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**GENDER LAW AND
POLICY PROGRAM**



Josef v. Ursua:

Implications on Family Relations and Property Rights

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Malcolm Theater, Malcolm Hall, UP Diliman

PROCEEDINGS | 2026-01

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UP GLPP holds discussion on *Josef v. Ursua* and its implications on family relations and property rights

MARCH 18, 2026

On 05 February 2025, the Supreme Court promulgated its ruling in *Josef v. Ursua*,¹ recognizing cohabitations of same-sex couples under the Family Code and citing Article 148 of the same as the applicable rule governing their property relations. However, at the same time, the Court acknowledged that the broader applicability of the Family Code to same-sex relationships remains uncertain, given that Philippine law does not recognize same-sex marriage. Thus, the decision invited a thorough examination of its implications on the current legal framework on family relations and property rights for LGBTQIA+ couples.

On 18 March 2026, in celebration of Women’s Month, the University of the Philippines Law Center, Gender Law and Policy Program (UP GLPP) held a discussion titled “*Josef v. Ursua: Implications on Family Relations and Property Rights*” at the Malcolm Theater, Malcolm Hall, UP Diliman, Quezon City. The event gathered more than 260 participants, which consisted of legal experts from the UP Law faculty, law students from various institutions, and representatives from civic society organizations advocating for gender equality.

The program was hosted by Atty. Irene Mae G. Pua and started with a welcome message from Dean Gwen Grecia-De Vera, who underscored the significance of *Josef v. Ursua* as a shield for property rights and a call for the ongoing necessity of legislative evolution to secure full equality. Atty. Aubrey Mejia, UP GLPP Senior Legal Associate, then provided a case overview on the Supreme Court ruling.

The forum featured a distinguished panel of speakers who examined the ruling from different legal perspectives. From the standpoint of Persons and Family Law, Prof. Elizabeth H. Aguilung-Pangalangan, Philippine Representative for Children’s Rights to the ASEAN Commission on the Promotion and Protection of the Rights of Women and

¹ After receiving a copy of the Decision, but before its public release, Respondent Ursua moved for the application of the Supreme Court’s protocols on using fictitious names/personal circumstances, which is applied in cases like child abuse, rape, sexual harassment. The Supreme Court denied the motion. On 7 May 2026, a communication was filed before the Convention for the Elimination of Discrimination against Women (CEDAW), alleging that there was a violation of the Respondent’s right to privacy because of the non-application of the protocols.

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Children (ACWC) and Head of the Children’s Rights Program of the UP Institute of Human Rights (UP IHR), shared her insights. She noted the rights and obligations that can be extended to same-sex couples under the present framework, as well as those that cannot be applied without amendments to existing laws.

On the other hand, Atty. Mia G. Gentugaya, senior lecturer on Property and Obligations & Contracts at UP Law, expounded on the matter of property rights as addressed in the case. She highlighted that there remain other aspects yet to be clarified, such as on implementing partition among same-sex couples.

Offering a perspective from succession law, Atty. Froilyn P. Doyaoen, senior lecturer on Succession and Private International Law at UP Law, presented illustrations and analysis on the interplay of successional rights affecting LGBTQIA+ couples and families.

Lastly, addressing the ruling’s impact on Marriage Equality Advocacy, Atty. Virginia B. Viray, senior lecturer at UP Law, highlighted that although the case of *Josef v. Ursua* represents a shift in the view on intimate relationships and cohabitation under the Family Code, the journey to true visibility and equality remains an enduring struggle. Atty. Viray further emphasized the apparent disparity in the enforcement and protection of rights of LGBTQIA+ couples, who are often subjected to additional legal requirements and a stricter level of standards — such as in this case, proving actual contribution in asserting property rights after cohabitation — which would not be ordinarily imposed on heterosexual couples, save for exceptional circumstances.

The panel presentations were followed by an open discussion moderated by Prof. E. (Leo) D. Battad, UP GLPP Program Director. Members of the UP Law faculty and participants actively engaged with the speakers, raising questions centered on possible directions for advocacy and policy reform in light of the ruling, reflecting both the opportunities and limitations the ruling presents.

Overall, the discussion emphasized that while *Josef v. Ursua* marks a significant step toward the recognition of same-sex relationships, existing laws continue to fall short of affording equal protection to LGBTQIA+ individuals, couples, and families. Many rights remain inaccessible under the current legal framework. In the absence of marriage equality, LGBTQIA+ families remain outside the full protection of the law, perpetuating marginalization and vulnerability of the LGBTQIA+ community.

On this note, the UP GLPP remains steadfast in its commitment to advancing responsive and evidence-based legislative initiatives aimed at addressing legal gaps in the protection of LGBTQIA+ couples’ and individuals’ rights and in promoting marriage equality.





Opening Remarks

Gwen Grecia-De Vera

**Dean
College of Law
University of the Philippines**

Dean Gwen Grecia-De Vera opened the roundtable by welcoming participants to UP GLPP's discussion on the case of *Josef v. Ursua*, held in celebration of International Women's Month. She framed the event as an invitation to examine the case, a Supreme Court decision handed down in February 2025, that she described as an important milestone for property rights within same-sex relationships. Dean Grecia-De Vera noted that the Court reversed the findings of the lower courts and declared Jennifer Josef a co-owner of a property she had shared with her former partner, Evalyn Ursua, by applying Article 148 of the Family Code to their cohabitation.

She explained that the Court's recognition of Josef's actual financial contributions — supported by a signed Acknowledgment of third-party interest — entitled her to a 50% share of the subject property. For Dean Grecia-De Vera, the decision affirmed a fundamental principle: that the law must protect the material interests of partners in relationships not currently recognized by marriage under Philippine law.

On the Role of the Legal Profession

Dean Grecia-De Vera also drew attention to what she saw as the decision's broader implications for members of the legal profession. She observed that Ursua is also a member of the bar and was the very author of the Acknowledgment at the heart of the dispute. The Court applied the principle of *contra proferentem* — construing any ambiguity against the party who caused it — and found that Ursua's subsequent attempt to disavow the document she had drafted could not stand. Dean De Vera noted that the Court pointedly remarked that the ambiguity could have been avoided with greater care in drafting, a rebuke that she said underscored the responsibility of lawyers to exercise good faith not just in advocacy, but in their own written works.

Significance and Path Forward

Reflecting on the broader significance of the ruling, Dean De Vera observed that for years, the absence of a clear property regime for same-sex couples had left many individuals legally exposed when their relationships ended. She characterized *Josef v. Ursua* as establishing a meaningful precedent: that written acknowledgments of financial interest constitute powerful evidence of actual contribution under Article 148, even when later repudiated, and that the absence of marriage does not equate to an absence of enforceable rights.

She acknowledged, however, that the decision also laid bare a continuing inequity — same-sex couples remain excluded from the more favorable property presumptions of Article 147, which are reserved for those legally capacitated to marry. In this regard, she cited Senior Associate Justice Leonen's separate opinion, which argued that a same-sex relationship is a normal relationship that should be covered by Article 148, and that failing to recognize it would render certain intimate relationships legally invisible.

Dean De Vera closed her remarks by expressing confidence that the afternoon's discussion would be productive, and by expressing her regret at being unable to join it. She extended her gratitude to UP GLPP and to all participants, and invited those gathered to use the case as a foundation for designing fairer, more workable frameworks for relationships that existing marriage law cannot accommodate.



Supreme Court Recognizes Co-Ownership of Property in Same-Sex Relationships

G.R. No. 267469, February 5, 2025

Case Overview

Atty. Louise Aubrey P. Mejia

Senior Legal Associate, UP Law Center Gender Law and Policy Program

Factual Background

Atty. Mejia began by laying out the facts of the case. Josef and Ursua were former same-sex partners who had lived together as a couple beginning in 2005. During their cohabitation, they acquired a parcel of real property, with Josef financing a substantial portion of its purchase price and the construction of improvements thereon. Ursua subsequently executed an Acknowledgement recognizing Josef's financial contributions — a document that would later become the central piece of evidence before the Supreme Court.

The dispute arose when Ursua changed her mind and refused both to sell the property and to recognize Josef as a co-owner. Josef responded by annotating an affidavit of adverse claim on the title and sending a demand letter for partition. Ursua countered with an affidavit of repudiation, insisting on exclusive ownership, which eventually led Josef to file a complaint for partition of real estate.

