ALEJANDRA ARADO HEIRS: JESUSA ARADO, VICTORIANO ALCORIZA, PEDRO ARADO, HEIRS: JUDITHO ARADO, JENNIFER ARADO, BOBBIE ZITO ARADO, SHIRLY ABAD, ANTONIETA ARADO, NELSON SOMOZA, JUVE...

G.R. No. 163362. July 08, 2015

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

Under review on certiorari is the decision promulgated on February 28, 2003,[1] whereby the Court of Appeals (CA) affirmed the judgment rendered on January 15, 1997 by the Regional Trial Court, Branch 43, in Dumaguete City (RTC)[2] dismissing the complaint and the counterclaim for being without merit.

Antecedents

Raymundo Alcoran (Raymundo) was married to Joaquina Arado (Joaquina), and their marriage produced a son named Nicolas Alcoran (Nicolas).[3] In turn, Nicolas married Florencia Limpahan (Florencia)[4] but their union had no offspring. During their marriage, however, Nicolas had an extramarital affair with Francisca Sarita (Francisca), who gave birth to respondent Anacleto Alcoran (Anacleto) on July 13, 1951[5] during the subsistence of Nicolas' marriage to Florencia.[6] In 1972, Anacleto married Elenette Sonjaco.[7]

Raymundo died in 1939, while Nicolas died m 1954. Likewise, Florencia died in 1960, and Joaquina in 1981.[8]

Florencia had three siblings, namely: Sulpicio, Braulia and Veronica Limpahan.[9] Joaquina had four siblings, i.e., Alejandra, Nemesio, Celedonia and Melania, all surnamed Arado.[10] Nemesio had six children, namely: (1) Jesusa, who was married to Victoriano Alcoriza; (2) Pedro, who was married to Tomasa Arado; (3) Teodorico; (4) Josefina; (5) Gliceria;[11] and (6) Felicisima.[12] During the pendency of the case, Pedro died, and was substituted by his following heirs, to wit: (1) Juditho and his spouse, Jennifer Ebrole; (2) Bobbie Zito and his spouse, Shirly Abad; (3) Juvenil and his spouse, Nicetas Ventula; (4) Antonieta and her spouse, Nelson Somoza; and (5) Nila.

On January 14, 1992, Alejandra, Jesusa, Victoriano Alcoriza, Pedro and Tomasa filed in the RTC a complaint for recovery of property and damages (with application for a writ of preliminary mandatory injunction) against Anacleto and Elenette.[13] Named as unwilling co-plaintiffs were Sulpicio, Braulia and Veronica Limpahan, along with Teodorico, Josefina, Gliceria and Felicisima.

The properties subject of the action were the following: (1) Lot No. 4100, covered by Original Certificate of Title (OCT) No. OV-1379; (2) Lot No. 4054, covered by OCT No. OV-1380; (3) a parcel of land covered by Tax Declaration No. 6065; (4) a parcel of land covered by Tax Declaration No. 20470; (5) a parcel of land covered by Tax Declaration No. 11-028-A; (6) Lot No. 709 covered by OCT No. OV-7784; (7) a parcel of land covered by Tax Declaration No. 87-011-215-A; (8) a parcel of land covered by Tax Declaration No. 87-011-217; (9) Lot No. 5234 covered by OCT No. 3489-A; and (10) Lot No. 5224 covered by Tax Declaration No. 8-201.[14] The parties

later stipulated that the first eight of the subject properties had previously belonged to Raymundo, while the last two had been the paraphernal properties of Joaquina.[15]

The plaintiffs alleged in their complaint that when Raymundo died in 1939, his properties were inherited by his son Nicolas alone "as it was during the period of the old Civil Code, where the spouse could not inherit but only a share of the usufruct, which was extinguished upon the death of the usufructuary;"[16] that when Nicolas died in 1954 without issue, half of his properties were inherited by his wife, Florencia, and the other half by his mother, Joaquina; that Florencia was, in turn, succeeded by her siblings Sulpicio, Braulia and Veronica; that during the marriage of Nicolas and Florencia, the former had an affair with Francisca, from which affair Anacleto was born, but it was unknown whether he was the spurious son of Nicolas; that Nicolas did not recognize Anacleto as his spurious child during Nicolas' lifetime; hence, Anacleto was not entitled to inherit from Nicolas; that nonetheless, Anacleto claimed entitlement to the properties as the heir of Nicolas and by virtue of the will executed by Joaquina; that the will was void for not having been executed according to the formalities of the law, and the same did not reflect the true intention of Joaquina; that the supposed testator did not acknowledge the will, which was not submitted for probate; that they were the rightful heirs to the properties; that notwithstanding their repeated demands for the return of the properties, the defendants persistently refused; that a writ of preliminary mandatory injunction should issue to prevent the defendants from further violating their rights in the properties; and that the defendants should be ordered to reconvey the properties, and to pay; P20,000.00 as actual damages; P20,000.00 as moral and exemplary damages, and P20,000.00 as attorney's fees.[17]

