

HEIRS OF IGNACIO CONTI AND ROSARIO CUARIO, PETITIONERS, VS. COURT OF APPEALS AND LYDIA S. REYES AS ATTORNEY-IN-FACT OF JOSEFINA S. REYES, BERNARDITA S. PALILIO, HERMINIA S. PA...*G.R. No. 118464. December 21, 1998*

Ponente: BELLOSILLO, J.

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This petition for review on certiorari seeks to reverse the 30 March 1994 Decision and 21 December 1994 Resolution of respondent Court of Appeals which upheld the right of private respondents as heirs of Lourdes Sampayo to demand partition under Art. 494 of the Civil Code.

Lourdes Sampayo and Ignacio Conti, married to Rosario Cuario, were the co-owners of the property in litigation consisting of a 539-square meter lot at the corner of Zamora and Abellanosa Streets, Lucena City, covered by TCT No. T-15374, with a house erected thereon.[1] On 17 March 1986 Lourdes Sampayo died intestate without issue.[2] Subsequently, on 1 April 1987 private respondents Josefina S. Reyes, Bernardita S. Palilio, Herminia S. Palilio, Remedios A. Sampayo, Iluminada A. Sampayo, Enrico A. Sampayo, Carlos A. Sampayo, Generoso C. Sampayo, Myrna C. Sampayo, Rosalina C. Sampayo, Manuel C. Sampayo, Delia A. Sampayo, Corazon C. Sampayo, Nilo C. Sampayo, Lolita A. Sampayo and Norma A. Sampayo, all represented by their Attorney-in-Fact Lydia S. Reyes, with Lolita A. Sampayo acting also in her own behalf and as Attorney-in-Fact of Norma A. Sampayo, all claiming to be collateral relatives of the deceased Lourdes Sampayo, filed an action for partition and damages before RTC-Br. 54, Lucena City.[3]

The spouses Ignacio Conti and Rosario Cuario refused the partition on the ground that private respondents failed to produce any document to prove that they were the rightful heirs of Lourdes Sampayo.[4] On 30 August 1987 Ignacio Conti died and was substituted as party-defendant by his children Asuncion, Francisco, Milagros, Joselito, Luisito, Diego and Teresita, all surnamed Conti.[5]

At the trial, private respondents presented Lydia Sampayo Reyes and Adelaida Sampayo to prove that they were the collateral heirs of the deceased Lourdes Sampayo and therefore entitled to her rights as co-owner of the subject lot. Bringing with her the original copy of her certificate of live birth showing that her father was Inocentes Reyes and her mother was Josefina Sampayo,[6] Lydia Sampayo Reyes testified that she was one of the nieces of Lourdes Sampayo, being the daughter of Josefina Sampayo, the only living sibling of Lourdes. Lydia also testified that Lourdes had another sister named Remedios J. Sampayo who died in 1948, and two brothers, Manuel J. Sampayo and Luis J. Sampayo who died in 1983 and 1960, respectively. To prove that Josefina, Remedios, Luis and Manuel were siblings of Lourdes, their baptismal certificates together with a photocopy of the birth certificate of Manuel Sampayo were offered in evidence. These documents showed that their father and mother, like Lourdes Sampayo, were Antonio Sampayo and Brigida Jaraza.

The certificates of baptism presented as part of the testimony of Lydia Sampayo Reyes were prepared by Rev. Franklin C. Rivero who duly certified that all data therein written were in accordance with the church records,

hence, the lower left portion of the documents bearing the seal of the church with the notation as to where the documents were logged in particular.[7] The baptismal certificates were presented in lieu of the birth certificates because the repository of those documents, the Office of the Civil Registrar of Lucena City, had been razed by fire on two separate occasions, 27 November 1974 and 30 August 1983, thus all civil registration records were totally burned.[8] On the other hand, a photocopy of Manuel's birth certificate dated 25 October 1919 (Exh. "I")[9] showed that it was issued by the Local Civil Registrar of Lucena, Tayabas (now Lucena City).

