne by CHUA GIAK, being the grandmother of defendant Edward Lim;
c) The payment of the aforesaid monthly support should be made within the first five (5) days of each month;
2. The custody of the three (3) minor children, namely, Lester Edward, Candice Grace and Mariano III shall be awarded to the parent with whom each one shall choose to live with, they, being over seven (7) years of age;
3. Defendants are directed to pay the plaintiffs’ attorney’s fees in the amount of FIFTY THOUSAND (P50,000.00) PESOS, plus FIVE HUNDRED (P500.00) PESOS for each Court appearance, and the cost of the suit.

The defendants sought reconsideration, questioning their liability. The trial court, while denying reconsideration, clarified that petitioners and Chua Giak were held jointly liable with Edward because of the latter's "inability x x x to give sufficient support x x x."⁶

Petitioners appealed to the Court of Appeals assailing, among others, their liability to support respondents. Petitioners argued that while Edward's income is insufficient, the law itself sanctions its effects by providing that legal support should be "in keeping with the financial capacity of the family" under Article 194 of the Civil Code, as amended by Executive Order No. 209 (The Family Code of the Philippines).⁷

⁶ The dispositive portion of the Order provides (*Id.* at 1058):

In the light of the foregoing, item No. 1 in the dispositive part of the Decision of this Court dated January 31, 1996, is hereby amended to read as follows:

"(1.a) Defendant Edward N. Lim is ordered to continue providing the amount of SIX THOUSAND (P6,000.00) PESOS as his monthly support for the plaintiffs;

(b) Considering the inability of defendant Edward N. Lim to give sufficient support, defendants/spouses Prudencio and Filomena Ng Lim being in the remoter line (Art. 199, Family Code), are ordered to give the amount of THIRTY-FOUR THOUSAND (P34,000.00) PESOS as their monthly support for the three (3) minor children. In case of default, the obligation shall be borne by defendant Chua Giak;

(c) The payment of the aforesaid monthly support shall be made within the first five (5) days of each month."

⁷ This provision reads: "Support comprises everything indispensable for sustenance, dwelling, clothing, medical attendance, education and transportation, in keeping with the financial capacity of the family.

The education of the person entitled to be supported referred to in the preceding paragraph shall include his schooling or training for some profession, trade or vocation, even beyond the age of majority. Transportation shall include expenses in going to and from school, or to and from place of work."

The Ruling of the Court of Appeals

In its Decision dated 28 April 2003, the Court of Appeals affirmed the trial court. On the issue material to this appeal, that is, whether there is basis to hold petitioners, as Edward's parents, liable with him to support respondents, the Court of Appeals held:

The law on support under Article 195 of the Family Code is clear on this matter. Parents and their legitimate children are obliged to mutually support one another and this obligation extends down to the legitimate grandchildren and great grandchildren.

In connection with this provision, Article 200 paragraph (3) of the Family Code clearly provides that should the person obliged to give support does not have sufficient means to satisfy all claims, the other persons enumerated in Article 199 in its order shall provide the necessary support. This is because the closer the relationship of the relatives, the stronger the tie that binds them. Thus, the obligation to support is imposed first upon the shoulders of the closer relatives and only in their default is the obligation moved to the next nearer relatives and so on.⁸

Petitioners sought reconsideration but the Court of Appeals denied their motion in the Resolution dated 12 April 2004.

Hence, this petition.

The Issue

The issue is whether petitioners are concurrently liable with Edward to provide support to respondents.

The Ruling of the Court

We rule in the affirmative. However, we modify the appealed judgment by limiting petitioners' liability to the amount of monthly support needed by respondents Lester Edward, Candice Grace and Mariano III only.

⁸ *Rollo*, pp. 27-28.

***Petitioners Liable to Provide Support
but only to their Grandchildren***

By statutory⁹ and jurisprudential mandate,¹⁰ the liability of ascendants to provide legal support to their descendants is beyond cavil. Petitioners themselves admit as much – they limit their petition to the narrow question of *when* their liability is triggered, not *if* they are liable. Relying on provisions¹¹ found in Title IX of the Civil Code, as amended, on Parental Authority, petitioners theorize that their liability is activated only upon *default* of parental authority, conceivably either by its termination¹² or suspension¹³ during the children’s minority. Because at the time respondents sued for support, Cheryl and Edward exercised parental authority over their children,¹⁴ petitioners submit that the obligation to support the latter’s offspring ends with them.

Neither the text of the law nor the teaching of jurisprudence supports this severe constriction of the scope of familial obligation to give support. In the first place, the governing text are the relevant provisions in Title VIII of the Civil Code, as amended, on Support, not the provisions in Title IX on Parental Authority. While both areas share a common ground in that parental authority

⁹ Article 199, Civil Code, as amended, provides:

Whenever two or more persons are obliged to give support, the liability shall devolve upon the following persons in the order herein provided:

- (1) The spouse;
- (2) The descendants in the nearest degree;
- (3) The ascendants in the nearest degree; and
- (4) The brothers and sisters

¹⁰ *Patricio v. Dario III*, G.R. No. 170829, 20 November 2006, 507 SCRA 438.

¹¹ Articles 214 and 216, Civil Code, as amended.

¹² See Articles 228(1), 229(4) and (5), and 232, Civil Code, as amended.

¹³ See Articles 230 and 231, Civil Code, as amended.

¹⁴ Respondents Lester Edward (born on 11 June 1981), Candice Grace (born on 23 October 1985) and Mariano III (born on 31 August 1986) have since reached the age of majority, thus emancipating them from their parents’ authority (see Article 228(3), Civil Code, as amended).

