

ARTURIO TRINIDAD, PETITIONER, VS. COURT OF APPEALS, FELIX TRINIDAD (DECEASED) AND LOURDES TRINIDAD, RESPONDENTS.

G.R. No. 118904. April 20, 1998

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

In the absence of a marriage contract and a birth certificate, how may marriage and filiation be proven?

The Case

This is the main question raised in this petition for review on certiorari challenging the Court of Appeals[1] Decision promulgated on December 1, 1994[2] and Resolution promulgated on February 8, 1995[3] in CA-GR CV No. 23275, which reversed the decision of the trial court and dismissed petitioner's action for partition and damages.

On August 10, 1978, Petitioner Arturo Trinidad filed a complaint[4] for partition and damages against Private Respondents Felix and Lourdes, both surnamed Trinidad, before the Court of First Instance of Aklan, Branch I.[5] On October 28, 1982, Felix died without issue, so he was not substituted as a party.[6]

On July 4, 1989, the trial court rendered a twenty-page decision[7] in favor of the petitioner, in which it ruled:[8]

“Considering therefore that this court is of the opinion that plaintiff is the legitimate son of Inocentes Trinidad, plaintiff is entitled to inherit the property left by his deceased father which is 1/3 of the 4 parcels of land subject matter of this case. Although the plaintiff had testified that he had been receiving [his] share from said land before and the same was stopped, there was no evidence introduced as to what year he stopped receiving his share and for how much. This court therefore cannot rule on that.”

In its four-page Decision, Respondent Court reversed the trial court on the ground that petitioner failed to adduce sufficient evidence to prove that his parents were legally married to each other and that acquisitive prescription against him had set in. The assailed Decision disposed:[9]

“WHEREFORE, the Court REVERSES the appealed decision.

In lieu thereof, the Court hereby DISMISSES the [petitioner's] complaint and the counterclaim thereto.

Without costs.”

Respondent Court denied reconsideration in its impugned Resolution which reads:[10]

“The Court DENIES defendants-appellants' motion for reconsideration, dated December 15, 1994, for lack of merit. There are no new or substantial matters raised in the motion that merit the modification of the decision.”

Hence, this petition.[11]

The Facts

The assailed Decision recites the factual background of this case, as follows:[12]

“On August 10, 1978, plaintiff [herein petitioner] filed with the Court of First Instance of Aklan, Kalibo, Aklan, an action for partition of four (4) parcels of land, described therein, claiming that he was the son of the late Inocentes Trinidad, one of three (3) children of Patricio Trinidad, who was the original owner of the parcels of land. Patricio Trinidad died in 1940, leaving the four (4) parcels of land to his three (3) children, Inocentes, Lourdes and Felix. In 1970, plaintiff demanded from the defendants to partition the land into three (3) equal shares and to give him the one-third (1/3) individual share of his late father, but the defendants refused.

In their answer, filed on September 07, 1978, defendants denied that plaintiff was the son of the late Inocentes Trinidad. Defendants contended that Inocentes was single when he died in 1941, before plaintiff’s birth. Defendants also denied that plaintiff had lived with them, and claimed that the parcels of land described in the complaint had been in their possession since the death of their father in 1940 and that they had not given plaintiff a share in the produce of the land.

Patricio Trinidad and Anastacia Briones were the parents of three (3) children, namely, Inocentes, Lourdes and Felix. When Patricio died in 1940, survived by the above named children, he left four (4) parcels of land, all situated at Barrio Tigayon, Kalibo Aklan.

Arturio Trinidad, born on July 21, 1943, claimed to be the legitimate son of the late Inocentes Trinidad.

Arturio got married in 1966 to Candelaria Gaspar, at the age of twenty three (23). Sometime after the marriage, Arturio demanded from the defendants that the above-mentioned parcels of land be partitioned into three (3) equal shares and that he be given the one-third (1/3) individual shares of his late father, but defendants refused.

In order to appreciate more clearly the evidence adduced by both parties, this Court hereby reproduces pertinent portions of the trial court’s decision:[13]

“EVIDENCE FOR THE PLAINTIFF:

Plaintiff presented as his first witness, Jovita Gerardo, 77 years old, (at the time she testified in 1981) who is the barangay captain of barrio Tigayon, Kalibo, Aklan, since 1972. She testified that before being elected as barrio captain she held the position of barrio council-woman for 4 years. Also she was [a member of the] board of director[s] of the Parent-Teachers Association of Tigayon, Kalibo, Aklan. That she knows the plaintiff because they are neighbors and she knows him from the time of his birth. She knows the father of the plaintiff as Inocentes Trinidad and his mother Felicidad Molato; both were already dead, Inocentes having died in 1944 and his wife died very much later. Witness recalls plaintiff was born in 1943 in Barrio Tigayon, Kalibo, Aklan, on July 21, 1943. At the time of the birth of the plaintiff, the house of the witness was about 30 meters away from plaintiff’s parents['] house and she used to go there 2 or 3 times a week. That she knows both the defendants as they are also neighbors. That both Felix and Lourdes Trinidad are the uncle and aunt of Arturio because Inocentes Trinidad who is the father of the plaintiff is the brother of the defendants, Felix and Lourdes Trinidad. She testified she also knows that the father of Inocentes, Felix and Lourdes[,] all surnamed Trinidad[,] was Patricio Trinidad who is already dead but left several parcels of land which are the 4 parcels subject of this litigation. That she knows all these [parcels of] land because they are located in Barrio Tigayon.