Adelaida Sampayo, widow of Manuel Sampayo, testified that her husband Manuel was the brother of the deceased Lourdes, and with the death of Manuel, Luis and Remedios, the only living sibling of Lourdes was Josefina.[10]

To rebut whatever rights the alleged heirs of Lourdes had over the subject lot, petitioners presented Rosario Cuario Conti, Rosa Ladines Malundas and Rodolfo Espineli. Rosario testified that the subject property was co-owned in equal shares by her husband Ignacio Conti and Lourdes Sampayo and that her family (Rosario) had been staying in the subject property since 1937.[11] In fact, she said that her late husband Ignacio Conti paid for the real estate taxes[12] and spent for the necessary repairs and improvements thereon[13] because by agreement Lourdes would leave her share of the property to them.[14]

However, as correctly found by the trial court, no will, either testamentary or holographic, was presented by petitioners to substantiate this claim.[15] Rosario also disclosed that when Lourdes died her remains were taken by her relatives from their house.[16] When cross examined on who those relatives were, she replied that the only one she remembered was Josefina since there were many relatives who came. When asked who Josefina's parents were, she said she could not recall. Likewise, when asked who the parents of Lourdes were, Rosario denied having ever known them.[17]

Another witness, Rosa Ladines Malundas, narrated that she used to be the neighbor and hairdresser of the deceased Lourdes Sampayo who told her that upon her death her share would go to Ignacio Conti whom she considered as her brother since both of them were "adopted" by their foster parents Gabriel Cord and Anastacia Allarey Cord,[18] although she admitted that she did not know whether Lourdes had other relatives.[19]

According to another witness, Rodolfo Espineli, he took pictures of the tombs bearing the tombstones of Gabriel Cord and Anastacia Allarey Cord and Ignacio Conti as well as that of Lourdes Sampayo who was supposed to have been interred beside her "adoptive" parents. However, as revealed by Rosario during her direct examination, Lourdes was not in fact interred there because her relatives took her remains.[20]

On 4 April 1991 the trial court declared private respondents as the rightful heirs of Lourdes Sampayo. It further ordered private respondents and petitioners to submit a project of partition of the residential house and lot for confirmation by the court.[21]

Petitioners elevated the case to the Court of Appeals contending that the trial court erred in finding that private respondents were the heirs of Lourdes Sampayo and that they were entitled to the partition of the lot and the improvements thereon.[22]

On 30 March 1994 the Court of Appeals affirmed the assailed RTC decision and held[23]-

In the instant case, plaintiffs [now private respondents] were able to prove and establish by preponderance of evidence that they are the collateral heirs of deceased Lourdes Sampayo and therefore the lower court did not err in ordering herein plaintiffs [now private respondents] and defendants [now petitioners] to submit a project of partition of the residential house and lot owned in common by the deceased Lourdes Sampayo and defendant spouses Conti for confirmation by the court x x x x Considering our earlier finding that the lower court did not err in declaring herein plaintiffs [now private respondents] as heirs of deceased Sampayo and

therefore entitled to inherit her property, the argument of the appellants [now petitioners] that the plaintiffs [now private respondents] are not entitled to partition is devoid of merit (insertions in [] supplied).

Respondent court also ruled, citing *Hernandez v. Padua*[24] and *Marabilles v. Quito*[25], that a prior and separate judicial declaration of heirship was not necessary[26] and that private respondents became the co-owners of the portion of the property owned and registered in the name of Lourdes Sampayo upon her death and, consequently, entitled to the immediate possession thereof and all other incidents/rights of ownership as provided for by law including the right to demand partition under Art. 777 of the Civil Code,[27] and *Ilustre v. Alaras Frondosa*[28] holding that the property belongs to the heirs at the moment of death of the decedent, as completely as if he had executed and delivered to them a deed for the same before his death.

