

JOSE MANANGOL BARTOLOME, ANTONIO BARTOLOME, AND ADALAIDA BARTOLOME, PLAINTIFFS-APPELLANTS, VS. JUSTO BARTOLOME, DEFENDANT-APPELLEE.

G.R. No. L-23661. December 20, 1967

Ponente: CONCEPCION, C.J.

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CONCEPCION, C.J.:

Plaintiffs seek, by writ of error, the review of an order of the Court of First Instance of Manila dismissing the complaint in this case.

Its factual background is this: On November 25, 1953, Flaviana Fajardo and Justo Bartolome executed a deed of extrajudicial partition stating that they are the widow and the only legitimate son, respectively, of Venancio Bartolome, who died intestate in Manila on August 4, 1948, and adjudica-ting unto themselves, in equal shares, three (3) houses, located in the district of Sampaloc, City of Manila, belonging to said deceased.

Less than two (2) years later, or on July 8, 1955, Jose Manangol Bartolome filed, with the Court of First Instance of Manila, a petition, docketed as Special Proceeding No. 26785 of said court, alleging that he is a legitimate son of the deceased Venancio Bartolome and the aforementioned Flaviana Fajardo, and praying that he (Jose Manangol Bartolome) be appointed administrator of the estate of said deceased; that said deed of extrajudicial partition between Flaviana Fajardo and Justo Bartolome be declared of no force and effect; and that the estate of the deceased be settled and distributed in accordance with law. After appropriate proceedings, decision was rendered therein dismissing said petition, upon the ground that Jose Manangol Bartolome was, not a legitimate son of Flaviana Fajardo and Venancio Bartolome, but an illegitimate offspring of the latter and one Sotera (Emilia) Pangilinan. On appeal, taken by Jose Manangol Bartolome, this decision was, on March 30, 1959, affirmed by the Court of Appeals in CA-G.R. No. 19361-R.

Soon thereafter, or on May 24, 1959, Flaviana Fajardo died in Manila. On December 23, 1959, the Court of First Instance thereof approved in said Special Proceeding No. 26785, the project of partition of the estate of Venancio Bartolome, deceased, between the estate of Flaviana Fajardo, deceased, and Justo Bartolome, in equal shares. Presently, or on January 5, 1960, the latter executed an affidavit adjudicating unto himself the estates of Flaviana Fajardo and Venancio Bartolome, consisting of cash amounting to P5,896.52 and the aforementioned three (3) houses. Thereupon, or on January 21, 1960, said Court issued an order declaring the aforementioned Special Proceeding closed and relieving the administrator therein appointed from further responsibility, as such, Justo Bartolome having acknowledged receipt from him of the properties constituting the estates of his aforementioned parents.

Over three (3) years later, or on November 4, 1963, said Jose Manangol Bartolome and Antonio and Adalaida, both surnamed Bartolome – hereinafter referred to collectively as plaintiffs – commenced the present action, in the same Court, against Justo Bartolome – hereinafter referred to as the defendant – alleging that plaintiffs Antonio and Adalaida Bartolome are the children of Venancio Bartolome and Francisca Untalan; that said

plaintiffs had enjoyed the status of children of said Venancio Bartolome, by direct acts of the latter and by admissions, made, in judicial proceedings, by the late Flaviana Fajardo and defendant, Justo Bartolome; that said plaintiffs and Jose Manangol Bartolome used to believe that Venancio Bartolome and Flaviana Fajardo were married; that plaintiffs Antonio and Adalaida Bartolome, accordingly, thought that they were illegitimate children of Venancio Bartolome; that, sometime in 1962, plaintiffs found that the marriage of Venancio Bartolome and Flaviana Fajardo does not appear in the indices of marriages, from 1900 to 1904, of the Civil Registrar for the City of Manila; and that defendant Justo Bartolome, acting in conspiracy with Flaviana Fajardo, had deliberately and fraudulently deprived the plaintiffs of their lawful share in the estate of Venancio Bartolome, as his acknowledged natural children, by misrepresenting that he was married to Flaviana Fajardo, and concealing his competence to contract marriage at the time of the conception and birth of said plaintiffs.

The latter prayed, therefore, that judgment be rendered declaring that they and the defendant are acknowledged natural children of Venancio Bartolome and that the order of distribution of his estate in Special Proceeding No. 26785 and the adjudication of said estate, made by the defendant in his favor, is of no force and effect, apart from adjudicating to the plaintiffs their respective shares in the estate aforementioned and ordering the defendant to convey to each of the plaintiffs herein one-fourth of said estate.

As above indicated, the lower court ordered this case dismissed, upon the ground: a) that the complaint states no cause of action; b) that said court had no jurisdiction over the subject matter thereof; and c) that said cause of action, if any, is barred by the statute of limitations of action. Hence, plaintiffs' appeal, which is untenable for:

1) The complaint does not show that Venancio Bartolome and Flaviana Fajardo were not married. The lack of reference to their marriage in the indices of marriages, for the years 1900 to 1904, of the Office of the Civil Registrar for Manila, does not establish plaintiffs' claim, for said couple may have been married at some other time or at some other place. Besides, having concededly lived together as husband and wife for many years, they are presumed to be legally married, unless and until the contrary is satisfactorily proven.^[1] The allegations in plaintiffs' complaint, even if proven, are inadequate to offset this presumption.