In their answer,[18] the defendants (respondents herein) countered that Anacleto was expressly recognized by Nicolas as the latter's son, a fact evidenced by the certificate of birth of Anacleto; that Anacleto thus had the right to inherit the properties from Nicolas; that because Anacleto was still too young when Nicolas died, the administration of the properties passed to Anacleto's grandmother, Joaquina; that Joaquina executed a last will and testament in Anacleto's favor; that Joaquina's possession of the properties was for and in behalf of Anacleto, who had been living with her since his birth; that such possession began in 1954 when Nicolas died and continued until Joaquina's death in 1981; that Anacleto then took over the possession of the properties to the exclusion of all others; that granting for the sake of argument that the plaintiffs had rights in the properties, the same were already lost through laches, estoppel and prescription; and that Anacleto was the rightful owner of the properties, and his ownership and possession should not be disturbed.

By way of counterclaim, the defendants prayed that the plaintiffs be ordered to pay 50,000.00 as moral damages, 1,000.00 "as initial expenses as costs of this litigation which will increase as the case progresses"[19] and 10,000.00 as attorney's fees.

Veronica Limpahan and Sulpicio Limpahan likewise filed their answer[20] to the complaint, stating that they were not interested in pursuing any claim of ownership in the properties; that assuming that they were entitled, they were abandoning their rights, interests, title and participation in the properties; and that they be excluded from further court processes.

Judgment of the RTC

On January 15, 1997, the RTC rendered judgment, decreeing thusly:

> Wherefore, premises considered, judgment is hereby rendered dismissing the complaint and the counterclaim for lack of merit.
>
> Costs against the plaintiffs.
>
> SO ORDERED.[21]

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The RTC opined that Anacleto established that he was really the acknowledged illegitimate son of Nicolas. It cited the certificate of birth of Anacleto (Exhibit 4) and Page 53, Book 4, Register No. 214 of the Register of Births of the Municipality of Bacong (Exhibit 3), which proved that Nicolas had himself caused the registration of Anacleto's birth by providing the details thereof and indicating that he was the father of Anacleto. It observed that the name of Nicolas appeared under the column "Remarks" in the register of births, which was the space provided for the name of the informant; that because the plaintiffs did not present evidence to refute the entry in the register of births, the entry became conclusive with respect to the facts contained therein; that Anacleto's claim of recognition was bolstered by his baptismal certificate (Exhibit F), in which was indicated that his parents were Nicolas Alcoran and Francisca Sarita; that also presented was a picture taken during the wake of Nicolas (Exhibit 5) showing the young Anacleto being carried by Joaquina, and also Nicolas' wife, Florencia; that in addition, the school records of Anacleto (Exhibit 6) showed that Joaquina stood as his guardian during his grade school years; that when Anacleto got married, it was Joaquina who gave consent to his marriage because he was then still a minor (Exhibit 8); and that Joaquina executed her will in 1978 (Exhibit 9), bequeathing the subject properties to Anacleto, but the will was yet to be probated.

As the case was filed during the effectivity of the Family Code, the RTC ruled that Articles 172,[22] 173[23] and 175[24] of the Family Code allowed Anacleto to establish his filiation during his lifetime through the record of his birth appearing in the civil register. It further ruled that because there were no legitimate children of Nicolas who contested Anacleto's right to inherit, the rule on the separation of the legitimate from the illegitimate family was rendered irrelevant; and that, accordingly, Anacleto was entitled to possess the subject properties upon having established that he was the acknowledged illegitimate son of Nicolas. Consequently, it also dismissed the defendants' counterclaim for lack of sufficient basis.