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encompasses the obligation to provide legal support,¹⁵ they differ in other concerns including the *duration* of the obligation and its *concurrence* among relatives of differing degrees.¹⁶ Thus, although the obligation to provide support arising from parental authority ends upon the emancipation of the child,¹⁷ the same obligation arising from spousal and general familial ties ideally lasts during the obligee's lifetime. Also, while parental authority under Title IX (and the correlative parental rights) pertains to parents, passing to ascendants only upon its termination or suspension, the obligation to provide legal support passes on to ascendants not only upon default of the parents but also for the latter's inability to provide sufficient support. As we observed in another case raising the ancillary issue of an ascendant's obligation to give support in light of the father's sufficient means:

Professor Pineda is of the view that grandchildren cannot demand support directly from their grandparents if they have parents (ascendants of nearest degree) **who are capable of supporting them**. This is so because we have to follow the order of support under Art. 199. We agree with this view.

x x x

x x x

x x x

There is no showing that private respondent is **without means to support his son**; neither is there any evidence to prove that petitioner, as the paternal grandmother, was willing to voluntarily provide for her grandson's legal support. x x x¹⁸ (Emphasis supplied; internal citations omitted)

Here, there is no question that Cheryl is unable to discharge her obligation to provide sufficient legal support to her children, then all school-bound. It is also undisputed that the amount of

¹⁵ Article 209 in relation to Article 220(4), Civil Code, as amended.

¹⁶ The ordering of persons obliged to *provide* support in Article 199 is different from the preference of right to *receive* it under Article 200, par. 3. Thus, the Court of Appeals, while correctly affirming the trial court's ruling, as we do, misapplied the latter provision as basis for its ruling sustaining petitioners' concurrent *obligation* to provide support.

¹⁷ Article 228(3), Civil Code, as amended.

¹⁸ *Supra* note 10 at 448-449.

support Edward is able to give to respondents, P6,000 a month, is insufficient to meet respondents' basic needs. This inability of Edward and Cheryl to sufficiently provide for their children shifts a portion of their obligation to the ascendants in the nearest degree, both in the paternal (petitioners) and maternal¹⁹ lines, following the ordering in Article 199. To hold otherwise, and thus subscribe to petitioners' theory, is to sanction the anomalous scenario of tolerating extreme material deprivation of children because of parental inability to give adequate support even if ascendants one degree removed are more than able to fill the void.

However, petitioners' partial concurrent obligation extends only to their *descendants* as this word is commonly understood to refer to relatives, by blood of lower degree. As petitioners' grandchildren by blood, only respondents Lester Edward, Candice Grace and Mariano III belong to this category. Indeed, Cheryl's right to receive support from the Lim family extends only to her husband Edward, arising from their marital bond.²⁰ Unfortunately, Cheryl's share from the amount of monthly support the trial court awarded cannot be determined from the records. Thus, we are constrained to remand the case to the trial court for this limited purpose.²¹

***Petitioners Precluded from Availing
of the Alternative Option Under
Article 204 of the Civil Code, as Amended***

As an alternative proposition, petitioners wish to avail of the option in Article 204 of the Civil Code, as amended, and pray

¹⁹ Respondents no longer sought support from the children's maternal ascendants because at the time respondents filed their complaint, they were living with, and received support from, Cheryl's mother.

²⁰ Thus, should the ruling of the trial court in Civil Case No. 99-1852 (declaring the nullity of Cheryl and Edward's marriage) be affirmed on appeal, the mutual obligation to provide support between them ceases. See *Pelayo v. Lauron*, 12 Phil. 453, 457 (1908) (holding that in-laws "are strangers with respect to the obligation that revolves upon the husband to provide support" to his wife).

²¹ After the trial court's determination, the Edward and petitioners' liability should be reckoned from the time the trial court rendered its judgment on 31 January 1996.

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that they be allowed to fulfill their obligation by maintaining respondents at petitioners' Makati residence. The option is unavailable to petitioners.

The application of Article 204 which provides that —

The person obliged to give support shall have the option to fulfill the obligation either by paying the allowance fixed, or by receiving and maintaining in the family dwelling the person who has a right to receive support. **The latter alternative cannot be availed of in case there is a moral or legal obstacle thereto.** (Emphasis supplied)

is subject to its exception clause. Here, the persons entitled to receive support are petitioners' grandchildren and daughter-in-law. Granting petitioners the option in Article 204 will secure to the grandchildren a well-provided future; however, it will also force Cheryl to return to the house which, for her, is the scene of her husband's infidelity. While not rising to the level of a *legal* obstacle, as indeed, Cheryl's charge against Edward for concubinage did not prosper for insufficient evidence, her steadfast insistence on its occurrence amounts to a *moral* impediment bringing the case within the ambit of the exception clause of Article 204, precluding its application.

WHEREFORE, we *DENY* the petition. We *AFFIRM* the Decision of the Court of Appeals, dated 28 April 2003, and its Resolution dated 12 April 2004 with the *MODIFICATION* that petitioners Prudencio and Filomena Lim are liable to provide support only to respondents Lester Edward, Candice Grace and Mariano III, all surnamed Lim. We *REMAND* the case to the Regional Trial Court of Makati City, Branch 140, for further proceedings consistent with this ruling.

SO ORDERED.

Quisumbing, * *Chico-Nazario*, *Peralta*, and *Abad*,** *JJ.*, concur.

* Designated additional member per Special Order No. 755.

** Designated additional member per Special Order No. 753.