When asked about the adjoining owners or boundaries of the 4 parcels of land, witness answered and mentioned the respective adjoining owners. That she knew these 4 parcels belonged to Patricio Trinidad because said Patricio Trinidad was a native also of Barrio Tigayon. Said Patricio died before the [war] and after his death the land went to his 3 children, namely: Inocentes, Felix and Lourdes. Since then the land was never partitioned or divided among the 3 children of Patricio.

A picture, Exhibit A, was shown to the witness for identification and she identified a woman in the picture as the defendant, Lourdes Trinidad. A man with a hat holding a baby was identified by her as Felix Trinidad, the defendant. The other woman in the picture was pointed by the witness as the wife of the plaintiff, Arturo Trinidad. When asked if Arturo Trinidad and Lourdes Trinidad and Felix Trinidad pointed to by her in the picture are the same Arturo, Felix and Lourdes, who are the plaintiff and the defendants in this case, witness answered yes.

Another picture marked as Exhibit B was presented to the witness for identification. She testified the woman in this picture as Lourdes Trinidad. In said picture, Lourdes Trinidad was holding a child which witness identified as the child Arturo Trinidad. When asked by the court when xxx the picture [was] taken, counsel for the plaintiff answered, in 1966. When asked if Arturo Trinidad was baptized, witness answered yes, as she had gone to the house of his parents. Witness then identified the certificate of baptism marked as Exhibit C. The name Arturo Trinidad was marked as Exhibit C-1 and the name of Inocentes Trinidad and Felicidad Molato as father and mother respectively, were marked as Exhibit C-2. The date of birth being July 21, 1943 was also marked. The signature of Monsignor Iturralde was also identified.

On cross-examination, witness testified that she [knew] the land in question very well as she used to pass by it always. It was located just near her house but she cannot exactly tell the area as she merely passes by it. When asked if she [knew] the photographer who took the pictures presented as Exhibit A and B, witness answered she does not know as she was not present during the picture taking. However, she can identify everybody in the picture as she knows all of them.

At this stage of the trial, Felix Trinidad [died] without issue and he was survived by his only sister, Lourdes Trinidad, who is his co-defendant in this case.

Next witness for the plaintiff was ISABEL MEREN who was 72 years old and a widow. She testified having known Inocentes Trinidad as the father of Arturo Trinidad and that Inocentes, Felix and Lourdes are brothers and sister and that their father was Patricio Trinidad who left them 4 parcels of land. That she knew Inocentes Trinidad and Felicidad Molato who are the parents of Arturo, the plaintiff, were married in New Washington, Aklan, by a protestant pastor by the name of Lauriano Lajaylajay. That she knows Felicidad Molato and Lourdes Trinidad very well because as a farmer she also owns a parcel of land [and] she used to invite Felicidad and Lourdes to help her during planting and harvesting season. That she knows that during the lifetime of Inocentes the three of them, Inocentes, Felix and Lourdes possessed and usufructed the 4 parcels they inherited from their father, Patricio. That upon the death of Inocentes, Lourdes Trinidad was in possession of the property without giving the widow of Inocentes any share of the produce. As Lourdes outlived her two brothers, namely: Felix and Inocentes, she was the one possessing and usufructing the 4 parcels of land up to the present. The witness testified that upon the death of Inocentes, Lourdes took Arturo and cared for him when he was still small, about 3 years old, until Arturo grew up and got married. That while Arturo was growing up, he had also enjoyed the produce of the land while he was being taken care of by Lourdes Trinidad. That a misunderstanding later on arose when Arturo Trinidad wanted to get his father's share but Lourdes Trinidad will not give it to him.

Plaintiff, ARTURIO TRINIDAD, himself, was presented as witness. He testified that defendants, Lourdes and Felix Trinidad, are his aunt and uncle, they being the brother and sister of his father. That the parents of his father and the defendants were Patricio Trinidad and Anastacia Briones. That both his father, Inocentes Trinidad, and mother, Felicidad Molato, were already dead having died in Tigayon, his father having died in 1944 and his mother about 25 years ago.

As proof that he is the son of Inocentes Trinidad and Felicidad Molato, he showed a certificate of baptism which

had been previously marked as Exhibit C. That his birth certificate was burned during World War 2 but he has a certificate of loss issued by the Civil Registrar of Kalibo, Aklan.

When he was 14 years old, the defendants invited him to live with them being their nephew as his mother was already dead. Plaintiff's mother died when he was 13 years old. They treated him well and provided for all his needs. He lived with defendants for 5 years. At the age of 19, he left the house of the defendants and lived on his own. He got married at 23 to Candelaria Gaspar and then they were invited by the defendants to live with them. So he and his wife and children lived with the defendants. As proof that he and his family lived with the defendants when the latter invited him to live with them, he presented a picture previously marked as Exhibit B where there appears his aunt, Lourdes Trinidad, carrying plaintiff's daughter, his uncle and his wife. In short, it is a family picture according to him. Another family picture previously marked Exhibit A shows his uncle, defendant Felix Trinidad, carrying plaintiff's son. According to him, these 2 pictures were taken when he and his wife and children were living with the defendants. That a few years after having lived with them, the defendants made them vacate the house for he requested for partition of the land to get his share. He moved out and looked for [a] lawyer to handle his case. He testified there are 4 parcels of land in controversy of which parcel 1 is an upland.