The plaintiffs appealed to the CA.[25]

Decision of the CA

On February 28, 2003, the CA promulgated its decision,[26] affirming the judgment of the RTC in this wise:

> WHEREFORE, premises considered, the instant appeal is hereby DISMISSED. Accordingly, the Decision of the Regional Trial Court of Dumaguete City, Branch 43 stands.

The CA sustained the ruling of the RTC to the effect that Anacleto was an acknowledged illegitimate son of Nicolas. It agreed that the Register of Births of the Municipality of Bacong, Negros Oriental showed that Nicolas was the father of Anacleto, and that the former had supplied the information on the latter's birth. It declared that the plaintiffs did not rebut the filiation of Anacleto by contrary evidence; that the baptismal certificate of Anacleto and the picture taken during the wake of Nicolas further showed that Anacleto had been acknowledged by Nicolas; that based on the Articles 172, 173 and 175 of the Family Code, the law applicable at the time of the filing of the case, Anacleto's filiation was established by the record of his birth appearing in the civil register; and that Anacleto possessed rights in the subject properties.

Anent the successional rights of the parties, the CA pronounced that after Raymundo died in 1939, his wife, Joaquina, and his son, Nicolas, inherited his properties; that when Nicolas died in 1954, he was survived by Joaquina (his mother), Florencia (his legitimate wife), and Anacleto (his illegitimate son); that Joaquina was entitled to one-half of Nicolas' estate, and the remaining half should be divided between Florencia and Anacleto; that in 1960, when Florencia died without issue, the share she had inherited from Nicolas was inherited by her siblings Sulpicio, Braulia and Veronica; and that when Joaquina died in 1981, she was survived by her sibling Alejandra; her nieces Jesusa,[27] Josefina, Gliceria and Felicisima; her nephews Pedro and Teodorico; and her illegitimate grandson, Anacleto.

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The CA declared that the plaintiffs were already barred from asserting their rights in the properties by estoppel by laches; that Joaquina had executed her last will and testament on April 19, 1978, whereby she bequeathed her properties to Anacleto; that the properties were thus transmitted to Anacleto upon her death in 1981; that the plaintiffs filed their complaint in the RTC only on January 14, 1992; that it would be unjust to award the subject properties to the plaintiffs who had slept on their rights for a long time; and that the plaintiffs could probably pursue their claim in the appropriate intestate or testate proceedings.

The plaintiffs filed a Motion for Reconsideration,[28] but the CA denied their motion on March 24, 2004.

Issues

In this appeal, the plaintiffs, herein petitioners,[29] implore the Court to nullify the assailed rulings of the CA, and to determine once and for all the following issues:

(a) Whether Anacleto Alcoran is the illegitimate son of Nicolas Alcoran x x x; and

(b) Whether he is entitled to the properties in litigation.[30]

The petitioners insist that Anacleto was not duly recognized as Nicolas' illegitimate son; that inasmuch as Anacleto was born to Francisca during the subsistence of Nicolas' marriage to Florencia, Anacleto could only be the spurious child of Nicolas; that there was no law for the acknowledgment of a spurious child; that even if Anacleto would be given the benefit of the doubt and be considered a natural child. Article 278 of the Civil Code states that "[r]ecognition shall be made in the record of birth, a will, a statement before a court of record, or in any authentic writing;" that the appearance of the father's name in the certificate of birth alone, without his actual intervention, was insufficient to prove paternity; that the mere certificate by the civil registrar that the father himself registered the child, without the father's signature, was not proof of the father's voluntary acknowledgment; that the baptismal certificate was insufficient proof of paternity; and that if there was ground for Anacleto's recognition, the period to claim recognition already prescribed.

The petitioners reject the claim of Anacleto that Joaquina bequeathed the subject properties to him by last will and testament. They assail the validity and due execution of the will, which was not submitted for probate; that the joint affidavit allegedly executed in favor of Anacleto by Sulpicio, Braulia and Veronica Limpahan, with Josefina, Gliceria and Felicisima Arado, whereby they ceded their rights in the subject properties in favor of Anacleto, was unwarranted; and that the veracity of the affidavit was doubtful because it was purportedly inconsistent with Anacleto's stance that he had inherited the properties in his own right.

In turn, the defendants, herein respondents, counter that Nicolas recognized Anacleto as his illegitimate child because Nicolas had himself caused the registration of Anacleto's birth; that the petitioners' allegation of prescription lacked basis inasmuch as Anacleto was not seeking compulsory recognition; and that Anacleto had already been voluntarily recognized by Nicolas as his illegitimate son.