Lower Court Rulings

Both the Regional Trial Court and the Court of Appeals ruled against Josef. The lower courts held that the Acknowledgment alone was insufficient to establish co-ownership, finding no other evidence on record of Josef's actual monetary contributions to the property. Ursua, for her part, had presented bank records and other documentary evidence to support her claim that she had independently financed the entire acquisition and renovation.

Issues Before the Supreme Court

Atty. Mejia explained that the central question before the Supreme Court was whether the Acknowledgment Ursua had signed was sufficient to establish Josef's co-ownership. Josef argued that the Family Code's framework discriminated against same-sex couples by denying them the property protections available to heterosexual partners. Ursua maintained that the property was hers exclusively, and that the Acknowledgment had only subjected Josef's interest to a future determination based on records that she argued did not exist.

The Acknowledgment and Its Ambiguity

Atty. Mejia then walked through the contents of the Acknowledgment in detail. The document contained three key provisions: first, a declaration that Josef had financed approximately 50% of the costs of acquiring the land and constructing improvements; second, a recognition that Josef owned an interest constituting about 50% of the property's value, subject to determination by records and documents; and third, a provision that if Ursua predeceased Josef without a prior determination of Josef's interest, that interest would be conclusively fixed at 50% of the property's market value.

The second provision gave rise to competing interpretations. Ursua argued that it meant Josef's entire share remained to be proven. Josef argued that the 50% share was already established, and that the clause only contemplated the possibility of proving a larger share through documentary evidence. This ambiguity became the crux of the Supreme Court's analysis.

The Supreme Court's Ruling

Consistent with its earlier ruling in *Falcis III v. Civil Registrar* (G.R. No. 217910), the Supreme Court reiterated that it is not the institution with the monopoly to resolve the full scope of rights of same-sex couples, signaling that broader legislative action remains necessary. It then turned to the mechanics of partition actions, noting that these proceed in two stages: first, a declaration of co-ownership, and second, the actual partition. The Court's task was therefore to determine, at the first stage, whether co-ownership existed at all.

To resolve the ambiguity in the Acknowledgment, the Court applied the principle of *contra proferentem*: where a document is ambiguous, the uncertainty is construed against the party who drafted it. Since Ursua authored the Acknowledgment, the contested clause was interpreted in Josef's favor. The Court reasoned that the phrase requiring determination by records and documents referred only to any amount in excess of the 50% share, not to the share itself. This reading was reinforced by the third provision, which conclusively fixed Josef's share at 50% in the event of Ursua's prior death, indicating that 50% was the floor, not a figure still open to proof.

Application of Article 148, Family Code

Atty. Mejia explained that the Court also grounded its ruling in Article 148 of the Family Code, which governs property relations between cohabiting partners who are not covered by Article 147, a category that includes same-sex couples, since Philippine law does not recognize same-sex marriage. Under Article 148, property acquired during cohabitation may be treated as co-owned if there is proof of actual joint contribution, with contributions presumed equal when such proof exists.

The Court found that the signed Acknowledgment constituted precisely that proof. Having admitted Josef's contribution in her own handwriting, Ursua was estopped from denying it. The presumption of equal shares under Article 148 therefore applied, and Josef's 50% co-ownership interest was deemed established.

Disposition

The Supreme Court granted the petition, reversed the lower court rulings, and declared Josef a co-owner of the subject property to the extent of 50%. As a co-owner, the Court held that Josef had the right to demand partition and ordered the division of the property accordingly.

Concurring Opinions

Atty. Mejia concluded her presentation by summarizing two notable concurring opinions. Senior Associate Justice Leonen wrote separately to emphasize that applying Article 148 to same-sex relationships provides a stronger layer of protection than contract alone, and to stress that a same-sex relationship is a normal relationship that the law should not render invisible. Justice Lazaro-Javier, also concurring, expressed strong support for the LGBTQIA+ community and highlighted that Josef's ownership interest had been acknowledged by Ursua not once, not twice, but three times in the same document — a repetition she said revealed Ursua's true intent, and one Ursua should not be permitted to walk back.

PRESENTATIONS: INSIGHTS ON JOSEF V. URSUA FROM DIFFERENT PERSPECTIVES

Persons and Family Relations Law

Prof. Elizabeth H. Aguilung-Pangalangan

*Professor, University of the Philippines College of Law
Philippine Representative, Children's Rights to the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)
Head, Children's Rights Program, UP Institute of Human Rights (UP IHR)*



Figure 1. Prof. Elizabeth H. Aguilung-Pangalangan on *Josef v. Ursua* and Persons and Family Relations Law

"The protection given by the state is best felt when they leave the families alone, and [in] only very serious disagreements when there are violations of rights that the state should come in. [T]hat there should be respect for family privacy and autonomy, while providing a framework within which its members can exercise their rights and obligations."

Respect for Family's Privacy and Autonomy

Professor Elizabeth Aguilung-Pangalangan championed a philosophy of limited state intervention, asserting that the government's protection of the family is most effective when it respects the family's privacy and autonomy. In her view, the state should refrain from intruding into the private sphere of the home, and should only intervene in very serious cases where there are violations of rights of individuals. This approach allows families to exercise their rights and obligations within the domestic sphere without unnecessary bureaucratic overreach.

Citing Article 2, Section 12 of the Philippine Constitution, Prof. Aguilung-Pangalangan emphasized the state's mandate to protect and strengthen the family as a basic autonomous social institution. The subsequent constitutional provision similarly

designates the family as the foundation of the nation. She observed that these two provisions dictate a general duty to protect the family without specifying or limiting what kind of family qualifies for this protection.

In contrast to the broad protection given to families in general, a specific privilege is granted to families resulting from marriage. The Constitution recognizes marriage as an inviolable social institution and the foundation of the family, with the statutory framework for these relationships primarily governed by the Family Code provisions on the rights, obligations, and property relations between spouses.

"I think that on August 3, 1988, when the drafters of the Family Code thought of unmarried cohabitation, they were thinking of heterosexual couples who choose not to be married, or who live together because they can't get married. It wasn't in their minds that this could be applied to a homosexual couple."

Broad Application of Article 148 of the Family Code

Prof. Aguilin-Pangalangan noted that when the drafters formulated the Family Code in 1988, they likely envisioned unmarried cohabitation strictly in terms of heterosexual couples who either chose not to marry or faced legal impediments to doing so. However, she argued that the literal text of the law is general and does not specify gender. She expressed agreement with the Supreme Court's ruling in *Josef v. Ursua*, noting that Article 148 applies broadly to any cohabitation arrangement not falling under Article 147. While Article 147 applies to couples who have no legal impediment to marry but choose not to, Article 148 applies to relationships where a legal impediment exists. Because Article 1 of the Family Code explicitly defines marriage as a special contract between a man and a woman, same-sex couples face a legal impediment to marriage. Therefore, their property relations naturally and legally fall under Article 148. For her, this application is straightforward and clear, as the general language of the law contains no barriers to covering same-sex unions.

Furthermore, Prof. Aguilin-Pangalangan highlighted jurisprudence extending the statutory prohibitions on sales and donations between married spouses to unmarried couples. The rationale behind this restriction is to prevent potential overreach, force, or intimidation by one partner over the other. She maintained that this exact same fear applies to same-sex relationships, meaning these protective property prohibitions should logically extend to them as well.

Prof. Aguilin-Pangalangan asserted that multiple facets of the existing legal framework can naturally accommodate same-sex couples through broad interpretation, requiring no legislative changes. First, same-sex couples can validly enter into private agreements to manage household operations, childcare, resource pooling, and division of assets upon

separation. These contracts are legally enforceable provided they do not run contrary to law, public policy, or good morals. Second, the Anti-Violence Against Women and Their Children Act is written broadly to focus on the protection of the woman as the victim or survivor, regardless of the gender of the perpetrator. Citing *Garcia v. Drilon* (G.R. 179267) and *Jacinto v. Fouts* (G.R. No. 250627), Prof. Aguilung-Pangalangan pointed out that the Supreme Court utilized the gender-neutral term person to describe offenders in dating or sexual relationships, thereby encompassing lesbian relationships. This framework also penalizes economic abuse, such as when a partner withdraws financial support or restricts a woman's professional independence to assert control. Finally, under the Magna Carta of Women and the Family Code, individuals in common-law or same-sex cohabitation retain the absolute right to freely choose and exercise a legitimate profession. Furthermore, just like unmarried heterosexual couples, same-sex partners possess the right to dissolve their relationships and separate without requiring state intervention or judicial approval.