Parcel 1 is 1,000 square meters, [has] 10 coconut trees and fruit bearing. The harvest is 100 coconuts every 4 months and the cost of coconuts is P2.00 each. The boundaries are : East-Federico Inocencio; West-Teodulo Dionesio; North-Teodulo Dionesio; and South-Bulalio Briones; located at Tigayon.

Parcel 2 is an upland with an area of 500 square meters; it has only 1 coconut tree and 1 bamboo grove; also located in Tigayon, Kalibo, Aklan. Adjoining owners are : East-Ambrosio Trinidad; North-Federico Inocencio; West-Patricio Trinidad and South-Gregorio Briones.

Parcel 3 is about 12,000 square meters and 1/4 of that belongs to Patricio Trinidad, the deceased father of the defendants and Inocentes, the father of the plaintiff.

Parcel 4 is a riceland with an area of 5,000 square meters. The harvest is 40 cavans two times a years [sic]. Adjoining owners are: East-Gregorio Briones; West-Bulalio Briones; South-Federico Inocencio and North-Digna Carpio.

Parcel 1 is Lot No. 903.

Parcel 2 is Lot No. 864 of the cadastral survey of Kalibo and only Lot 864-A with an area of 540 square meters is the subject of litigation.

Parcel 3 is Lot No. 979 of the cadastral survey of Kalibo covered by Tax Decl. No. 703310 with reference to one of the owners of the land, Patricio Trinidad married to Anastacia Briones, one-half share.

Parcel 4 is covered by Original Certificate of Title No. 22502 RO-174 covering Lot No. 863 of the cadastral survey of Kalibo. The title is in the name of Patricio Trinidad married to Anastacia Briones.

Parcel 1 is covered by Tax Decl. No. 11609 in the name of Patricio Trinidad while parcel 2 is covered by Tax Decl. No. 10626 in the name of Anastacia Briones and another Tax Declaration No. 11637 for Parcel 3 in the name of Ambrosio Trinidad while Parcel 4 is covered by Tax Decl. No. 16378 in the name of Patricio Trinidad.

On cross-examination, plaintiff testified that during the lifetime of his mother they were getting the share in the produce of the land like coconuts, palay and corn. Plaintiff further testified that his father is Inocentes Trinidad and his mother was Felicidad Molato. They were married in New Washington, Aklan, by a certain Atty. Lajaylajay. When asked if this Atty. Lajaylajay is a municipal judge of New Washington, Aklan, plaintiff

answered he does not know because he was not yet born at that time. That he does not have the death certificate of his father who died in 1944 because it was wartime. That after the death of his father, he lived with his mother and when his mother died[,] he lived with his aunt and uncle, the defendants in this case. That during the lifetime of his mother, it was his mother receiving the share of the produce of the land. That both defendants, namely Lourdes and Felix Trinidad, are single and they have no other nephews and nieces. That [petitioner's] highest educational attainment is Grade 3.

EVIDENCE FOR THE DEFENDANTS:

First witness for the defendants was PEDRO BRIONES, 68 years old, unemployed and a resident of Nalook, Kalibo, Aklan. He testified having known the defendants, Felix and Lourdes Trinidad. They being his first cousins because the mother of Lourdes and Felix by the name of Anastacia Briones and his father are sister and brother. That he also knew Inocentes Trinidad being the brother of Felix and Lourdes and he is already dead. According to the witness, Inocentes Trinidad [died] in 1940 and at the time of his death Inocentes Trinidad was not married. That he knew this fact because at the time of the death of Inocentes Trinidad he was then residing with his aunt, "Nanay Taya", referring to Anastacia Briones who is mother of the defendants, Felix and Lourdes Trinidad, as well as Inocentes Trinidad. That at the time of the death of Inocentes Trinidad, according to this witness he stayed with his aunt, Anastacia Trinidad, and with his children before 1940 for only 3 months. When asked if he knew Inocentes Trinidad cohabited with anybody before his death, he answered, "That I do not know", neither does he kn[o]w a person by the name of Felicidad Molato. Furthermore, when asked if he can recall if during the lifetime of Inocentes Trinidad witness knew of anybody with whom said Inocentes Trinidad had lived as husband and wife, witness, Pedro Briones, answered that he could not recall because he was then in Manila working. That after the war, he had gone back to the house of his aunt, Anastacia, at Tigayon, Kalibo, as he always visit[s] her every Sunday, however, he does not know the plaintiff, Arturio Trinidad. When asked if after the death of Inocentes Trinidad, he knew anybody who has stayed with the defendants who claimed to be a son of Inocentes Trinidad, witness, Pedro Briones, answered: "I do not know about that."

On cross examination, witness testified that although he was born in Tigayon, Kalibo, Aklan, he started to reside in Nalook, Kalibo, as the hereditary property of their father was located there. When asked if he was aware of the 4 parcels of land which is the subject matter of this case before the court, witness answered that he does not know. What he knew is that among the 3 children of Patricio Trinidad, Inocentes is the eldest. And that at the time of the death of Inocentes in 1940, according to the witness when cross examined, Inocentes Trinidad was around 65 years old. That according to him, his aunt, Anastacia Briones, was already dead before the war. When asked on cross examination if he knew where Inocentes Trinidad was buried when he died in 1940, witness answered that he was buried in their own land because the Japanese forces were roaming around the place. When confronted with Exhibit A which is the alleged family picture of the plaintiff and the defendants, witness was able to identify the lady in the picture, which had been marked as Exhibit A-1, as Lourdes Trinidad, and the man wearing a hat on the said picture marked as Exhibit 2-A is Felix Trinidad. However, when asked if he knew the plaintiff, Arturio Trinidad, he said he does not know him.