Ruling of the Court

We affirm the dismissal of the petitioners' complaint by the RTC, albeit for different reasons.

The complaint filed by the petitioners in the RTC to recover the subject properties is properly characterized as an accion reivindicatoria. According to Cañezo v. Bautista,[31] an "[a]ccion reivindicatoria seeks the recovery of ownership and includes the jus utendi and the jus fruendi brought in the proper regional trial court. Accion reivindicatoria is an action whereby plaintiff alleges ownership over a parcel of land and seeks recovery of its full possession." In essence, the petitioners seek to put an end to Anacleto's possession of the properties on the basis of their being the rightful heirs considering that Anacleto, being the spurious child of Nicolas, held no successional

rights in the estate of Nicolas.

The burden of proof to establish the averments of the complaint by preponderance of evidence pertained to the petitioners as the plaintiffs. In that regard, we have discoursed on preponderance of evidence in Amoroso v. Alegre, Jr.,[32] thusly:

> "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. If plaintiff claims a right granted or created by law, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not upon the weakness of that of his opponent. (Bold underscoring for emphasis)

The petitioners did not discharge their burden of proof.

At the outset, the Court affirms the holding by the RTC and the CA that the provisions of the Family Code[33] should apply because the petitioners' complaint was filed, litigated and decided by the RTC during the effectivity of the Family Code. Under the Family Code, the classification of children is limited to either legitimate or illegitimate.[34] Illegitimate filiation is proved in accordance with Article 175 of the Family Code, to wit:

> ART. 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.
>
> The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article I72, in which case the action may be brought during the lifetime of the alleged parent.

On the other hand, legitimate filiation is established m accordance with Articles 172 and 173 of the Family Code, which state:

> ART. 172. The filiation of legitimate children is established by any of the following:
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> (1) The record of birth appearing in the civil register or a final judgment; or
>
> (2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.
>
> In the absence of the foregoing evidence, the legitimate filiation shall be proved by:
>
> (1) The open and continuous possession of the status of a legitimate child; or laws.
>
> (2) Any other means allowed by the Rules of Court and special
>
> ART. 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.
>
> The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

Rightly enough, the RTC and the CA unanimously concluded that Nicolas had duly acknowledged Anacleto as his illegitimate son. The birth certificate of Anacleto appearing in the Register of Births of the Municipality of Bacong, Negros Oriental (Exhibits 3, 3-A) showed that Nicolas had himself caused the registration of the birth of Anacleto. The showing was by means of the name of Nicolas appearing in the column "Remarks" in Page 53,

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Book 4, Register No. 214 of the Register of Births. Based on the certification (Exhibit 3-B) issued by the Local Civil Registrar of the Municipality of Bacong, Negros Oriental, the column in the Register of Births entitled "Remarks" (Observaciones) was the space provided for the name of the informant of the live birth to be registered. Considering that Nicolas, the putative father, had a direct hand in the preparation of the birth certificate, reliance on the birth certificate of Anacleto as evidence of his paternity was fully warranted.[35]

Anacleto's baptismal certificate (Exhibit 7) was of no consequence in determining his filiation. We have already held in Cabatania v. Court of Appeals[36] that "while a baptismal certificate may be considered a public document, it can only serve as evidence of the administration of the sacrament on the date specified but not the veracity of the entries with respect to the child's paternity;" and that baptismal certificates were "per se inadmissible in evidence as proof of filiation," and thus "cannot be admitted indirectly as circumstantial evidence to prove [filiation]." Hence, we attach no probative value to the baptismal certificate as proof of the filiation of Anacleto.

The weight accorded by the RTC and the CA to the picture depicting the young Anacleto in the arms of Joaquina as she stood beside the coffin of the departed Nicolas (Exhibit 5) was also undeserved. At best, the picture merely manifested that it was Joaquina who had acknowledged her filiation with Anacleto. Cautioning against the admission in evidence of a picture of similar nature, we have pointed out in Solinap v. Locsin, Jr.[37] that:

> [R]espondent's photograph with his mother near the coffin of the late Juan C. Locsin cannot and will not constitute proof of filiation, lest we recklessly set a very dangerous precedent that would encourage and sanction fraudulent claims. Anybody can have a picture taken while standing before a coffin with others and thereafter utilize it in claiming the estate of the deceased.