While many protections can be achieved via progressive legal interpretation, Prof. Aguilung-Pangalangan identified critical areas where same-sex couples remain excluded because the statutory language is explicitly restrictive, meaning these areas require formal legislative amendment. For instance, the next of kin status remains to be unattainable for same-sex couples, thereby prohibiting them from being “members of the same family.” This is due to the Family Code strictly defining family members based on heterosexual marriage and traditional bloodlines, such as husband and wife, parents, children, siblings, ascendants, and descendants. Thus, same-sex partners lack recognized kinship. Consequently, they cannot automatically make medical decisions for each other or enjoy automatic welfare benefits.

While local government initiatives like Quezon City's Right to Care card use a Special Power of Attorney to grant medical decision-making power to LGBTQIA+ couples, a nationwide remedy requires changing the law to adopt a more inclusive, general language like significant others.

Similarly, the current domestic adoption law mandates that joint adoptions can only be undertaken by a legally married husband and wife. As a result, same-sex couples cannot adopt a child together, forcing one partner to adopt as a single individual and leaving the other as a social parent who possesses no legal parental rights over the child.

Prof. Aguilung-Pangalangan then made a final point that because same-sex partners are excluded from the legal definition of next of kin, they do not have the legal authority to claim or make funeral arrangements for a deceased partner, as the law prioritizes a strict hierarchy of biological and legally married relatives.

PRESENTATIONS: INSIGHTS ON JOSEF V. URSUA FROM DIFFERENT PERSPECTIVES

Law on Property

Grappling with: The What Ifs, Would It Have Been & Other Palaisipan

Atty. Mia G. Gentugaya

Senior Lecturer, University of the Philippines College of Law



Figure 1. Atty. Mia G. Gentugaya on *Josef v. Ursua* and the Law on Property

Following the presentation of Prof. Aguilin-Pangalangan, Atty. Mia G. Gentugaya picked up the discussion, focusing on highlighting salient unresolved issues and questions on property law. The presentation of Atty. Gentugaya was entitled, “Grappling with: The What Ifs, Would It Have Been & Other Palaisipan.”

The Basics of Co-ownership in relation to Article 485 of the Civil Code

Atty. Gentugaya agreed with Prof. Aguilin-Pangalangan that there is no need to belabor the SC ruling that the relationship between Josef and Ursua is a co-ownership based on Article 148. She revisited the basics of co-ownership before delving into potential alternative structures to co-ownership that parties and contract drafters may consider for couples with shared properties.

Atty. Gentugaya recalled for the benefit of the audience that in co-ownership, there is ownership of an undivided thing, a plurality of owners, and a recognition of the ideal share of the owners in the whole property. Atty. Gentugaya observed that while two co-owners can each claim 50% ownership of a shared house, they do not and they cannot

claim a specific part of the house as individually theirs. Co-ownership also involves mutual agency: as such, co-owners cannot perform acts that will prejudice the rights of the other.

These principles of ownership are evident in Josef's claim for partition.

"ARTICLE 485. The share of the co-owners, in the benefits as well as in the charges, shall be proportional to their respective interests. Any stipulation in a contract to the contrary shall be void.

The portions belonging to the co-owners in the co-ownership shall be presumed equal, unless the contrary is proved. (393a)"

Atty. Gentugaya noted that co-ownership can arise from various legal situations, like being co-heirs. But she re-directed attention to the principles under Article 485 of the Civil Code in a co-ownership established through a contract. Article 485 recognizes a disputable presumption of equal share in the benefits and charges and expressly provides that any contractual stipulation to the contrary is void. The application of Article 485 – rendering contrary contractual stipulations as void – is limited to contracts as a source of co-ownership. Atty. Gentugaya emphasized that the presumption of a share is disputable because it is subject to actual proof; the presumption of the share of each co-owner is equal but it can be disputed with evidence to the contrary. This principle worked against Ursua because of the Acknowledgment's specific mention of the 50% share of each of the parties.

Trust as an Alternative

Atty. Gentugaya then raised the possibility that Ursua could have argued that the ownership structure was a trust under Article 1452 of the Civil Code, instead of a co-ownership based on Article 148 of the Family Code. Article 1452 provides that:

"ARTICLE 1452. If two or more persons agree to purchase property and by common consent the legal title is taken in the name of one of them for the benefit of all, a trust is created by force of law in favor of the others in proportion to the interest of each." Emphasis supplied.

According to Atty. Gentugaya, the subject case could fall under trusts: (1) two or more persons, i.e., Josef and Ursua, agree to purchase property but (2) placed the legal title under the name of only one (Ursua) for the benefit of all (both Ursua and Josef) to facilitate bank loan applications. Accordingly, a trust is created by force of law in favor of the others *in proportion to the interests of each*. Atty. Gentugaya emphasized that Article 1452 **does not have any presumptions** as to the share of the parties, unlike Article 485 on co-ownership where co-owners are presumed to have equal shares. And if indeed Ursua solely paid for the Quezon City property, her legal title to the exclusion of Josef may be sustained under the rules of trust.

Atty. Gentugaya provided the following example: If A and B agree to buy a house that is worth one million pesos where A and B contribute 70-30 percent, respectively, then it will be easy to determine the proportion based on Article 1452, which states that “a trust is created by force of law in favor of the others *in proportion to the interest of each.*” Thus, Atty. Gentugaya offered the possibility of exploring Article 1452 of the Civil Code as an alternative method of establishing and claiming one’s rights in a relationship as compared to Article 148 of the Family Code.

Are Trusts and Co-ownership under the Family Code mutually Exclusive?

However, Atty. Gentugaya also raised the unresolved question of whether a co-ownership under Article 148 of the Family Code is mutually exclusive from the concept of trust. Atty. Gentugaya referred to the case of *Mallillin v. Castillo (2000)* where a man and a woman cohabited, and the elements of Article 148 of the Civil Code were considered present. However, Mallillin claimed that there was an implied trust with respect to the properties they owned. The Court did not agree; it ruled that Article 148 of the Family Code was applicable and Article 1458 on trust need not be considered in determining the property relationship.

In summary, Atty. Gentugaya raised the question of whether a trust arrangement is automatically subsumed by co-ownership under Articles 147 and 148 of the Family Code or would a trust be possible in all other situations, considering how a trust arrangement changes the nuances of sharing benefits and charges. Atty. Gentugaya emphasized that lawyers have the responsibility of ensuring that contracts are clearly drafted to reflect not only the intention of the parties, but also the legal framework of the agreement.

Proving One’s Share

Atty. Gentugaya then highlighted the issue of proving a co-owner’s share. Atty. Gentugaya specifically addressed the lawyers and reminded legal professionals to be cautious in drafting agreements, since legal knowledge may be taken against the author of an ambiguous document. In *Josef v. Ursua*, the Acknowledgment was the most significant evidence against Ursua’s claims, particularly so that she is a lawyer.

In *Josef v. Ursua*, the presumption of equal shares in a co-ownership became a non-issue with the express confirmation of the percentage share of Josef expressly set out in the Acknowledgment. Atty. Gentugaya delved into the alternative scenarios of (1) what if the document indicated a different percentage, (2) what if there was no acknowledgment at all, or (3) what if the documentary evidence simply indicated that the share percentages are subject to determination of actual contribution at a later time. The presumption of equal shares then becomes subject to contest with the presentation of proof by a party to the co-ownership that the sharing is not equal. Atty. Gentugaya notes that the challenge lies in be the production of credible evidence to prove one’s actual participation in the purchase of the property under contention. Atty. Gentugaya thus

emphasized two things that matter in the real world for co-owners: (1) that the contract governing the co-ownership must be unambiguous, and (2) the prudent habit of retaining a faithful record of all receipts, keeping in mind the case of *Abing v. Waeyan* (2006).

Partition

The case of *Josef vs. Ursua* does not end with the pronouncement that Josef and Ursua are co-owners with equal shares in the Quezon City property. Because they are no longer in a relationship, they have to partition the property to end the co-ownership.

Atty. Gentugaya provided a summary of the rules on partition under Articles 494, 496, 498, and 500 of the Civil Code. First, partition involves a physical division of the property, and if physical division is not possible or will render the property object unserviceable, one co-owner buys out the other, or the property is liquidated and the proceeds accordingly divided. The Civil Code also provides that a co-ownership can only exist for ten years, and an agreement among co-owners to withhold partition cannot exceed that period. Atty. Gentugaya provided the example of two siblings in an unharmonious relationship as co-heirs of a house. Can the siblings divide the house by tape marking the various areas? Atty. Gentugaya opines that this is not a realistic method of partition as it will render the property unserviceable. And the more feasible and realistic alternative is for one co-owner to pay the share of the other or for the property to be sold and the cash proceeds divided among the co-owners.