The appellate court subsequently denying a motion for reconsideration upheld the probative value of the documentary and testimonial evidence of private respondents and faulted petitioners for not having subpoenaed Josefina if they believed that she was a vital witness in the case.[29] Hence, petitioners pursued this case arguing that a complaint for partition to claim a supposed share of the deceased co-owner cannot prosper without prior settlement of the latter's estate and compliance with all legal requirements, especially publication, and private respondents were not able to prove by competent evidence their relationship with the deceased.[30]

There is no merit in the petition. A prior settlement of the estate is not essential before the heirs can commence any action originally pertaining to the deceased as we explained in *Quison v. Salud* [31] -

Claro Quison died in 1902. It was proven at the trial that the present plaintiffs are next of kin and heirs, but it is said by the appellants that they are not entitled to maintain this action because there is no evidence that any proceedings have been taken in court for the settlement of the estate of Claro Quison, and that without such settlement, the heirs cannot maintain this action. There is nothing in this point. As well by the Civil Code as by the Code of Civil Procedure, the title to the property owned by a person who dies intestate passes at once to his heirs. Such transmission is, under the present law, subject to the claims of administration and the property may be taken from the heirs for the purpose of paying debts and expenses, but this does not prevent an immediate passage of the title, upon the death of the intestate, from himself to his heirs. Without some showing that a judicial administrator had been appointed in proceedings to settle the estate of Claro Quison, the right of the plaintiffs to maintain this action is established.

Conformably with the foregoing and taken in conjunction with Arts. 777 and 494[32] of the Civil Code, from the death of Lourdes Sampayo her rights as a co-owner, incidental to which is the right to ask for partition at any time or to terminate the co-ownership, were transmitted to her rightful heirs. In so demanding partition private respondents merely exercised the right originally pertaining to the decedent, their predecessor-in-interest.

Petitioners' theory as to the requirement of publication would have been correct had the action been for the partition of the estate of Lourdes Sampayo, or if we were dealing with extrajudicial settlement by agreement between heirs and the summary settlement of estates of small value.[33] But what private respondents are pursuing is the mere segregation of Lourdes' one-half share which they inherited from her through intestate succession. This is a simple case of ordinary partition between co-owners. The applicable law in point is Sec. 1 of Rule 69 of the Rules of Court -

Sec. 1. Complaint in an action for partition of real estate. - A person having the right to compel the partition of real estate may do so as in this rule prescribed, setting forth in his complaint the nature and extent of his title and an adequate description of the real estate of which partition is demanded and joining as defendants all the other persons interested in the property.

A cursory reading of the aforecited rule shows that publication is not required as erroneously maintained by petitioners. There are two (2) simultaneous issues in an action for partition. First, whether the plaintiff is indeed a

co-owner of the property sought to be partitioned, and second, if answered in the affirmative, the manner of the division of the property, i.e., what portion should go to which co-owner.[34] Thus, in this case, we must determine whether private respondents, by preponderance of evidence, have been able to establish that they are co-owners by way of succession as collateral heirs of the late Lourdes Sampayo as they claim to be, either a sister, a nephew or a niece. These, private respondents were able to prove in the trial court as well as before respondent Court of Appeals.

Petitioners however insist that there was no such proof of filiation because: (a) mere photocopies of birth certificates do not prove filiation; (b) certifications on non-availability of records of birth do not prove filiation; (c) baptismal certificates do not prove filiation of alleged collateral relatives of the deceased; and, (d) the testimonies of Lydia S. Reyes, alleged daughter of Josefina Reyes, and Adelaida Sampayo, alleged sister-in-law of Josefina and Lourdes, were incompetent as Lydia was made to testify on events which happened before her birth while Adelaida testified on matters merely narrated to her.[35]

We are not persuaded. Altogether, the documentary and testimonial evidence submitted are competent and adequate proofs that private respondents are collateral heirs of Lourdes Sampayo. Private respondents assert that they are co-owners of one-half (1/2) pro-indiviso share of the subject property by way of legal or intestate succession.

Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent of the value of the inheritance of a person are transmitted through his death to another or others either by his will or by operation of law.[36] Legal or intestate succession takes place if a person dies without a will, or with a void will, or one which has subsequently lost its validity.[37] If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the decedent.[38] It was established during the trial that Lourdes died intestate and without issue. Private respondents as sister, nephews and nieces now claim to be the collateral relatives of Lourdes.

Under Art. 172 of the Family Code,[39] the filiation of legitimate children shall be proved by any other means allowed by the Rules of Court and special laws, in the absence of a record of birth or a parent's admission of such legitimate filiation in a public or private document duly signed by the parent. Such other proof of one's filiation may be a baptismal certificate, a judicial admission, a family Bible in which his name has been entered, common reputation respecting his pedigree, admission by silence, the testimonies of witnesses and other kinds of proof admissible under Rule 130 of the Rules of Court.[40] By analogy, this method of proving filiation may also be utilized in the instant case.

Public documents are the written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country.[41] The baptismal certificates presented in evidence by private respondents are public documents. Parish priests continue to be the legal custodians of the parish records and are authorized to issue true copies, in the form of certificates, of the entries contained therein.[42]

The admissibility of baptismal certificates offered by Lydia S. Reyes, absent the testimony of the officiating priest or the official recorder, was settled in *People v. Ritter*, citing *U.S. v. de Vera* (28 Phil. 105 [1914]),[43] thus -

x x x the entries made in the Registry Book may be considered as entries made in the course of the business under Section 43 of Rule 130, which is an exception to the hearsay rule. The baptisms administered by the church are one of its transactions in the exercise of ecclesiastical duties and recorded in the book of the church during the course of its business.

It may be argued that baptismal certificates are evidence only of the administration of the sacrament, but in this

case, there were four (4) baptismal certificates which, when taken together, uniformly show that Lourdes, Josefina, Remedios and Luis had the same set of parents, as indicated therein. Corroborated by the undisputed testimony of Adelaida Sampayo that with the demise of Lourdes and her brothers Manuel, Luis and sister Remedios, the only sibling left was Josefina Sampayo Reyes, such baptismal certificates have acquired evidentiary weight to prove filiation.

Petitioners' objection to the photocopy of the certificate of birth of Manuel Sampayo was properly discarded by the court a quo and respondent Court of Appeals. According to Sec. 3, par. (1), Rule 130, of the Rules of Court, when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself except when the original has been lost or destroyed or cannot be produced in court, without bad faith on the part of the offeror. The loss or destruction of the original certificate of birth of Manuel J. Sampayo was duly established by the certification issued by the Office of the Local Civil Registrar of Lucena City to the effect that its office was completely destroyed by fire on 27 November 1974 and 30 August 1983, respectively, and as a consequence thereof, all civil registration records were totally burned.

Apparently, there seems to be some merit in petitioners' contention that the testimony of Adelaida Sampayo cannot prove filiation for being hearsay considering that there was no declaration ante litem motam as required by the rules, i.e., that the declaration relating to pedigree was made before the controversy occurred. Nonetheless, petitioners made no move to dispute her testimony in open court when she was mentioning who the brothers and sisters of Lourdes were. As correctly observed by the trial court in explicit terms, "the documentary and testimonial evidence were not disputed by defendants" (now petitioners).[44] Notably, when Rosario Cuario Conti took the witness stand, she admitted that she was not aware of the identities of the parents of the deceased. Clearly, this runs counter to the relationship akin to filial bonding which she professed she had enjoyed with the decedent. As wife of Ignacio Conti, she was supposedly a "sister-in-law" of the deceased Lourdes Sampayo who regarded Ignacio as a brother. However, in sum, we rule that all the pieces of evidence adduced, taken together, clearly preponderate to the right of private respondents to maintain the action for partition. Absent any reversible error in the assailed Decision and Resolution of the Court of Appeals, this petition for review on certiorari will not lie.

