

MARIA DEL ROSARIO MARIATEGUI, ET AL., PETITIONERS, VS. HON. COURT OF APPEALS, JACINTO MARIATEGUI, JULIAN MARIATEGUI AND PAULINA MARIATEGUI, RESPONDENTS.

G.R. No. 57062. January 24, 1992

Ponente: BIDIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-57062/>

BIDIN, J.:

This is a petition for review on certiorari of the decision* of the Court of Appeals dated December 24, 1980 in CA-G.R. No. 61841, entitled "Jacinto Mariategui, et al. v. Maria del Rosario Mariategui, et al.," reversing the judgment of the then Court of First Instance of Rizal, Branch VIII** at Pasig, Metro Manila.

The undisputed facts are as follows:

Lupo Mariategui died without a will on June 26, 1953 (Brief for respondents, Rollo, pp. 116; 8). During his lifetime, Lupo Mariategui contracted three (3) marriages. With his first wife, Eusebia Montellano, who died on November 8, 1904, he begot four (4) children, namely: Baldomera, Maria del Rosario, Urbana and Ireneo. Baldomera died and was survived by her children named Antero, Rufina, Catalino, Maria, Gerardo, Virginia and Federico, all surnamed Espina. Ireneo also died and left a son named Ruperto. With his second wife, Flaviana Montellano, he begot a daughter named Crescenciana who was born on May 8, 1910 (Rollo, Annex "A", p. 36).

Lupo Mariategui and Felipa Velasco (Lupo's third wife) got married sometime in 1930. They had three children, namely: Jacinto, born on July 3, 1929, Julian, born on February 16, 1931 and Paulina, born on April 19, 1938. Felipa Velasco Mariategui died in 1941 (Rollo, Ibid).

At the time of his death, Lupo Mariategui left certain properties which he acquired when he was still unmarried (Brief for respondents, Rollo, pp. 116; 4). These properties are described in the complaint as Lots Nos. 163, 66, 1346 and 156 of the Muntinglupa Estate (Rollo, Annex "A", p. 39).

On December 2, 1967, Lupo's descendants by his first and second marriages, namely, Maria del Rosario, Urbana, Ruperto, Crescencia, all surnamed Mariategui and Antero, Rufina, Catalino, Maria, Gerardo, Virginia and Federico, all surnamed Espina, executed a deed of extrajudicial partition whereby they adjudicated unto themselves Lot No. 163 of the Muntinglupa Estate. There-after, Lot No. 163 was the subject of a voluntary registration proceedings filed by the adjudicatees under Act No. 496, and the land registration court issued a decree ordering the registra-tion of the lot. Thus, on April 1, 1971, OCT No. 8828 was issued in the name of the above-mentioned heirs. Subsequently, the registered owners caused the subdivision of the said lot into Lots Nos. 163-A to 163-H, for which separate transfer certificates of title were issued to the respective parties (Rollo, ibid).

On April 23, 1973, Lupo's children by his third marriage with Felipa Velasco (Jacinto, Julian and Paulina) filed with the lower court an amended complaint claiming that Lot No. 163 together with Lots Nos. 669, 1346 and 154 were owned by their common father, Lupo Mariategui, and that, with the adjudication of Lot No. 163 to their co-heirs, they (children of the third marriage) were deprived of their respective shares in the lots. Plain-tiffs pray

for partition of the estate of their deceased father and annulment of the deed of extrajudicial partition dated December 2, 1967 (Petition, Rollo, p. 10). Cresenciana Mariategui Abas, Flaviana Mariategui Cabrera and Isabel Santos were impleaded in the complaint as unwilling defendants as they would not like to join the suit as plaintiffs although they acknowledged the status and rights of the plaintiffs and agreed to the partition of the parcels of land as well as the accounting of their fruits (Ibid., p. 8; Record on Appeal, p. 4).