The school records of Anacleto (Exhibit 6), which evinced that Joaquina was the guardian of Anacleto in his grade school years, and the marriage contract between Anacleto and Elenette (Exhibits 8 to 8-C), which indicated that Joaquina had given consent to Anacleto's marriage, did not have the evidentiary value accorded by the RTC and the CA. Joaquina's apparent recognition of Anacleto mattered little, for, as we stressed in Cenido v. Apacionado,[38] the recognition "must be made personally by the parent himself or herself, not by any brother, sister or relative; after all, the concept of recognition speaks of a voluntary declaration by the parent, of if the parent refuses, by judicial authority, to establish the paternity or maternity of children born outside wedlock."

The lack of probative value of the respondents' aforecited corroborative evidence notwithstanding, Anacleto's recognition as Nicolas' illegitimate child remained beyond question in view of the showing that Nicolas had personally and directly acknowledged Anacleto as his illegitimate son.

How should the acknowledgment of Anacleto by Nicolas affect the respective rights of the parties in relation to the specific properties subject of the complaint?

To recall, the parties stipulated that the first eight of the subject properties had previously belonged to Raymundo, while the remaining two had been the paraphernal properties of Joaquina.

With Raymundo having died in 1939, the Spanish Civil Code of 1889 was the governing law on succession. Under Article 807 thereof,[39] Joaquina and Nicolas, i.e., the surviving spouse and the legitimate son of Raymundo, were the forced heirs who acquired legal title to Raymundo's estate upon his death. In accordance with Article 834 thereof,[40] Nicolas was entitled to inherit the entire estate of Raymundo, while Joaquina was entitled to a portion in usufruct equal to the one third portion available for betterment.

When Nicolas died in 1954, the Civil Code of the Philippines was already in effect.[41] Under Article 1000 thereof,[42] the heirs entitled to inherit from Nicolas's estate were Joaquina (his mother), Florencia (his surviving

spouse), and Anacleto (his acknowledged illegitimate son). Said heirs became co-owners of the properties comprising the entire estate of Nicolas prior to the estate's partition in accordance with Article 1078[43] of the Civil Code.

Anacleto had an established right to inherit from Nicolas, whose estate included the first eight of the subject properties that had previously belonged to Raymundo. Anacleto became a co-owner of said properties, pro indiviso, when Nicolas died in 1954.[44] Likewise, Joaquina succeeded to, and became a pro indiviso co-owner of, the properties that formed part of the estate of Nicolas. When Joaquina died in 1981, her hereditary estate included the two remaining properties, as well as her share in the estate of Nicolas. In as much as Joaquina died without any surviving legitimate descendant, ascendant, illegitimate child or spouse, Article 1003[45] of the Civil Code mandated that her collateral relatives should inherit her entire estate.

Contrary to the rulings of the lower courts, Anacleto was barred by law from inheriting from the estate of Joaquina. To start with, Anacleto could not inherit from Joaquina by right of representation of Nicolas, the legitimate son of Joaquina.[46] Under Article 992 of the Civil Code, an illegitimate child has no right to inherit ab intestato from the legitimate children and relatives of his father or mother; in the same manner, such children or relatives shall not inherit from the illegitimate child. As certified in Diaz v. Intermediate Appellate Court,[47] the right of representation is not available to illegitimate descendants of legitimate children in the inheritance of a legitimate grandparent. And, secondly, Anacleto could not inherit from the estate of Joaquina by virtue of the latter's last will and testament, i.e., the Katapusan Tugon (Testamento) (Exhibit K). Article 838 of the Civil Code dictates that no will shall pass either real or personal property unless the same is proved and allowed in accordance with the Rules of Court. We have clarified in Gallanosa v. Arcangel[48] that in order that a will may take effect, "it has to be probated, legalized or allowed in the proper testamentary proceeding. The probate of the will is mandatory." It appears that such will remained ineffective considering that the records are silent as to whether it had ever been presented for probate, and had been allowed by a court of competent jurisdiction. The petitioners alleged this fact in their complaint, and the respondents did not controvert the allegation. In the absence of proof showing that the supposed will of Joaquina had been duly approved by the competent court, we hold that it had not been so approved. Hence, we cannot sustain the CA's ruling to the effect that Joaquina had bequeathed her properties to Anacleto by will, and that the properties had been transmitted to him upon her death.