Next witness for the defendants was the defendant herself, LOURDES TRINIDAD. She stated that she is 75 years old, single and jobless. She testified that Inocentes Trinidad was her brother and he is already dead and he died in 1941 in Tigayon, Kalibo, Aklan. That before the death of her brother, Inocentes Trinidad, he had gone to Manila where he stayed for a long time and returned to Tigayon in 1941. According to her, upon arrival from Manila in 1941 his brother, Inocentes Trinidad, lived only for 15 days before he died. While his brother was in Manila, witness testified she was not aware that he had married anybody. Likewise, when he arrived in Tigayon in 1941, he also did [not] get married. When asked if she knew one by the name of Felicidad Molato, witness answered she knew her because Felicidad Molato was staying in Tigayon. However, according to her[,] she does not kn[o]w if her brother, Inocentes Trinidad, had lived with Felicidad Molato as husband and wife. When asked if she knew the plaintiff, Arturio Trinidad, she said, 'Yes,' but she denied that

Arturio Trinidad had lived with them. According to the witness, Arturio Trinidad did not live with the defendants but he stayed with his grandmother by the name of Maria Concepcion, his mother, Felicidad Molato, having died already. When asked by the court if there had been an instance when the plaintiff had lived with her even for days, witness answered, he did not. When further asked if Arturio Trinidad went to visit her in her house, witness also said, 'He did not.'

Upon cross examination by counsel for the plaintiff, Lourdes Trinidad testified that her parents, Anastacia Briones and Patricio Trinidad, had 3 children, namely: Inocentes Trinidad, Felix Trinidad and herself. But inasmuch as Felix and Inocentes are already dead, she is the only remaining daughter of the spouses Patricio Trinidad and Anastacia Briones. Defendant, Lourdes Trinidad, testified that her brother, Felix Trinidad, died without a wife and children, in the same manner that her brother, Inocentes Trinidad, died without a wife and children. She herself testified that she does not have any family of her own for she has [no] husband or children. According to her[,] when Inocentes Trinidad [died] in 1941, they buried him in their private lot in Tigayon because nobody will carry his coffin as it was wartime and the municipality of Kalibo was occupied by the Japanese forces. When further cross-examined that I[t] could not be true that Inocentes Trinidad died in March 1941 because the war broke out in December 1941 and March 1941 was still peace time, the witness could not answer the question. When she was presented with Exhibit A which is the alleged family picture wherein she was holding was [sic] the child of Arturio Trinidad, she answered; 'Yes.' and the child that she is holding is Clarita Trinidad, child of Arturio Trinidad. According to her, she was only requested to hold this child to be brought to the church because she will be baptized and that the baptism took place in the parish church of Kalibo. When asked if there was a party, she answered; 'Maybe there was.' When confronted with Exhibit A-1 which is herself in the picture carrying the child, witness identified herself and explained that she was requested to bring the child to the church and that the picture taken together with her brother and Arturio Trinidad and the latter's child was taken during the time when she and Arturio Trinidad did not have a case in court yet. She likewise identified the man with a hat holding a child marked as Exhibit A-2 as her brother, Felix. When asked if the child being carried by her brother, Felix Trinidad, is another child of the plaintiff, witness answered she does not know because her eyes are already blurred. Furthermore, when asked to identify the woman in the picture who was at the right of the child held by her brother, Felix, and who was previously identified by plaintiff, Arturio Trinidad, as his wife, witness answered that she cannot identify because she had a poor eyesight neither can she identify plaintiff, Arturio Trinidad, holding another child in the picture for the same reason. When asked by counsel for the plaintiff if she knows that the one who took this picture was the son of Ambrosio Trinidad by the name of Julito Trinidad who was also their cousin, witness testified that she does not know.

Third witness for the defendants was BEATRIZ TRINIDAD SAYON who testified that she knew Arturio Trinidad because he was her neighbor in Tigayon. In the same manner that she also knew the defendants, Felix and Lourdes, and Inocentes all surnamed Trinidad because they were her cousins. She testified that a few months after the war broke out Inocentes Trinidad died in their lola's house whose names was Eugenia Rufo Trinidad. She further testified that Inocentes Trinidad had lived almost in his lifetime in Manila and he went home only when his father fetched him in Manila because he was already sick. That according to her, about 1 ½ months after his arrival from Manila, Inocentes Trinidad died. She also testified that she knew Felicidad Molato and that Felicidad Molato had never been married to Inocentes Trinidad. According to her, it was in 1941 when Inocentes Trinidad died. According to her she was born in 1928, therefore, she was 13 or 14 years old when the war broke out. When asked if she can remember that it was only in the early months of the year 1943 when the Japanese occupied Kalibo, she said she [was] not sure. She further testified that Inocentes Trinidad was buried in their private lot because Kalibo was then occupied by the Japanese forces and nobody would carry his body to be buried in the Poblacion.

For rebuttal evidence, [petitioner] presented ISABEL MEREN, who was 76 years old and a resident of Tigayon. Rebuttal witness testified that xxx she knew both the [petitioner] and the [private respondents] in this case very well as her house is only around 200 meters from them. When asked if it is true that according to

Lourdes Trinidad, [Inocentes Trinidad] arrived from Manila in 1941 and he lived only for 15 days and died, witness testified that he did not die in that year because he died in the year 1944, and that Inocentes Trinidad lived with his sister, Lourdes Trinidad, in a house which is only across the street from her house. According to the said rebuttal witness, it is not true that Inocentes Trinidad died single because he had a wife by the name of Felicidad Molato whom he married on May 5, 1942 in New Washington, Aklan. That she knew this fact because she was personally present when couple was married by Lauriano Lajaylajay, a protestant pastor.