The defendants (now petitioners) filed an answer with counterclaim (Amended Record on Appeal, p. 13). Thereafter, they filed a motion to dismiss on the grounds of lack of cause of action and prescriptions. They specifically contended that the complaint was one for recognition of natural children. On August 14, 1974, the motion to dismiss was denied by the trial court, in an order the dispositive portion of which reads:

"It is therefore the opinion of the Court that Articles 278 and 285 of the Civil code cited by counsel for the defendants are of erroneous application to this case. The motion to dismiss is therefore denied for lack of merit.

"SO ORDERED." (Ibid, p. 37).

However, on February 16, 1977, the complaint as well as petitioners' counterclaim were dismissed by the trial court, in its decision stating thus:

"The plaintiffs' right to inherit depends upon the acknowledgment or recognition of their continuous enjoyment and possession of status of children of their supposed father. The evidence fails to sustain either premise, and it is clear that this action cannot be sustained. (Ibid, Rollo, pp. 67-68)

The plaintiffs elevated the case to the Court of Appeals on the ground that the trial court committed an error "x x x in not finding that the parents of the appellants, Lupo Mariategui and Felipa Velasco (were) lawfully married, and in holding (that) they (appellants) are not legitimate children of their said parents, thereby divesting them of their inheritance x x x." (Rollo, pp. 14-15).

On December 24, 1980, the Court of Appeals rendered a decision declaring all the children and descendants of Lupo Mariategui, including appellants Jacinto, Julian and Paulina (children of the third marriage) as entitled to equal shares in the estate of Lupo Mariategui; directing the adjudicatees in the extrajudicial partition of real properties who eventually acquired transfer certificates of title thereto, to execute deeds of reconveyance in favor, and for the shares, of Jacinto, Julian and Paulina provided rights of innocent third persons are not prejudiced otherwise the said adjudicatees shall reimburse the said heirs the fair market value of their shares; and directing all the parties to submit to the lower court a project of partition in the net estate of Lupo Mariategui after payment of taxes, other government charges and outstanding legal obligations.

The defendants-appellees filed a motion for reconsideration of said decision but it was denied for lack of merit. Hence, this petition which was given due course by the court on December 7, 1981.

The petitioners submit to the Court the following issues: (a) whether or not prescription barred private respondents' right to demand the partition of the estate of Lupo Mariategui, and (b) whether or not the private respondents, who belatedly filed the action for recognition, were able to prove their successional rights over said estate. The resolution of these issues hinges, however, on the resolution of the preliminary matter, i.e., the nature of the complaint filed by the private respondents.

The complaint alleged, among other things, that "plaintiffs are the children of the deceased spouses Lupo Mariategui x x x and Felipa Velasco"; that "during his lifetime Lupo Mariategui had repeatedly acknowledged and confirmed plaintiffs as his children and the latter, in turn, have continuously enjoyed such status since their birth"; and "on the basis of their relationship to the deceased Lupo Mariategui and in accordance with the law on intestate succession, plaintiffs are entitled to inherit shares in the foregoing estate (Record on Appeal, pp. 5 & 6).

It prayed, among others, that plaintiffs be declared as children and heirs of Lupo Mariategui and adjudication in favor of plaintiffs their lawful shares in the estate of the decedent (Ibid, p. 10).

A perusal of the entire allegations of the complaint, however, shows that the action is principally one of partition. The allegation with respect to the status of the private respondents was raised only collaterally to assert their rights in the estate of the deceased. Hence, the Court of Appeals correctly adopted the settled rule that the nature of an action filed in court is determined by the facts alleged in the complaint constituting the cause of action (Republic vs. Estenzo, 158 SCRA 282 1988).

It has been held that, if the relief demanded is not the proper one which may be granted under the law, it does not characterize or determine the nature of plaintiffs' action, and the relief to which plaintiff is entitled based on the facts alleged by him in his complaint, although it is not the relief demanded, is what determines the nature of the action (1 Moran, p. 127, 1979 ed., citing Baguioro vs. Barrios, et al., 77 Phil. 120).