In *Josef v. Ursua*, Ursua initially agreed to sell the property and divide the proceeds with Josef. This would have ended the co-ownership. However, Ursua changed her mind. This means that the co-ownership between the parties continues to exist and the parties remain bound by their juridical tie as co-owners. This involves rights as well as obligations.

Under Articles 488 and 489 of the Civil Code, co-owners are responsible for, among others, useful expenses and necessary expenses. In *Josef v. Ursua*, the property is a house that entails expenses for preservation; these may include the costs of fixing a leaking gutter and annual real estate tax. Atty. Gentugaya points out that expenses for preservation of the property are to be shared proportionately among the co-owners. On the other hand, there are other expenses that would have required the consent of both Josef and Ursua, like alterations or expenses for luxury.

Partition requires co-owners to conduct mutual accounting for benefits and expenses that were advanced. Since the issue presented to the court was limited to the existence of the co-ownership and the share of each of Jose and Ursua for purposes of partition, the expenses in the maintenance and preservation of the Quezon City property were outside the purview of the decision. They have to be determined in the partition, and the Court remanded the case to the lower court for this purpose.

What could be the relevance of the ruling as to the parties' other properties?

Finally, Atty. Gentugaya noted that the only property that was included in the action was the Quezon City property. Atty. Gentugaya observed that there are likely other properties acquired by the parties during their co-habitation that may have been registered in the name of only one party. Thus, additional questions that may be raised could include: (1) whether those other properties should be included in the partition; and (2) whether the *Josef v. Ursua* ruling as to the parties' house applies to all other properties jointly acquired by the parties

The parties may rationally and amicably resolve these on their own. And if they fail to do so, the parties may have to resolve their differences in yet another court proceeding. To conclude her segment, Atty. Gentugaya emphasized that neither Josef nor Ursua can insist on staying as co-owners, and as a matter of fact, both of them wish to be freed from such legal relationship.

PRESENTATIONS: INSIGHTS ON JOSEF V. URSUA FROM DIFFERENT PERSPECTIVES

Law on Succession

Atty. Froilyn P. Doyaoen

Senior Lecturer

Head, Bar Review Institute

University of the Philippines College of Law



Figure 1. Atty. Froilyn P. Doyaoen on *Josef v. Ursua* and the Law on Succession

As inextricably linked to family relations and property rights, Atty. Froilyn P. Doyaoen presented her examination of the decision's application on the laws on succession.

Succession Connection?

Atty. Doyaoen started her presentation by highlighting where the decision points to the matter of succession in the controversy. While she commented that many might question if the case has any relation to succession, given that none of the parties is deceased, Atty. Doyaoen cited the last paragraph in the Acknowledgment:

“Should I predecease the aforesaid JENNIFER C. JOSEF, without any prior determination of her actual interest in the aforesaid property and its improvements, the same shall be conclusively determined to be fifty (50%) of its market value.”

From the last paragraph, it can be identified that the Acknowledgment necessarily affects the estate of Ursua in the event that she predeceases Josef. Atty. Doyaoen remarked that the connection of the case is from a ‘moving on’ perspective in the cycle of life.

Looking at it from the lens of a heterosexual marriage with respect to succession, Atty. Doyaoen elaborated that when one spouse passes on, there would be a surviving spouse, with whom there would be a determination of one's share to the estate of the deceased spouse. However, before the matter of inheritance and shares can be addressed, the property relations of the spouses, which may usually be Absolute Community of Property or Conjugal Partnership of Gains, should first be established, along with the properties included in their conjugal or community properties. The presumption in these property regimes is 50-50. The surviving spouse gets 50% of the conjugal or community properties, while the deceased spouse gets 50%, which then becomes part of the estate.

In succession, as Atty. Doyaoen noted, the significant matters to touch upon are the property relations, scope of the legitimes, the free portion, and the shares in the inheritance. The Supreme Court, in *Josef v. Ursua*, identified their property relations over the parcel of land with improvements as co-ownership. However, it is underscored that the Court expressly categorized it as co-ownership within the framework of Article 148 of the Family Code. The requirements for the said property regime to apply is that (1) the properties sought to be included in the co-ownership should have been acquired during the cohabitation of the same-sex couple, and (2) there should be actual proof of the contribution, whether in the form of money, property, or industry, in acquiring the property during the cohabitation. In *Josef v. Ursua* Atty. Doyaoen pointed out that the actual proof was the Acknowledgment signed; with this actual proof, there came the presumption that their interests or shares in the co-owned property were equal, or 50-50.

Explaining its parallelism with heterosexual marriages, in a same-sex partnership and with the decision of the Supreme Court in *Josef v. Ursua*, the 50% of the house and lot property, having been co-owned by the parties, will be included in the estate of the partner who predeceases the other, which would be inherited by the partner's heirs. On the other hand, the other 50% of the property will belong to the surviving partner, which the heirs of the deceased partner may not inherit.

The problem in this case however, as Atty. Doyaoen highlighted, arose on the fact that the property was registered only under the name of Ursua, and it bears noting that under the principles on the objects of succession, only the properties in the name of the decedent at the moment of death may be included in the estate. Thus, if, for example, the partner, whose name appears in the title of the property dies, even if there is a similar acknowledgment, before *Josef v. Ursua*, it cannot be said that the property is co-owned with the surviving partner, because the latter's name does not appear in the title. At present, however, Atty. Doyaoen emphasized that because of the Court's decision, there is basis on the part of the surviving partner to prohibit one's share from distribution to the deceased partner's heirs. Under *Josef v. Ursua*, that property is co-owned by the surviving partner.

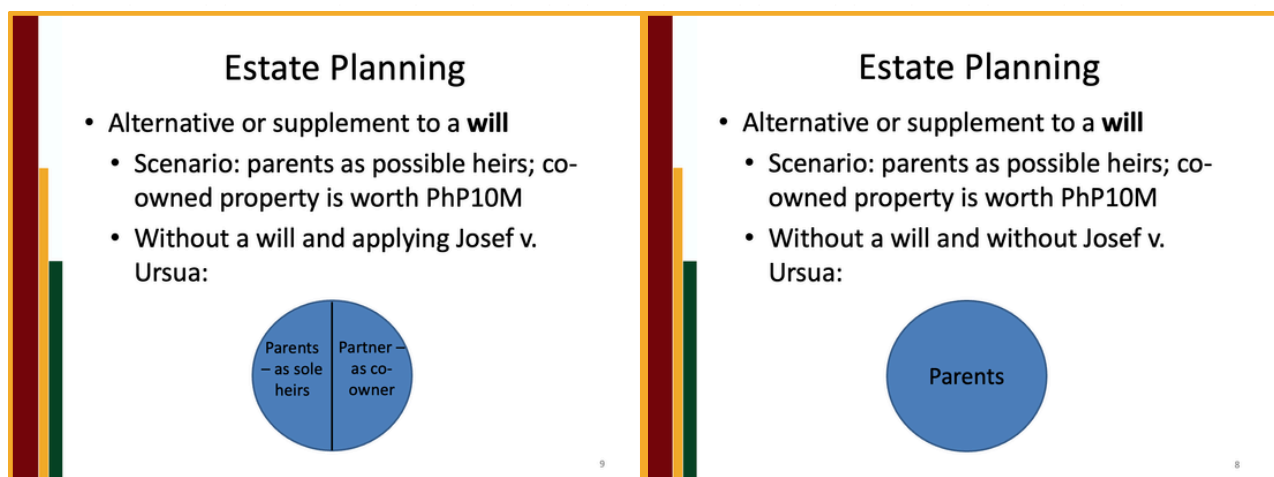
Effects on Succession, In General

After establishing how *Josef v. Ursua* creates consequences on the matter of succession for same-sex couples, Atty. Doyaoen outlined two salient aspects in succession that the decision affects.