On cross examination, rebuttal witness testified that when Inocentes Trinidad arrived from Manila he was in good physical condition. That she knew both Inocentes Trinidad and Felicidad Molato to be Catholics but that according to her, their marriage was solemnized by a Protestant minister and she was one of the sponsors. That during the marriage of Inocentes Trinidad and Felicidad Molato, Lourdes Trinidad and Felix Trinidad were also present.

When plaintiff, ARTURIO TRINIDAD, was presented as rebuttal witness, he was not able to present a marriage contract of his parents but instead a certification dated September 5, 1978 issued by one Remedios Eleserio of the Local Civil Registrar of the Municipality of New Washington, Aklan, attesting to the fact that records of births, deaths, and marriages in the municipality of New Washington were destroyed during the Japanese time.”

Respondent Court’s Ruling

In finding that petitioner was not a child, legitimate or otherwise, of the late Inocentes Trinidad, Respondent Court ruled:[14]

“We sustain the appeal on the ground that plaintiff has not adduced sufficient evidence to prove that he is the son of the late Inocentes Trinidad. But the action to claim legitimacy has not prescribed.

Plaintiff has not established that he was recognized, as a legitimate son of the late Inocentes Trinidad, in the record of birth or a final judgment, in a public document or a private handwritten instrument, or that he was in continuous possession of the status of a legitimate child.

Two witnesses, Pedro Briones and Beatriz Trinidad Sayon, testified for the defendants that Inocentes Trinidad never married. He died single in 1941. One witness, Isabel Maren, testified in rebuttal for the plaintiff, that Inocentes Trinidad married Felicidad Molato in New Washington, Aklan, on May 5, 1942, solemnized by a pastor of the protestant church and that she attended the wedding ceremony (t.s.n. Sept. 6, 1988, p. 4). Hence, there was no preponderant evidence of the marriage, nor of Inocentes’ acknowledgment of plaintiff as his son, who was born on July 21, 1943.

The right to demand partition does not prescribe (de Castro vs. Echarri, 20 Phil. 23). Where one of the interested parties openly and adversely occupies the property without recognizing the co-ownership (Cordova vs. Cordova, L-9936, January 14, 1958) acquisitive prescription may set in (Florenz D. Regalado, Remedial Law Compendium, Vol. I, Fifth Revised Edition, 1988, p. 497). Admittedly, the defendants have been in possession of the parcels of land involved in the concept of owners since their father died in 1940. Even if possession be counted from 1964, when plaintiff attained the age of majority, still, defendants possessed the land for more than ten (10) years, thus acquiring ownership of the same by acquisitive prescription (Article 1134, Civil Code of the Philippines).”

The Issues

Petitioner submits the following issues for resolution:[15]

“1. Whether or not petitioner (plaintiff-appellee) has proven by preponderant evidence the marriage of his parents.

2. Whether or not petitioner (plaintiff-appellee) has adduced sufficient evidence to prove that he is the son of the late Inocentes Trinidad, brother of private respondents (defendants-appellants) Felix and Lourdes Trinidad.
3. Whether or not the Family Code is applicable to the case at bar[,] the decision of the Regional Trial Court having been promulgated on July 4, 1989, after the Family Code became effective on August 3, 1988.
4. Whether or not petitioner's status as a legitimate child can be attacked collaterally by the private respondents.
5. Whether or not private respondent (defendants-appellants) have acquired ownership of the properties in question by acquisitive prescription."

Simply stated, the main issues raised in this petition are:

1. Did petitioner present sufficient evidence of his parents' marriage and of his filiation?
2. Was petitioner's status as a legitimate child subject to collateral attack in the action for partition?
3. Was his claim time-barred under the rules on acquisitive prescription?

The Court's Ruling

The merits of this petition are patent. The partition of the late Patricio's real properties requires preponderant proof that petitioner is a co-owner or co-heir of the decedent's estate.[16] His right as a co-owner would, in turn, depend on whether he was born during the existence of a valid and subsisting marriage between his mother (Felicidad) and his putative father (Inocentes). This Court holds that such burden was successfully discharged by petitioner and, thus, the reversal of the assailed Decision and Resolution is inevitable.

First and Second Issues: Evidence of and Collateral

Attack on Filiation

At the outset, we stress that an appellate court's assessment of the evidence presented by the parties will not, as a rule, be disturbed because the Supreme Court is not a trier of facts. But in the face of the contradictory conclusions of the appellate and the trial courts, such rule does not apply here. So, we had to meticulously pore over the records and the evidence adduced in this case.[17]

Petitioner's first burden is to prove that Inocentes and his mother (Felicidad) were validly married, and that he was born during the subsistence of their marriage. This, according to Respondent Court, he failed to accomplish.