With respect to the legal basis of private respondents' demand for partition of the estate of Lupo Mariategui, the Court of Appeals aptly held that the private respondents are legitimate children of the deceased.

Lupo Mariategui and Felipa Velasco were alleged to have been lawfully married in or about 1930. This fact is based on the declaration communicated by Lupo Mariategui to Jacinto who testified that "when (his) father was still living, he was able to mention to (him) that he and (his) mother were able to get married before a Justice of the Peace of Taguig, Rizal." The spouses deported themselves as husband and wife, and were known in the community to be such. Although no marriage certificate was introduced to this effect, no evidence was likewise offered to controvert these facts. Moreover, the mere fact that no record of the marriage exists does not invalidate the marriage, provided all requisites for its validity are present (People vs. Borromeo, 133 SCRA 106 1984).

Under these circumstances, a marriage may be presumed to have taken place between Lupo and Felipa. The laws presume that a man and a woman, deporting themselves as husband and wife, have entered into a lawful contract of marriage; that a child born in lawful wedlock, there being no divorce, absolute or from bed and board is legitimate; and that things have happened according to the ordinary course of nature and the ordinary habits of life (Section 5 (z), (bb), (cc), Rule 131, Rules of Court; Corpus v. Corpus, 85 SCRA 567 1978; Sauraba v. Workmen's Compensation, 85 SCRA 502 1978; Alavado v. City Gov't. of Tacloban, 139 SCRA 230 1985; Reyes v. Court of Appeals, 135 SCRA 439 1985).

Courts look upon the presumption of marriage with great favor as it is founded on the following rationale:

"The basis of human society throughout the civil-ized world is that of marriage. Marriage in this jurisdiction is not only a civil contract, but it is a new relation, an institution in the maintenance of which the public is deeply interested. Consequently, every intendment of the law leans toward legalizing matrimony. Persons dwelling together in apparent matrimony are presumed, in the absence of any counter-presumption or evidence special to that case, to be in fact married. The reason is that such is the common order of society and if the parties were not what they thus hold themselves out as being, they would be living in the constant violation of decency and of law x x x ." (Adong vs. Cheong Seng Gee, 43 Phil. 43, 56 1922)[] quoted in Alavado vs. City Government of Tacloban, 139 SCRA 230 1985).

So much so that once a man and a woman have lived as husband and wife and such relationship is not denied nor contradicted, the presumption of their being married must be admitted as a fact (Alavado v. City Gov't. of Tacloban, supra).

The Civil Code provides for the manner under which legitimate filiation may be proven. However, considering the effectivity of the Family Code of the Philippines, the case at bar must be decided under a new if not entirely dissimilar set of rules because the parties have been overtaken by events, to use the popular phrase (Uyguangco

vs. Court of Appeals, G.R. No. 76873, October 26, 1989). Thus, under Title VI of the Family Code, there are only two classes of children - legitimate and illegitimate. The fine distinctions among various types of il-legitimate children have been eliminated (Castro vs. Court of Appeals, 173 SCRA 656 1989).

Article 172 of the said Code provides that the filiation of legitimate children may be established by the record of birth appearing in the civil register or a final judgment or by the open and continuous possession of the status of a legitimate child.

Evidence on record proves the legitimate filiation of the private respondents. Jacinto's birth certificate is a record of birth referred to in the said article. Again, no evidence which tends to disprove facts contained therein was adduced before the lower court. In the case of the two other private respondents, Julian and Paulina, they may not have presented in evidence any of the documents required by Article 172 but they continuously enjoyed the status of children of Lupo Mariategui in the same manner as their brother Jacinto.