1. Estate Planning

Atty. Doyaoen explained that there are two ways to view the inheritance of the heirs: (1) during the lifetime of the property owner; and (2) upon the death of the owner. Given that there is less protection among same-sex couples in terms of property rights compared to couples in a heterosexual marriage, many LGBTQIA+ partners resort to comprehensive estate planning tools in making sure that their partner has a share in their estate. Atty. Doyaoen shared that given how many couples have been discriminated against even by their own families, some couples would set up estate planning tools for their hard-earned properties to be left to their partner, with whom they had shared a loving relationship, rather than estranged relatives who had either cut ties with them, refused to recognize the same-sex relationship, or shown prejudice against them. Since under the present framework, the surviving partner is not considered an heir entitled to any legitime, the partner can be a voluntary heir, if there is a last will and testament.

Through *Josef v. Ursua*, Atty. Doyaoen outlined a resulting alternative tool for estate planning or a supplement to a last will and testament. She illustrated this with the scenario where one of the same-sex partners, who has no children, only has parents as possible heirs.



Figures 2 & 3. Estate Planning Scenarios showing the effect with and without the application of *Josef v. Ursua*

a. Estate Planning Without Applying Josef v. Ursua

Analyzing the situation without *Josef v. Ursua*, when partner A, in whose name the property is registered, passes on, the parents of the decedent will be the sole heirs of the co-owned property. Upon the moment of death, since the deceased partner is the sole registered owner, the surviving partner cannot claim to be a co-owner of the property. The entire property will be inherited by the parents, who are secondary compulsory heirs.

b. Estate Planning Applying Josef v. Ursua

i. Estate Planning with only the Acknowledgment

On the other hand, Atty. Doyaoen dissected the effects of *Josef v. Ursua* by presenting multiple scenarios from the given facts. The first scenario provided is when there is no last will and testament executed, considering that such execution of a will, whether notarial or holographic, entails a longer period to process and incurs additional expenses. In this example, similar to the case, one partner instead executes an acknowledgment, recognizing a 50% contribution in the acquisition of the property. In the event that the partner, executing the acknowledgment, passes on ahead of the other, the 50% of the property will belong to the surviving partner, and it is only the remaining 50% of the property or PhP 5 million that will be inherited by the parents. In fact, Atty. Doyaoen observed that the partner may further increase what the surviving partner will receive when one executes a will and testament.

ii. Estate Planning with only the Acknowledgment

When partner A executes a last will and testament, one may additionally include all of the free portion of the estate. "I hereby bequeath to my beloved partner, Ms. B...," Atty. Doyaoen illustrated. If all of the requirements for a valid notarial or holographic will are complied with, the will is perfectly valid and will be controlling in the distribution of the subject property.

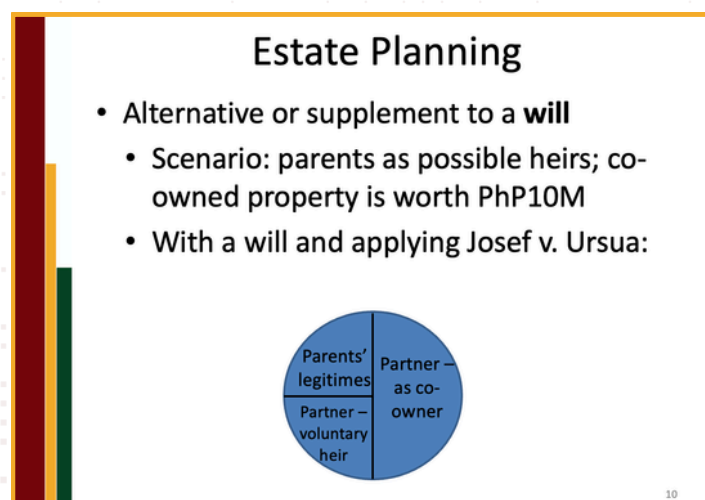


Figure 4. Estate Planning Scenario with the Acknowledgment and a Will

First, the 50% belongs to Partner B as co-owner, which is PhP 5 million. The other half of the property will form part of Partner A's estate, which is also PhP 5 million. Then following the last wishes of Partner A, all of the free portion of the estate shall likewise belong to the surviving partner, which would be an additional PhP 2.5 million for the surviving partner. The other half shall form part of the legitime that the parents are entitled to, amounting to PhP 2.5 million. Partner B thus receives not only the PhP 5 million in recognition of the co-ownership but a total of PhP 7.5 million, satisfying the provisions of Partner A's will.

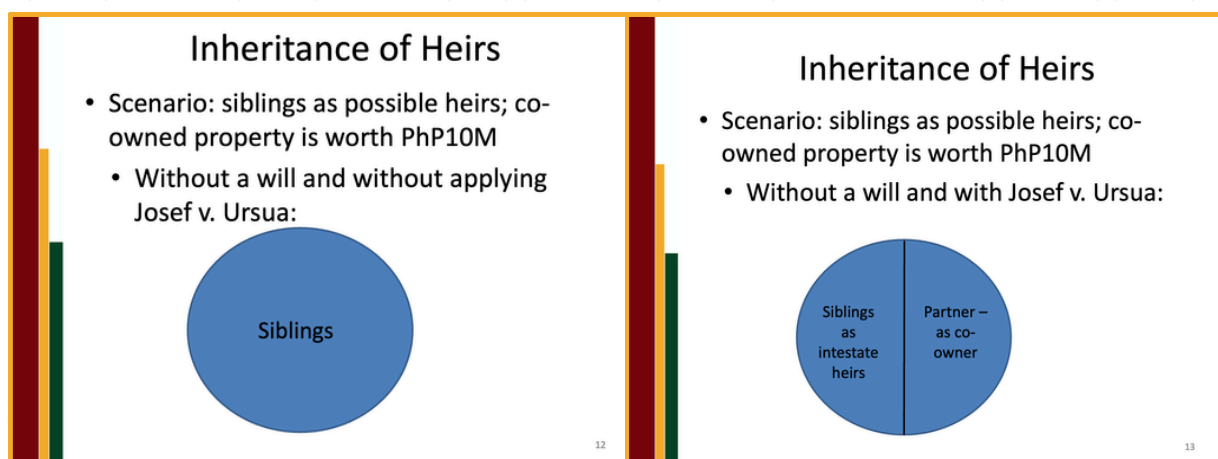
c. Encompassing Different Kinds of Property

More than real property, Atty. Doyaoen agreed with Atty. Gentugaya in her discussion on the application of *Josef v. Ursua* on property laws, that the decision similarly covers personal property, such as cars, bank deposits, and more, given that Article 148 of the Family Code only states "properties" in general.

Atty. Doyaoen mentioned that for bank deposits, survivorship agreements are also estate planning tools, which may be utilized by the partners. In a survivorship agreement, which is accompanied by a joint account agreement, there is a joint bank account with more than one depositor, whereby in the event that a co-depositor predeceases the other, the share of the deceased co-depositor will automatically go to the surviving co-depositor. It directly goes to the surviving partner, which Atty. Doyaoen believes to be an effective tool if the partners want their entire bank deposits to go to the other.

2. Inheritance of Heirs

Atty. Doyaoen discussed that another implication of *Josef v. Ursua* pertains to the inheritance of heirs after one of the partner's death. In discussing inheritance, Atty. Doyaoen used siblings or collateral heirs to present the decision's effects, when there is no will and testament executed.



Figures 5 & 6. Effects on Inheritance of Heirs with and without the application of *Josef v. Ursua*

In a scenario where *Josef v. Ursua* is not applied, since the property is registered only in the name of one partner, the entire property will be granted to the siblings as intestate heirs. However, when *Josef v. Ursua* is applied, the 50% of the property or PhP 5 million will be considered as the co-ownership share of the surviving partner. It is only the other 50% that will be part of the estate and will be the inheritance of the siblings.

The effect of *Josef v. Ursua* is that it reduces the estate of the deceased partner and correspondingly reduces the inheritance of the heirs of the deceased partner. Since the 50% of the property is considered co-owned, the legitimes and share in the inheritance of the heirs would also be lesser.

The Challenges Arising in its Implementation

Atty. Doyaoen concluded her presentation with a discussion of the possible issues that may be experienced in operationalizing the effect of the decision in transacting with government agencies. For example, in the Bureau of Internal Revenue, when the partner requests for the tax clearance and the computation of the estate tax due over a property that is registered solely in the name of the deceased partner, it may be difficult to request that the BIR exclude the 50% value of the property on the basis of the Acknowledgment. A similar challenge may also be encountered in the Register of Deeds. Thus, while Atty. Doyaoen commented that the application of *Josef v. Ursua* may be clear from a succession perspective, she stressed that it may be the administrative implementation of the decision that will prove to be challenging.