This Court disagrees. *Pugeda vs. Trias*[18] ruled that when the question of whether a marriage has been contracted arises in litigation, said marriage may be proven by relevant evidence. To prove the fact of marriage, the following would constitute competent evidence: the testimony of a witness to the matrimony, the couple's public and open cohabitation as husband and wife after the alleged wedlock, the birth and the baptismal certificates of children born during such union, and the mention of such nuptial in subsequent documents.[19]

In the case at bar, petitioner secured a certification[20] from the Office of the Civil Registrar of Aklan that all records of births, deaths and marriages were either lost, burned or destroyed during the Japanese occupation of said municipality. This fact, however, is not fatal to petitioner's case. Although the marriage contract is considered the primary evidence of the marital union, petitioner's failure to present it is not proof that no marriage took place, as other forms of relevant evidence may take its place.[21]

In place of a marriage contract, two witnesses were presented by petitioner: Isabel Meren, who testified that she was present during the nuptial of Felicidad and Inocentes on May 5, 1942 in New Washington, Aklan; and Jovita

Gerardo, who testified that the couple deported themselves as husband and wife after the marriage. Gerardo, the 77-year old barangay captain of Tigayon and former board member of the local parent-teachers' association, used to visit Inocentes and Felicidad's house twice or thrice a week, as she lived only thirty meters away.[22] On July 21, 1943, Gerardo dropped by Inocentes' house when Felicidad gave birth to petitioner. She also attended petitioner's baptismal party held at the same house.[23] Her testimony constitutes evidence of common reputation respecting marriage.[24] It further gives rise to the disputable presumption that a man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage.[25] Petitioner also presented his baptismal certificate (Exhibit C) in which Inocentes and Felicidad were named as the child's father and mother.[26]

On the other hand, filiation may be proven by the following:

“ART. 265. The filiation of legitimate children is proved by the record of birth appearing in the Civil Register, or by an authentic document or a final judgment.

ART. 266. In the absence of the titles indicated in the preceding article, the filiation shall be proved by the continuous possession of status of a legitimate child.

ART. 267. In the absence of a record of birth, authentic document, final judgment or possession of status, legitimate filiation may be proved by any other means allowed by the Rules of Court and special laws.”[27]

Petitioner submitted in evidence a certification[28] that records relative to his birth were either destroyed during the last world war or burned when the old town hall was razed to the ground on June 17, 1956. To prove his filiation, he presented in evidence two family pictures, his baptismal certificate and Gerardo's testimony.

The first family picture (Exhibit A) shows petitioner (Exhibit A-5) carrying his second daughter and his wife (Exhibit A-4) together with the late Felix Trinidad (Exhibit A-2) carrying petitioner's first daughter, and Lourdes Trinidad (Exhibit A-1). Exhibit B is another picture showing Lourdes Trinidad (Exhibit B-1) carrying petitioner's first child (Exhibit B-2). These pictures were taken before the case was instituted. Although they do not directly prove petitioner's filiation to Inocentes, they show that petitioner was accepted by the private respondents as Inocentes' legitimate son ante litem motam.

Lourdes' denials of these pictures are hollow and evasive. While she admitted that Exhibit B shows her holding Clarita Trinidad, the petitioner's daughter, she demurred that she did so only because she was requested to carry the child before she was baptized.[29] When shown Exhibit A, she recognized her late brother -- but not petitioner, his wife and the couple's children -- slyly explaining that she could not clearly see because of an alleged eye defect.[30]

Although a baptismal certificate is indeed not a conclusive proof of filiation, it is one of “the other means allowed under the Rules of Court and special laws” to show pedigree, as this Court ruled in *Mendoza vs. Court of Appeals*: [31]

“What both the trial court and the respondent court did not take into account is that an illegitimate child is allowed to establish his claimed filiation by ‘any other means allowed by the Rules of Court and special laws,’ according to the Civil Code, or ‘by evidence of proof in his favor that the defendant is her father,’ according to the Family Code. Such evidence may consist of his baptismal certificate, a judicial admission, a family Bible in which his name has been entered, common reputation respecting his pedigree, admission by silence, the testimony of witnesses, and other kinds of proof admissible under Rule 130 of the Rules of Court. [Justice Alicia Sempio-Diy, *Handbook on the Family Code of the Phil.* 1988 ed., p. 246]”

Concededly, because Gerardo was not shown to be a member of the Trinidad family by either consanguinity or

affinity,[32] her testimony does not constitute family reputation regarding pedigree. Hence, it cannot, by itself, be used to establish petitioner's legitimacy.

Be that as it may, the totality of petitioner's positive evidence clearly preponderates over private respondents' self-serving negations. In sum, private respondents' thesis is that Inocentes died unwed and without issue in March 1941. Private respondents' witness, Pedro Briones, testified that Inocentes died in 1940 and was buried in the estate of the Trinidads, because nobody was willing to carry the coffin to the cemetery in Kalibo, which was then occupied by the Japanese forces. His testimony, however, is far from credible because he stayed with the Trinidads for only three months, and his answers on direct examination were noncommittal and evasive:[33]

“Q: At the time of his death, can you tell the Court if this Inocentes Trinidad was married or not?

A: Not married.

Q: In 1940 at the time of death of Inocentes Trinidad, where were you residing?

A: I was staying with them.

Q: When you said ‘them’, to whom are you referring to [sic]?

A: My aunt Nanay Taya, Anastacia.

xxx xxx xxx

Q: Will you please tell the Court for how long did you stay with your aunt Anastacia Trinidad and his children before 1940?

A: For only three months.

Q: Now, you said at the time of his death, Inocentes Trinidad was single. Do you know if he had cohabited with anybody before his death?

A: [T]hat I do not know.

Q: You know a person by the name of Felicidad Molato?

A: No, sir.

Q: Can you recall if during the lifetime of Inocentes Trinidad if you have known of anybody with whom he has lived as husband and wife?