While the trial court found Jacinto's testimonies to be in-consequential and lacking in substance as to certain dates and names of relatives with whom their family resided, these are but minor details. The nagging fact is that for a considerable length of time and despite the death of Felipa in 1941, the private respondents and Lupo lived together until Lupo's death in 1953. It should be noted that even the trial court mentioned in its decision the admission made in the affidavit of Cresenciana Mariategui Abas, one of the petitioners herein, that "x x x Jacinto, Julian and Paulina Mariategui ay pawang mga kapatid ko sa ama x x x" (Exh. M, Record on Appeal, pp. 65-66).

In view of the foregoing, there can be no other conclusion than that private respondents are legitimate children and heirs of Lupo Mariategui and therefore, the time limitation prescribed in Article 285 for filing an action for recognition is inappli-cable to this case. 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 pre-scription 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 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 deter-minate portion of the property involved (Roque vs. IAC, 165 SCRA 118 1988).

Petitioners contend that they have repudiated the co-ownership when they executed the extrajudicial partition excluding the private respondents and registered the properties their own names (Petition, p. 16; Rollo, p. 20). However, no valid repudiation was made by petitioners to the prejudice of private re-spondents. Assuming petitioners' registration of the subject lot in 1971 was an act of repudiation of the co-ownership, prescrip-tion had not yet set in when private respondents filed in 1973 the present action for partition (Ceniza vs. C.A., 181 SCRA 552 1990).

In their complaint, private respondents averred that in spite of their demands, petitioners, except the unwilling defen-dants in the lower court, failed and refused to acknowledge and convey their lawful shares in the estate of their father (Record on Appeal, p. 6). This allegation, though denied by the petitioners in their answer (Ibid, p. 14), was never successfully refuted by them. Put differently, in spite of petitioners' un-disputed knowledge of their relationship to private respondents who are therefore their co-heirs, petitioners fraudulently with-held private respondents' share in the estate of Lupo Mariategui. According to respondent Jacinto, since 1962, he had

been inquir-ing from petitioner Maria del Rosario about their (respondents) share in the property left by their deceased father and had been assured by the latter (Maria del Rosario) not to worry because they will get some shares. As a matter of fact, sometime in 1969, Jacinto constructed a house where he now resides on Lot No. 163 without any complaint from petitioners.

Petitioners' registration of the properties in their names in 1971 did not operate as a valid repudiation of the co-ownership. In *Adille vs. Court of Appeals* (157 SCRA 455, 461-462 1988), the Court held:

"Prescription, as a mode of terminating a rela-tion of co-ownership, must have been preceded by repudiation (of the co-ownership). The act of repudiation, in turn, is subject to certain conditions: (1) a co-owner repudiates the co-ownership; (2) such an act of repudiation is clearly made known to the other co-owners; (3) the evidence thereon is clear and conclusive; and (4) he has been in possession through open, continuous, exclusive, and notorious possession of the property for the period required by law."

x x x x x x x x

"It is true that registration under the Torrens system is constructive notice of title, but it has likewise been our holding that the Torrens title does not furnish shield for fraud. It is therefore no argument to say that the act of registration is equiv-alent to notice of repudiation, assuming there was one, notwithstanding the long-standing rule that registra-tion operates as a universal notice of title."

Inasmuch as petitioners registered the properties in their names in fraud of their co-heirs, prescription can only be deemed to have commenced from the time private respondents dis-covered the petitioners' act of defraudation (*Adille vs. Court of Appeals*, *supra*). Hence, prescription definitely may not be invoked by petitioners because private respondents commenced the instant action barely two months after learning that petitioners had registered in their names the lots involved.

WHEREFORE, the petition is DENIED and the assailed decision of the Court of Appeals dated December 24, 1980 is Affirmed.

SO ORDERED.

Gutierrez, Jr., (Chairman), Feliciano, Davide, Jr., and Romero, JJ., concur.

* Penned by Associate Justice Elias B. Asuncion, concurred by Sison, P.V. and Censon, JJ.

** Presided by Judge Serafin E. Camilon

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.