PRESENTATIONS: INSIGHTS ON JOSEF V. URSUA FROM DIFFERENT PERSPECTIVES

Impact on Marriage Equality and Advocacy

Atty. Virginia B. Viray

Senior Lecturer, University of the Philippines College of Law



Figure 1. Atty. Virginia B. Viray on *Josef v. Ursua* and its Impact on Marriage Equality and Advocacy

Legal Visibility of Same-Sex Couples

Atty. Viray opened her presentation by highlighting the most significant impact of the *Josef v. Ursua* ruling, which is visibility. She noted that when the Family Code was enacted in the 1980s, the application of Article 148 to same-sex couples was likely beyond the legislators' imagination, as LGBTQIA+ individuals were largely "in the closet" and living arrangements were viewed merely as "roommates" rather than partners. The *Josef v. Ursua* ruling therefore marks a fundamental shift from legal invisibility to a formal recognition of same-sex partners as cohabiting partners entitled to the benefits of the Family Code, even if they are currently equated with relationships involving legal impediments to marriage.

Presumption of Co-Ownership

Atty. Viray also discussed how the ruling clarified the scope of Article 148 of the Family Code. Unlike Article 147, which explicitly mentions "man and woman," Article 148 uses the broader term "both parties," which the Supreme Court interpreted as encompassing homosexual couples. This interpretation provides a crucial presumption of co-ownership

for properties acquired during cohabitation, provided there is evidence of actual joint contribution of money, property, or industry.

She emphasized the practical importance of documentation in these relationships, which can be seen in the Court's focus on a signed acknowledgment as evidence of contribution in the case of *Josef v. Ursua*. In the case, the signed Acknowledgment led to an application of the doctrine of estoppel, preventing a partner from later questioning that contribution. On this, Atty. Viray noted that while partners should ideally document co-ownership while their relationship is stable, it is something quite difficult to do. With the presumption of co-ownership for properties acquired during cohabitation, proving contribution becomes significantly easier.

Vis-a-vis the Family Code

A point of concern raised by Atty. Viray was the Court's statement regarding its inability to rule on the constitutionality of the Family Code without "arrogating legislative power," a sentiment that had already been expressed by the Court in the case of *Falcis*.

Atty. Viray questioned this stance. For her, quoting the late Prof. Carmelo Sison, it is within the Court's power of judicial review, which serves as a system of checks and balances, to protect individual rights guaranteed by the Constitution and our international commitments, such as equal protection and non-discrimination. While the Constitution protects marriage as an inviolable social institution, Atty. Viray noted that the restriction on marriage, limiting it to heterosexual couples, is not contained therein, only being found in the Family Code.

With such restriction in place, LGBTQIA+ families are put at a disadvantage. From the lack of survivorship benefits or pensions in SSS and GSIS, inability to jointly adopt, non-recognition as legal heirs, and the lack of rights to remains and healthcare, the current legal framework fails to grant same-sex couples a fair and equitable treatment they rightfully deserve.

A way past the legal acrobatics

As it is, Atty. Viray highlighted how the status quo makes LGBTQIA+ couples go through "legal acrobatics," from drafting wills, co-ownership documents, and special powers of attorney, just to achieve the same level of protection that heterosexual couples receive automatically.

She describes this system to be elitist, where only those with educational or financial privilege can afford such legal maneuvers, leaving behind the marginalized groups, who are even more vulnerable.

In closing, Atty. Viray acknowledged that while the *Josef v. Ursua* decision is a vital step forward for LGBTQIA+ rights and visibility, the journey toward true equality remains long. Following this ruling, she remains hopeful that future judicial deliberations would reconsider the discriminatory concept of “complementarity of the sexes” to better reflect the diverse realities of Filipino families.

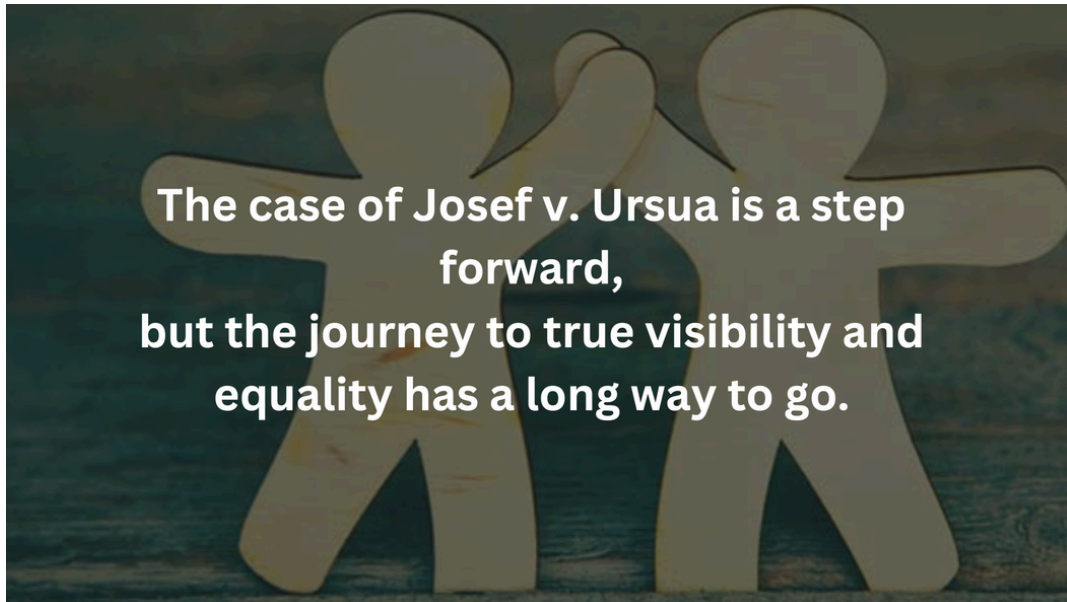


Figure 2. Excerpt from Atty. Virginia B. Viray’s Presentation

PRESENTATIONS: INSIGHTS ON JOSEF V. URSUA FROM DIFFERENT PERSPECTIVES

Open Discussion

Assoc. Prof. E. (Leo) D. Battad

Moderator

*Associate Professor, University of the Philippines College of Law
Program Director, UP Law Center Gender Law and Policy Program*



Figure 1. Panel of Legal Experts on the Different Perspectives on the Open Discussion

Prof. E. (Leo) D. Battad, the Program Director of the UP GLPP, facilitated the open forum segment of the event.

Expansion of the Concept of Family Under Josef v. Ursua

To start the discussion, Prof. Battad raised the first question on whether the *Josef v. Ursua* ruling expanded the concept of “family” under the Family Code of the Philippines and whether the decision signaled a shift toward a more functional understanding of family relationships based on lived realities and cohabitation rather than strictly traditional definitions.

Responding to this, Prof. Aguilung-Pangalangan explained that while marriage under Philippine law remains specifically defined as a union between a man and a woman, the concept of family is broader and capable of accommodating different forms of relationships and living arrangements. She emphasized that the significance of the ruling lies in its recognition, visibility, and acknowledgment of same-sex couples who cohabit

and build lives together as families. According to her, the decision represented an overdue recognition of same-sex relationships in the Philippine legal context and reflected the realities of contemporary society. Prof. Battad followed this by asking whether the ruling effectively recognized same-sex relationships as families. Prof. Aguilung-Pangalangan affirmed that it did, stressing that it was already time for Philippine jurisprudence to recognize same-sex couples and their familial relationships.

Interpretation of Article 148 of the Family Code

The discussion then expanded with insights from Atty. Jocel Dilag, who stated that while he agreed with the outcome of *Josef v. Ursua*, he observed that the Supreme Court's treatment of Article 148 of the Family Code seemed incomplete or "bitin." He explained that the Court could have resolved the issue purely through ordinary co-ownership rules, and because of this, some might interpret the Court's discussion on Article 148 merely as obiter dictum. He further noted that the Court could have strengthened its reasoning by explicitly discussing why Article 148 should not be interpreted as applying only to heterosexual couples.

Building on this discussion, Atty. Gentugaya agreed that Article 148 was drafted in broad and gender-neutral language because it refers simply to "both parties," unlike Article 147, which expressly refers to a "man and a woman." She noted, however, that the Supreme Court still left some gaps in its reasoning. Atty. Viray then added that the ruling represented progress from the Supreme Court's earlier decision in *Falcis*. While she welcomed the Court's willingness to apply Article 148 to same-sex couples, she took issue with some portions of the decision suggesting that broader recognition of same-sex unions would amount to judicial legislation. According to her, the Court should not refrain from exercising judicial review when constitutional rights are implicated. She clarified that she was not advocating judicial legislation but maintained that courts have the authority and duty to determine whether laws violate constitutional rights.