As the petitioners were among the collateral relatives of Joaquina, they are the ones entitled to inherit from her estate.

Nonetheless, the petitioners' appeal still fails because the parties did not establish that the estates of Raymundo, Nicolas and Joaquina had been respectively settled with finality through the appropriate testate or intestate proceedings, and partitioned in due course. Unless there was a proper and valid partition of the assets of the respective estates of Raymundo, Nicolas and Joaquina, whether extrajudicially or judicially, their heirs could not adjudicate unto themselves and claim specific portions of their estates, because, as we have declared in Carvajal v. Court of Appeals:[49]

> x x x Unless a project of partition is effected, each heir cannot claim ownership over a definite portion of the inheritance. Without partition, either by agreement between the parties or by judicial proceeding, a co-heir cannot dispose of a specific portion of the estate. For where there are two or more heirs, the whole estate of the decedent is, before its partition, owned in common by such heirs. Upon the death of a person, each of his heirs becomes the undivided owner of the whole estate left with respect to the part or portion which might be adjudicated to him, a community of ownership being thus formed among the co-owners of the estate or co-heirs while it remains undivided.

Without the showing that the respective estates of Raymundo, Nicolas and Joaquina had been previously

partitioned, the Court concludes and holds that none of the parties herein can lay claim over any of the disputed specific properties. The petitioners cannot contend, therefore, that they were the rightful owners of the properties of the late Joaquina to the exclusion of Anacleto. Thus, we uphold the dismissal of the petitioners' complaint for recovery of such properties.

WHEREFORE, the Court AFFIRMS the decision promulgated on February 28, 2003 by the Court of Appeals; and ORDERS the petitioners to pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, Perez, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, pp. 12-23; penned by Associate Justice Bienvenido L. Reyes (now a Member of the Court), with Associate Justice Romeo A. Brawner ((later Presiding Justice/deceased) and Associate Justice Danilo B. Pine (retired) concurring.

[2] Records, pp. 162-172; penned by Judge Winston M. Villegas.

[3] Id. at 56.

[4]Also referred to as Jovencia Limpahan in other parts of the records.

[5] Records, p. 121.

[6] Supra note 3.

[7] Records, p. 125; also referred to as Elenette Sunjaco and Elenetta Alcoran in other parts of the records.

[8] Supra note 3.

[9] Records, pp. 4-5.

[10] Id. at 198-199.

[11] Also referred to as Gleceria Arado in other parts of the records.

[12] Records, pp. 200, 272, 276.

[13] Id. at 1-7.

[14] Id. at 2-4.

[15] Id. at 24, 27, 57.

[16] Id. at 4.

[17] Id. at 4-6.

[18] Id. at 14-18.

[19] Id. at 17.

[20] Id. at 20.

[21] Supra note 2, at 172.

[22] Article 172. The filiation of legitimate children is established by any of the following:

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(1) The record of birth appearing in the civil register or a final judgment; or

(2) An admission of legitimate filiation in a public document or a private handwritten instrument and signed by the parent concerned.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

(1) The open and continuous possession of the status of a legitimate child; or

(2) Any other means allowed by the Rules of Court and special laws.

[23] Article 173. The action to claim legitimacy may be brought by the child during his or her lifetime and shall be transmitted to the heirs should the child die during minority or in a state of insanity. In these cases, the heirs shall have a period of five years within which to institute the action.

The action already commenced by the child shall survive notwithstanding the death of either or both of the parties.

[24] Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.

[25] Records, p. 184.

[26] Supra note 1, at 22.

[27] The CA mistakenly considered Jesusa to be Joaquina's sister.

[28] CA rollo, pp. 91-93.

[29] Rollo, pp. 3-5, Only the following individuals pursued the appeal in this Court:

(1) Jesusa Arado and her spouse Victoriano Alcoriza; and

(2) Tomasa Arado and the heirs of Pedro Arado, namely: (a) Juditho Arado and his spouse, Jennifer Ebrole; (b) Bobbie Zito Arado and his spouse, Shirly Abad; (c) Juvenil Arado and his spouse, Nicetas Ventula; (d) Antonieta Arado and her spouse, Nelson Somoza; and (e) Nila Arado.

[30] Rollo, p. 6.