2) The alleged continuous possession by plaintiffs of the status of acknowledged natural children of Venancio Bartolome does not suffice to support their claim for a share of his estate, as such acknowledged natural children, because:

a) The very complaint shows that, up to 1962, plaintiffs thought that their father was married to Flaviana Fajardo; that the general impression, therefore, was that he could not have married Francisca Untalan - the mother of plaintiffs Antonio and Adalaida Bartolome - at the time of their (plaintiffs') conception and birth (on January 17, 1926 and December 16, 1928); that they (plaintiffs), accordingly, believed they were illegitimate (not natural) children; and that this - status of illegitimate children - was, therefore, the status the possession of which they enjoyed.

b) Continuous possession of the status of a natural child which is not the status plaintiffs had possessed - does not automatically confer the legal status of an acknowledged natural child.¹ Under the Civil Code of Spain - which was the law applicable at the time of the death of Venancio, in 1948 - it was, at best, a ground for compulsory recognition of said status, which must precede an action for adjudication of their share as alleged heirs of the deceased.² Indeed, under the provisions of said Code, a natural child, who is not acknowledged as such, has no successional rights to the estate of his natural father.³

c) Pursuant to Article 137 of the Civil Code of Spain, an action for compulsory recognition of a natural child may be brought only during the lifetime of the presumed parents, except:

“1. If the father or mother died during the minority of the child, in which case the latter may commence the action within the four years next following the attainment of its majority.

“2. If, after the death of the father or mother, some document, before unknown, should be discovered in which the child is expressly acknowledged.

"In this case the action must be commenced within the six months next following the discovery of such document."

The case at bar does not come under any of these exceptions, except as regards plaintiff Adalaida Bartolome, who became of age on December 16, 1949.¹ However, she did not bring this action until November 4, 1963, or long after the expiration of the period prescribed in said Article 137, or that (2 years) provided in Section 45 of Act No. 190,² or in Art. 285 of the Civil Code of the Philippines.³

3) The Court of First Instance of Manila has no jurisdiction to hear and decide cases for acknowledgment of natural children. Pursuant to Section 38-A, par. (6) of Republic Act No. 1401, such jurisdiction, in the City of Manila, is vested exclusively in the Court of Juvenile and Domestic Relations. As we ruled in *B. Paterno vs. J. T. Paterno*:¹

"x x x by the creation of the Juvenile and Domestic Relations Court, with its exclusive jurisdiction over cases involving paternity and acknowledgment, recognition of children and recovery of hereditary shares can no longer be properly joined as causes of action, since each lies within the jurisdiction of a different tribunal."

4) As regards plaintiff Jose Manangol Bartolome, his claim as an alleged acknowledged natural child of Venancio Bartolome is, moreover, barred by the decision in Case No. 26785 of the Court of First Instance of Manila, declaring that he is the illegitimate son of Venancio Bartolome and "one Sotera (Emilia) Pañgilingan". It should be noted that this decision was affirmed by the Court of Appeals in CA. No. L-19361-R.

WHEREFORE, the order appealed from should be, as it is hereby, affirmed, with costs against plaintiffs-appellants.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Section 5 (66), Rule 131 of the Rules of Court.

1 Article 131, old Civil Code; Art. 283, Civil Code of the Philippines.

2 *Briz vs. Briz*, 43 Phil., 763, 767.

3 "Under Art. 840 of the old Civil Code, the natural children entitled to inherit are those legally acknowledged. In the case of *Briz vs. Briz*, 43 Phil., 763, the following pronouncement was made - 'the actual attainment of the status of a legally acknowledged natural child is a condition precedent to the realization of any rights which may pertain to such child in the character of heir. In the case before us, assuming that plaintiff has been in the continuous possession of the status of natural child, she is entitled to enforce legal recognition; but this does not in itself make her a legally recognized natural child. It being a fact, conclusive in this instance, that there is no requisite acknowledgment, the respondent's right to inherit cannot be sustained.'" (Underscoring ours.) *Magallanes v. Court of Appeals*, 95 Phil., 795, 798.

1 Jose Manangol Bartolome and Antonio Bartolome were born, respectively, on June 19, 1916 and January 17, 1926, whereas Venancio Bartolome had died on August 4, 1948.

2 Capistrano vs. Gabino, 8 Phil., 135; Serrano vs. Serrano, 22 Phil., 10; Suarez vs. Suarez, 43 Phil., 903; Ramos vs. Ortuzar, 89 Phil., 730, 744; Gabrinao vs. Latorre, L-5825, Feb. 27, 1953; and Mendoza vs. Cayas, 98 Phil., 107, 110-111. Narag vs. Cecilio, L-13353, Aug. 31, 1960; Paulino vs. Paulino, L-15091, Dec. 28, 1961; Noble vs. Noble, L-17742, Dec. 17, 1966.

3 Four (4) years.

1 L-23060, June 30, 1967.

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