Property Rights and Equitable Ownership

Moving on to the next point of discussion, Prof. Battad prompted the inquiry on whether tensions may arise between protecting formal legal title and recognizing equitable or family-based claims. Atty. Gentugaya responded that such tension indeed exists, especially because Philippine property law traditionally relies on the Torrens system, where ownership is determined by the title. She explained that *Josef v. Ursua* introduced a more equitable approach by recognizing the actual contributions of a same-sex partner despite the property being registered under only one name. Atty. Doyaoen added that while the ruling protects vulnerable partners, it may also create future complications involving fraudulent transactions, forged acknowledgments, or conflicts with legitimate prior families and heirs.

Importance of Documentation and Registration

Atty. Viray emphasized the importance of proper documentation for co-owned properties, noting that this applies equally to same-sex and opposite-sex partners. She explained that in practice, lawyers consistently advise co-owners, including same-sex couples, to annotate their claims or otherwise formally document their interests because third parties acting in good faith may otherwise acquire the property without notice of another person's ownership rights.

Prof. Aguilin-Pangalangan agreed that this advice applies not only to same-sex couples but to all co-owners. Atty. Viray further highlighted that many same-sex couples are forced to undergo complicated legal arrangements simply because they cannot legally marry. According to her, had marriage equality existed, property relations would have automatically been governed by the rules on absolute community or conjugal partnership, thereby eliminating many legal uncertainties.

Applicability of Article 148 in Cases of Friends and Roommates



Figure 2. Atty. Fina Bernadette Dela Cruz-Tantuico on the Applicability of Article 148 in Cases of Friends and Roommates

The next question from Atty. Fina Bernadette Dela Cruz-Tantuico shifted the discussion towards the interpretation of Article 148 itself. She brought up the issue of whether the Court would still have applied Article 148 if the case merely involved co-ownership between friends or roommates without allegations of cohabitation or a same-sex relationship.

Atty. Gentugaya replied that Article 148 requires several elements to be present, including cohabitation and contribution to the acquisition or improvement of property. She emphasized that if there were no cohabitation or union between the parties, then the matter would simply fall under ordinary co-ownership rules under the Civil Code rather than Article 148 of the Family Code.

Prof. Aguilin-Pangalangan likewise clarified that Article 148 falls under "Property

Regimes of Unions Without Marriage,” meaning there must still be a union or cohabitation for the provision to apply.

Atty. Viray provided additional context by discussing practical realities faced by same-sex couples. She explained that in the past, some real estate developers refused to allow unrelated persons to purchase property jointly, resulting in properties often being placed under the name of only one partner. Because of this, legal workshops and advocacy efforts frequently emphasized the importance of acknowledgments and documentation to protect ownership rights.

Proof of Cohabitation Without Marriage



Figure 3. Atty. Darwin Angeles on Proof of Cohabitation Without Marriage

Atty. Darwin Angeles then shared his perspective as counsel in the *Falcis* case. He explained that the legal arguments raised in *Falcis* resembled many of the arguments discussed during the forum. According to him, *Falcis* may have been “the right case at the wrong time.” He reflected on the practical difficulties involved in implementing rulings like *Josef v. Ursua*, especially because many individuals involved in implementing legal incidents of family relations, such as civil registrars, healthcare workers, and property administrators, are not lawyers. He also observed that Article 148 itself could be seen as discriminatory because same-sex couples must still prove their ownership and contributions in court instead of enjoying automatic presumptions similar to married heterosexual couples. He then raised a question on how same-sex couples can publicly establish cohabitation or union in the absence of legal marriage, pointing out that marriage ordinarily serves as a public declaration binding upon the whole world through registration. Without access to marriage, same-sex couples are denied that public mechanism for recognition. This gap may create opportunities for fraudulent claims of cohabitation and ownership.

Prof. Aguilin-Pangalangan responded that cohabitation and union may still be demonstrated through conduct, documentation, and the surrounding circumstances of the relationship, even if Philippine law does not legally recognize such unions. She

reiterated that ceremonies, agreements, shared residences, financial records, and acknowledgments between partners can all help establish the existence of the relationship and contribution. She further shared that these documents have already proven useful for same-sex couples migrating to more progressive countries because foreign immigration systems sometimes acknowledge such certifications despite the absence of marriage equality in the Philippines.

Atty. Viray clarified that these are not necessarily foreign weddings, but local commitment ceremonies conducted in the Philippines that issue certificates recognizing the relationship of the couple. According to her, these documents have practical value even if they do not produce legal marriages under Philippine law. Prof. Battad remarked that access to such arrangements is often easier for couples with financial means, but Atty. Viray stressed that the issue ultimately concerns visibility and documentation rather than wealth.

Strategic Litigation and LGBTQIA+ Advocacy



Figure 4. Rainbow Rights Representative Pura Luka Vega on Strategic Litigation and LGBTQIA+ Advocacy

Representing Rainbow Rights, Pura Luka Vega raised concerns about how advocates can use *Josef v. Ursua* in pushing for progressive legislation and constitutional litigation. While recognizing the decision as a legal victory, they described it as a “tragic story” because same-sex couples continue to face explicit discrimination in many laws and policies. They asked how advocacy groups can prepare future constitutional challenges and legal reforms.

In response, Atty. Doyaoen observed that the present moment may be favorable for strategic litigation because of the presence of progressive justices in the Supreme Court, including Justice Leonen, Justice Lazaro-Javier, and Justice Singh. She emphasized the importance of identifying actual cases and controversies, since courts cannot decide hypothetical questions. She encouraged advocates to work closely with lawyers and

institutions such as the GLPP and the UP Law Center’s Institute of Human Rights in preparing future constitutional litigation.

Atty. Viray added that advocacy must go beyond litigation. She emphasized three important components of successful LGBTQIA+ advocacy: visibility, organization, and political participation. According to her, visibility allows society and institutions to recognize LGBTQIA+ persons as a real and organized constituency capable of influencing public discourse and policy. At the same time, she acknowledged that coming out is deeply personal and may not be safe for everyone. She also stressed that advocacy groups must become more organized and coordinated because opposition groups are often highly funded and politically organized. Finally, she reminded participants of the importance of electoral participation and choosing leaders who support equality and gender rights.

Succession and Inheritance Rights

The discussion then turned to issues of succession and inheritance. A UP Law student asked what would happen if the deceased partner in a same-sex relationship was the one whose name did not appear on the title. The student further asked how heirs, including children of the deceased partner, could assert rights over the property, especially since proving cohabitation may be difficult for some same-sex couples, including feminine-presenting lesbian couples whose relationships may not be readily recognized. Atty. Doyaoen answered that under *Josef v. Ursua*, once the requirements of Article 148 are established, particularly cohabitation and actual contribution, the deceased partner may be recognized as a co-owner, allowing the heirs to inherit that partner’s share in the property. However, she acknowledged that such claims would likely require litigation because co-ownership and contribution would still need to be proven before the courts.

Comparison of Articles 147 and 148 of the Family Code



Figure 5 Atty. Arnell Uychocho on the Comparison of Articles 147 and 148 of the Family Code

Atty. Arnel Uychocho then raised concerns about the relationship between Article 148 and Article 147 of the Family Code. He questioned whether the Court should have relied more heavily on ordinary co-ownership principles rather than stretching Article 148 beyond its traditional heterosexual context. In response, Atty. Gentugaya argued that Article 148 itself contains gaps or lacunae because while it establishes a property regime for unions without marriage, it does not comprehensively define the rights and obligations of co-owners. Because of this, courts must necessarily supplement Article 148 using the Civil Code provisions on co-ownership.

Atty. Viray answered that the court was correct to apply Article 148 because the facts clearly showed the parties were cohabiting. Treating the case as merely a simple co-ownership issue would ignore the actual relationship presented in evidence and the reason the Family Code provision exists. She also mentioned that while marriage and Article 147 explicitly says “man and woman,” Article 148 does not. For her, that omission shows legislative intent for Article 148 to apply more broadly, including beyond heterosexual relationships. She noted that the court agreed with this interpretation.