A: I could not recall because I was then in Manila working.

Q: After the war, do you remember having gone back to the house of your aunt Anastacia at Tigayon, Kalibo, Aklan?

A: Yes, sir,

Q: How often did you go to the house of your aunt?

A: Every Sunday.

xxx xxx xxx

Q: You know the plaintiff Arturo Trinidad?

A: I do not know him.

Q: After the death of Inocentes Trinidad, do you know if there was anybody who has stayed with the

defendants who claimed to be a son of Inocentes Trinidad?

A: I do not know about that.”

Beatriz Sayon, the other witness of private respondent, testified that, when the Japanese occupied Kalibo in 1941, her father brought Inocentes from Manila to Tigayon because he was sick. Inocentes stayed with their grandmother, Eugenia Roco Trinidad, and died single and without issue in March 1941, one and a half months after his return to Tigayon. She knew Felicidad Molato, who was also a resident of Tigayon, but denied that Felicidad was ever married to Inocentes.[34]

Taking judicial notice that World War II did not start until December 7, 1941 with the bombing of Pearl Harbor in Hawaii, the trial court was not convinced that Inocentes died in March 1941.[35] The Japanese forces occupied Manila only on January 2, 1942;[36] thus, it stands to reason that Aklan was not occupied until then. It was only then that local residents were unwilling to bury their dead in the cemetery in Kalibo, because of the Japanese soldiers who were roaming around the area.[37]

Furthermore, petitioner consistently used Inocentes’ surname (Trinidad) without objection from private respondents -- a presumptive proof of his status as Inocentes’ legitimate child.[38]

Preponderant evidence means that, as a whole, the evidence adduced by one side outweighs that of the adverse party.[39] Compared to the detailed (even if awkwardly written) ruling of the trial court, Respondent Court’s holding that petitioner failed to prove his legitimate filiation to Inocentes is unconvincing. In determining where the preponderance of evidence lies, a trial court may consider all the facts and circumstances of the case, including the witnesses’ manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts, the probability or improbability of their testimony, their interest or want thereof, and their personal credibility.[40] Applying this rule, the trial court significantly and convincingly held that the weight of evidence was in petitioner’s favor. It declared:

“xxx [O]ne thing sure is the fact that plaintiff had lived with defendants enjoying the status of being their nephew xxx before plaintiff [had] gotten married and had a family of his own where later on he started demanding for the partition of the share of his father, Inocentes. The fact that plaintiff had so lived with the defendants xxx is shown by the alleged family pictures, Exhibits A & B. These family pictures were taken at a time when plaintiff had not broached the idea of getting his father’s share. xxxx His demand for the partition of the share of his father provoked the ire of the defendants, thus, they disowned him as their nephew. xxxx In this case, the plaintiff enjoyed the continuous possession of a status of the child of the alleged father by the direct acts of the defendants themselves, which status was only broken when plaintiff demanded for the partition xxx as he was already having a family of his own. xxxx.

However, the disowning by the defendant [private respondent herein], Lourdes Trinidad, of the plaintiff [petitioner herein] being her nephew is offset by the preponderance of evidence, among them the testimony of witness, Jovita Gerardo, who is the barrio captain. This witness was already 77 years old at the time she testified. Said witness had no reason to favor the plaintiff. She had been a PTA officer and the court sized her up as a civic minded person. She has nothing to gain in this case as compared to the witness for the defendants who are either cousin or nephew of Lourdes Trinidad who stands to gain in the case for defendant, Lourdes Trinidad, being already 75 years old, has no husband nor children.”[41]

Doctrinally, a collateral attack on filiation is not permitted.[42] Rather than rely on this axiom, petitioner chose to present evidence of his filiation and of his parents’ marriage. Hence, there is no more need to rule on the application of this doctrine to petitioner’s cause.

Third Issue: No Acquisitive Prescription

Respondent Court ruled that, because acquisitive prescription sets in when one of the interested parties openly and adversely occupies the property without recognizing the co-ownership, and because private respondents had been in possession -- in the concept of owners -- of the parcels of land in issue since Patricio died in 1940, they acquired ownership of these parcels.

The Court disagrees. Private respondents have not acquired ownership of the property in question by acquisitive prescription. In a co-ownership, the act of one benefits all the other co-owners, unless the former repudiates the co-ownership.[43] Thus, no prescription runs in favor of a co-owner or co-heir against his or her co-owners or co-heirs, so long as he or she expressly or impliedly recognizes the co-ownership.

In this particular case, it is undisputed that, prior to the action for partition, petitioner, in the concept of a co-owner, was receiving from private respondents his share of the produce of the land in dispute. Until such time, recognition of the co-ownership by private respondents was beyond question. There is no evidence, either, of their repudiation, if any, of the co-ownership of petitioner's father Inocentes over the land. Further, the titles of these pieces of land were still in their father's name. Although private respondents had possessed these parcels openly since 1940 and had not shared with petitioner the produce of the land during the pendency of this case, still, they manifested no repudiation of the co-ownership. In *Mariategui vs. Court of Appeals*, the Court held:[44]

“x x x Corollarily, prescription does not run against private respondents with respect to the filing of the action for partition so long as the heirs for whose benefit prescription is invoked, have not expressly or impliedly repudiated the co-ownership. In other words, prescription of an action for partition does not lie except when the co-ownership is properly repudiated by the co-owner (*Del Banco vs. Intermediate Appellate Court*, 156 SCRA 55 [1987] citing *Jardin vs. Hollasco*, 117 SCRA 532 [1982]).