[31] G.R. No. 170189, September 1, 2010, 629 SCRA 580, 585.

[32] G.R. No. 142766, June 15, 2007, 524 SCRA 641, 652.

[33] The Family Code (Executive Order No. 209) took effect on August 3, 1988. See Tayag v. Court of Appeals, G.R. No. 95229, June 9, 1992, 209 SCRA 665, 675.

[34] Articles 163, 164 and 165 of the Family Code provide:

Article 163. The filiation of children may be by nature or by adoption. Natural filiation may be legitimate or illegitimate.

Article 164. Children conceived or born during the marriage of the parents are legitimate.

Children conceived as a result of artificial insemination of the wife with the sperm of the husband or that of a donor or both are likewise legitimate children of the husband and his wife, provided, that both of them authorized or ratified such insemination in a written instrument executed and signed by them before the birth of the child. The instrument shall be recorded in the civil registry together with the birth certificate of the child.

Article 165. Children conceived and born outside a valid marriage are illegitimate, unless otherwise provided in this Code.

[35] Jison v. Court of Appeals, G.R. No. 124853, February 24, 1998, 286 SCRA 495, 523, where the Court opined:

> "It is settled that a certificate of live birth purportedly identifying the putative father is not competent evidence as to the issue of paternity, when there is no showing that the putative father had a hand in the preparation of said certificates, and the Local Civil Registrar is devoid of authority to record the paternity of an illegitimate child upon the information of a third person. Simply put, if the alleged father did not intervene in the birth certificate, e.g., supplying the information himself: the inscription of his name by the mother or doctor or registrar is null and void: the mere certificate by the registrar without the signature of the father is not proof of voluntary acknowledgment on the latter's part."

[36] G.R. No. 124814, October 21, 2004 ,441 SCRA 96, 104.

[37] G.R. No. 146737, December 10, 2001, 371 SCRA 711, 725.

[38] G.R. No. 132474, November 19, 1999, 318 SCRA 688, 709.

[39] Article 807 of the Civil Code of 1889 provides:

Article 807. The following are forced heirs:

1. Legitimate children and descendants, with respect to their legitimate parents and ascendants;

2. In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants.

3. The widower or widow, natural children legally acknowledged, and the father or the mother of the latter, in the manner and to the extent established by Articles 834, 835, 836, 837, 840, 841, 842, and 846.

[40] Article 834 of the Civil Code of 1889 states:

Article 834. A widower or widow, who on the death of his or her spouse, is not divorced, or should be so by the fault of the deceased, shall be entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children or descendants who has not received any betterment.

If only one legitimate child or descendant survives, the widower or widow shall have the usufruct of the third available for betterment, such child or descendant to have the naked ownership until, on the death of the surviving spouse, the whole title is merged in him.

If the spouses should be separated by a suit for divorce, the result of the suit shall be awaited.

If there should have been a pardon or a reconciliation between the divorced spouses, the survivor shall preserve his or her rights.

[41] The Civil Code took effect on August 30, 1950.

[42] Article 1000. If legitimate ascendants, the surviving spouse, and illegitimate children are left, the ascendants

shall be entitled to one-half of the inheritance, and the other half shall be divided between the surviving spouse and the illegitimate children so that such widow or widower shall have one-fourth of the estate, and the illegitimate children the other fourth.

[43] Article 1078. Where there are two or more heirs, the whole estate of the decedent is, before its partition, owned in common by such heirs, subject to the payment of debts of the deceased.

[44] Article 777. The rights to the succession are transmitted from the moment of the death of the decedent.

[45] Article 1003. If there are no descendants, ascendants, illegitimate children, or a surviving spouse, the collateral relatives shall succeed to the entire estate of the deceased in accordance with the following articles.

[46] Articles 970 and 971 of the Civil Code provides:

Article 970. Representation is a right created by fiction of law, by virtue of which the representative is raised to the place and the degree of the person represented, and acquires the rights which the latter would have if he were living or if he could have inherited.

Article 971. The representative is called to the succession by the law and not by the person represented. The representative does not succeed the person represented but the one whom the person represented would have succeeded.

[47] G.R. No. 66574, February 21, 1990, 182 SCRA 427, 438.

[48] No. L-29300, June 21, 1978, 83 SCRA 676, 683.

[49] No. L-44426, February 25, 1982, 112 SCRA 237, 239.

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