Prof. Aguilung-Pangalangan agreed with this and defended the Court’s broad interpretation of Article 148 by pointing out that the provision uses gender-neutral language. According to her, if the drafters of the Family Code intended to limit Article 148 only to heterosexual couples, they could have expressly stated so. She compared this interpretive approach to the Court’s evolving use of gender-neutral language in other statutes, such as the Anti-Violence Against Women and their Children (Anti-VAWC) Law and Article 26 of the Family Code regarding foreign divorces. Atty. Doyaoen added that Article 148 plays an important equalizing role because it allows courts to recognize co-ownership based on actual contribution, whether in the form of money, property, or industry. She observed that in *Josef v. Ursua*, the Court accepted acknowledgment of shared ownership without requiring precise proof of the monetary amount contributed by each party. For her, this demonstrated the flexibility and protective potential of Article 148 for marginalized couples who are denied access to marriage.

LGBTQIA+ Youth and Disinheritance

The forum also explored broader constitutional and human rights questions. A law student from Manuel L. Quezon University, asked whether the Philippines could eventually move from a purely property-based recognition of same-sex couples toward a broader domestic autonomy similar to developments in Brazil, where courts played a significant role in recognizing same-sex marriage and modernizing family rights. He also asked what legal remedies are available to LGBTQIA+ youth whose safety and privacy are compromised within their own homes, particularly when they fear rejection or disinheritance.

Atty. Doyaoen said that being LGBTQIA+ is not a valid legal ground for disinheritance

under Philippine law. Consequently, if parents attempt to disinherit a child solely because of sexual orientation or gender identity, such disinheritance would be invalid. She emphasized that the affected child would still remain a compulsory heir entitled to inherit under the law.

The forum also included broader reflections on communicating the implications of *Josef v. Ursua* to ordinary Filipinos. A GMA Integrated News reporter asked the panel what simple message they would want same-sex couples and ordinary citizens to remember from the case. The panelists repeatedly emphasized the importance of proper documentation, notarization, and recognition of shared contributions within relationships.

Atty. Doyaoen answered that the ruling gives same-sex couples an opportunity to protect their partners and control the disposition of their property, especially in situations where they were rejected or abandoned by their own families because of their sexuality. The decision is a practical and emotional form of legal empowerment: same-sex couples can now take steps to ensure their properties benefit the partners who stood by them, rather than family members who refused to accept them.



Closing Remarks

E. (Leo) D. Battad

**Program Director
Gender Law and Policy Program
UP Law Center**

Prof. Battad delivered the closing remarks, noting at the outset that the discussion, while particularly significant for the LGBTQIA+ community, was also very much about women's rights — a fitting reminder given that the event was held during International Women's Month. Prof. Battad reflected on the insights shared by the discussants, observing that *Josef v. Ursua* carries implications well beyond property law, touching on family relations, successional rights, and the broader landscape of gender equality.

Prof. Battad acknowledged the view, widely expressed during the discussion, that the decision represents a meaningful victory for the LGBTQIA+ community — a positive step in a legal regime that has long rendered this community voiceless and invisible. She affirmed that the case could fairly be characterized as a landmark ruling in Philippine jurisprudence.

The Broader Landscape of Gender Equality

At the same time, Prof. Battad urged participants not to lose sight of how much work remains. She pointed out that discrimination and gender-based violence continue to affect not only persons of diverse SOGIESC, but women generally. Citing the Committee on the Elimination of Discrimination against Women's recognition of gender violence as a form of discrimination, she referenced global data indicating that approximately 840 million women — around 30% worldwide — have experienced intimate partner or sexual violence. In the Philippine context, she noted that 18% of ever-married women aged 15 to 49 have experienced partner violence, with technology-facilitated abuse rising steadily.

Prof. Battad called on participants to treat both the global picture on discrimination and the ruling in *Josef v. Ursua* as a collective opportunity — and obligation — to push for deeper legal reform.

Call for Legislative Action

Prof. Battad highlighted that the Supreme Court itself, in *Josef v. Ursua*, issued a call to Congress and the executive branch to legislate on the rights of same-sex couples. She noted that several reform measures are already under debate in Congress, including proposed amendments to discriminatory provisions in the Family Code, updates to the Anti-VAWC Law and the Safe Spaces Act to better address technology-facilitated sexual violence, and initiatives to amend or repeal the adultery and concubinage laws and to advance a divorce bill.

Prof. Battad also mentioned legislative proposals to establish a Right to Care framework — enabling any adult to act as agent for another regardless of SOGIESC — alongside the SOGIESC Equality Bill, the Marriage Equality Bill, and proposals for a Civil Partnership Law. UP GLPP, she stated, regards all of these as essential to achieving genuine gender equality, on the premise that there can be no gender justice without it.

Prof. Battad closed by expressing GLPP's eagerness to continue partnering with law schools and civil society organizations on policy advocacy. Likewise, she invited participants to share their thoughts on the pending legislative measures, and expressed hope that sustained dialogue would contribute to building a gender-transformative society. Prof. Battad also extended warm thanks to the discussants — Prof. Elizabeth Aguilung-Pangalangan, Atty. Mia Gentugaya, Atty. Froilyn Doyaoen , and Atty. Virginia Viray — and to all those who attended. Lastly, the event concluded with greetings for International Women's Month.

Postscript

On 7 May 2026, the Supreme Court ruling on *Josef v. Ursua* became the subject of a Communication filed before the United Nations Committee on the Elimination of Discrimination against Women (CEDAW Committee). The Complainant alleged violations of the Right to Privacy and Non-Discrimination in the Disclosure of Sexual Orientation as well as violation of the Right Against Discrimination in the Application of the Family Code of the Philippines.

According to the Communication, Complainant received a copy of the Supreme Court Decision, dated 5 February 2025, on 30 May 2025. She then filed a Very Urgent Motion (for the Protection of the Right to Privacy), asserting that *“the right to privacy of her sexual orientation, as part of the general right to privacy, is an ethical, moral, and legal right that should be protected by the Supreme Court”* and reasoned that the *“publication of her name and other personal details is not necessary for the purpose of the use of the Decision in teaching, use of precedent, or citation.”*²

The Communication stated that in a Per Curiam Resolution dated 29 September 2025, the Supreme Court’s Second Division rejected the motion and reasoned that *“the disclosure of the name and sexual orientation [of the complainant] is necessary for the purpose of determining the property regime that would govern the property rights between her and Josef during their cohabitation”* and *“pleadings filed with the court are considered public documents and are accessible to the public”* and that *“having disclosed her sexual orientation in the pleadings she filed, the complainant’s reasonable expectation of privacy... has been limited.”*³

As to the discriminatory application of the Family Code, the Complainant communicated that the decision, by invoking Article 148 of the Family Code, assigned same-sex unions to the legal category of illicit and illegal heterosexual relations, and not as a legitimate union.⁴

The communication is still pending at the time of the preparation of this document.

² Page 7, *U v. Republic of the Philippines Re: G.R. No. 267469, 05 February 2025 Supreme Court of the Philippines, Communication Under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 07 May 2026*

³ *Id.*

⁴ *Id.* at Page 12



About Us

The University of the Philippines Law Center Gender Law and Policy Program is a pioneering law-based program on women and gender research and extension service in the Philippines and in Southeast Asia.

Vision, Mission, & Strategies:

The vision of UP GLPP is to foster an enabling legal environment that respects, protects, and fulfills gender equality so that all members of law and society fully enjoy human rights without discrimination. Its mission is to advance gender equality in law and society through law and policy reform as well as to promote gender justice and eliminate inequities among persons of diverse SOGIESC in the Philippines. Pursuant to its vision and mission, the Program employs the following strategies:

1. Bring to the attention authorities the detrimental effects of law and policies on gender equality, as well as their discrepancies in relation to international standards; and
2. Heighten public awareness, sensitivity and responsiveness on women and gender issues in the legal practice and legal institutions, as well as the larger society.

Goal:

Its goal is the passage of laws and policies that effectively implements the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), and other international human rights instruments, declarations, and other gender-related human rights principles.

Objectives:

With its goal in sight and as guided by its vision and mission, the Program seeks to fulfill the following objectives:

1. Undertake studies, research, and publications on gender issues in law and jurisprudence;
2. Engage in legislative and executive advocacy for law and policy reforms through submissions of position papers, proposed bills and amendments to bills or other government rules or guidelines;
3. Network with other legal and civil society organizations engaged in gender and other human rights issues and concerns;
4. Conduct educational activities to heighten gender-awareness, gender sensitivity, and gender responsiveness, particularly in the legal community; and
5. Provide support for the development of gender law and policy programs in other legal institutions.



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