WHEREFORE, the petition is DENIED. The assailed Decision dated 30 March 1994 and Resolution dated 21 December 1994 of the Court of Appeals are AFFIRMED. Costs against petitioners.

SO ORDERED.

Puno, Mendoza, and Martinez JJ., concur.

[1] Decision penned by Judge Jaime D. Discaya, RTC-Br. 54, Lucena City, Original Records, pp. 180-181.

[2] *Id.*, p. 180.

[3] Complaint docketed as Civil Case No. 87-37; *id.*, pp. 1-6.

[4] Answer filed 10 June 1987; *id.*, p. 26.

[5] Order dated 8 December 1987 by then Presiding Judge Rodolfo G. Palattao; *id.*, pp. 57-58.

[6] Exh. "A", Folder of Exhibits, p. 1.

[7] Exhs. "C", "E", "G", and "J;" *Id.*, pp. 3, 5, 7, and 11.

[8] Exhs. "B," "D," "F," "H," and "K;" *Id.*, pp. 2, 4, 6, 8, and 10.

- [9] *Id.*, p. 9.
- [10] TSN, 13 September 1990, pp. 2-4.
- [11] TSN, 15 November 1990, p. 3-A.
- [12] *Id.*, p. 7.
- [13] *Id.*, p. 10.
- [14] *Id.*, p. 5.
- [15] See Note 1, p. 183.
- [16] See Note 11, pp. 10-11.
- [17] *Id.*, pp.16-19.
- [18] TSN, 22 November 1992, pp. 5-6.
- [19] *Id.*, p. 7.
- [20] *Id.*, p. 11.
- [21] Decision penned by Judge Jaime D. Discaya, RTC - Br. 54, Lucena City; Original Records, pp. 180-184.
- [22] Appellant's Brief, CA Rollo, p. 20.
- [23] Decision penned by Justice Quirino D. Abad Santos, Jr., with the concurrence of Justices Emeterio C. Cui and Alfredo J. Lagamon; Rollo, pp. 29-32.
- [24] 14 Phil. 194 [1909].
- [25] 100 Phil. 64 [1956].
- [26] See Note 23, p. 31.
- [27] Art. 777. The rights to the succession are transmitted from the moment of the death of the decedent.
- [28] 17 Phil. 321[1910]; See Note 23, p. 32.
- [29] Resolution penned by Justice Quirino Abad Santos, Jr. with the concurrence of Justices Emeterio C. Cui and Serafin V. C. Guingona; Rollo, pp. 35-37.
- [30] Petition, pp. 7-9; Rollo, pp. 14 -16.
- [31] 12 Phil. 109, 113-114 [1908].
- [32] Art. 494. No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.
- [33] Secs. 1 and 2, Rule 74, Rules of Court.
- [34] *Roque v. IAC*, G.R. No. 75886, 30 August 1988, 165 SCRA 118, 125-126.
- [35] Memorandum for the Petitioners; Rollo, pp. 83-89.
- [36] Art. 774, New Civil Code.
- [37] Art. 960, par. (1), *id.*

[38] Art. 1003, id.

[39] Art. 254 of the Family Code of the Philippines, which took effect on 3 August 1988, expressly repealed Title VIII on Paternity and Filiation (Arts. 255-289) of the New Civil Code. While the complaint for partition was filed in 1987, or prior to the Family Code, nonetheless the latter law is applicable to the case at bar in view of Art. 256 which explicitly provides that "(t)his code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws."

[40] Uyguangco v. Court of Appeals, G.R. No. 76873, 26 October 1989, 178 SCRA 684, 689; Mendoza v. Court of Appeals, G.R. No. 86302, 24 September 1991, 201 SCRA 675, 684.

[41] Sec. 19, par. (a), Rule 132, Rules of Court.

[42] United States v. Ibañes, 13 Phil. 688 (1909).

[43] G.R. No. 88582, 5 March 1991, 194 SCRA 690, 705.

[44] See Note 1, p. 183.

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