Otherwise stated, a co-owner cannot acquire by prescription the share of the other co-owners absent a clear repudiation of co-ownership duly communicated to the other co-owners (*Mariano vs. De Vega*, 148 SCRA 342 [1987]). Furthermore, an action to demand partition is imprescriptible and cannot be barred by laches (*Del Banco vs. IAC*, 156 SCRA 55 (1987)). On the other hand, an action for partition may be seen to be at once an action for declaration of co-ownership and for segregation and conveyance of a determinate portion of the property involved (*Roque vs. IAC*, 165 SCRA 118 [1988]).”

Considering the foregoing, Respondent Court committed reversible error in holding that petitioner's claim over the land in dispute was time-barred.

WHEREFORE, the petition is GRANTED and the assailed Decision and Resolution are REVERSED and SET ASIDE. The trial court's decision dated July 4, 1989 is REINSTATED. No costs.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Quisumbing, JJ., concur.

[1] Fifteenth Division composed of J. Bernardo P. Pardo, ponente; and JJ. Justo P. Torres, Jr., (now a retired associate justice of this Court) and Antonio P. Solano, concurring;

[2] Rollo, pp 114-117.

[3] Rollo, p 141.

[4] Records, p. 1.

[5] The case was later transferred to Branch VI, presided by Judge Jaime D. Discaya, and then to Branch VIII,

presided by Judge Emma C. Labayen.

[6] Records, p. 68; TSN, July 17, 1984, p. 2.

[7] Penned by Judge Labayen.

[8] Rollo, p 90; Regional Trial Court's decision, p 20.

[9] Rollo, p. 90.

[10] Rollo, p. 141.

[11] The case was deemed submitted for resolution upon receipt by this Court of the private respondents' two-page Memorandum on August 15, 1997.

[12] Rollo, pp 114-115.

[13] Rollo, pp. 74-85.

[14] Rollo, pp. 115-116; Decision, pp 2-3.

[15] The 51-page petition was signed by Attys. Al A. Castro, Florecita V. Bilbes and Teresita S. de Guzman of the Public Attorney's Office; Rollo, pp 21-22.

[16] De Mesa vs. Court of Appeals, 231 SCRA 773, 779-780, April 25, 1994, per Regalado, J.

[17] Quebral vs. . Court of Appeals, 252 SCRA 353, 364, January 25, 1996; Edra vs. Intermediate Appellate Court, 179 SCRA 344, 350, November 13, 1989; and Pacmac, Inc. vs. Intermediate Appellate Court, 150 SCRA 555, 560, May 29, 1987.

[18] 4 SCRA 849, 855, March 31, 1962, per Labrador, J.

[19] *Ibid.*

[20] Exh. I, Folder of Exhibits.

[21] Balogbog vs. Court of Appeals, 269 SCRA 259, 266-267, March 7, 1997; Lim Tanhu vs. Ramolete, 66 SCRA 425, 469, August 29, 1975.

[22] TSN, July 30, 1981, p. 6.

[23] *Ibid.*, pp 1-17; TSN, October 30, 1981, pp 18-26; TSN, March 5, 1982, pp 27-36.

[24] Section 41, Rule 130 of the Rules on Evidence.

[25] Section 3(aa), Rule 131, Rules; and Vitug, Compendium of Civil Law and Jurisprudence, revised ed., 1993, p. 131, citing Rivera vs. Intermediate Court of Appeals, 182 SCRA 322; De Labuca vs. Workmen's Compensation Commission, 77 SCRA 31; and Alvado vs. City Government of Tacloban, 139 SCRA 230.

[26] Exhs. C-1 and C-2, Folder of Exhibits.

[27] Now Arts. 170 & 171 of the Family Code; and Vitug, *supra.*, pp.223-224.

[28] Exh. D, Folder of Exhibits.

[29] TSN, February 3, 1988, p. 6.

[30] *Ibid.*, p. 8.

- [31] 201 SCRA 675, 684, September 24, 1991, per Cruz, J.; and Uyguangco vs. Court of Appeals, 178 SCRA 684, 689, October 26, 1989.
- [32] Sec. 40, Rule 130, Rules on Evidence.
- [33] TSN, August 29, 1986, pp. 4-6.
- [34] TSN, March 17, 1988, pp. 2-5.
- [35] RTC Decision, p. 16; Rollo, p. 86.
- [36] Zaide, Philippine Political and Cultural History, Vol. II, revised ed., 1957, p. 341.
- [37] Rollo, p. 86.
- [38] Mendoza vs. CA, supra, pp. 683-684.
- [39] Summa Insurance Corp. vs. Court of Appeals, 253 SCRA 175, 185, February 5, 1996; New Testament Church of God vs. Court of Appeals, 246 SCRA 266, 269, July 14, 1995; Sapu-an vs. Court of Appeals, 214 SCRA 701, 706, October 19, 1992; Republic vs. Court of Appeals, *ibid.*
- [40] *Ibid.*; and Francisco, Basic Evidence, 1991 ed., p. 491.
- [41] Rollo, pp. 89-90.
- [42] Sayson vs. Court of Appeals, 205 SCRA 321, January 23, 1992; Rosales vs. Castillo Rosales, 132 SCRA 132, 141-142, September 28, 1984; and Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. I, 1990 ed., pp. 535-536.
- [43] Art. 494, Civil Code.
- [44] 205 SCRA 337, 345-346, January 24, 1992, per Bidin, J.

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