

**VIRGINIA P. SARMIENTO AND APOLONIA P. CATIBAYAN,
PETITIONERS, VS. COURT OF APPEALS AND SIMON ARGUELLES,
RESPONDENTS.**

G.R. No. 96740, March 25, 1999

Ponente: PURISIMA, J.

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PURISIMA, J.:

At bar is a Petition for Review on Certiorari under Rule 45 of the Revised Rules of Court, seeking to set aside the Decision[1] dated October 26, 1989 and the Resolution[2] dated January 4, 1991, of the Court of Appeals[3] in CA - G.R. CV NO. 11750, reversing the Decision[4], dated May 30, 1986, of Branch XV, Regional Trial Court, in Trece Martires City[5] in Civil Case No. NC - 75.

The antecedent facts that matter are as follows:

Virginia P. Sarmiento and Apolonia P. Catibayan, the petitioners herein, filed a complaint for partition of a piece of land, more particularly described as Lot No. 926 of the Naic Estate, G.L.R.O., Record No. 8340, in Naic, Cavite, with an area of 1, 779 square meters, covered by TCT No. 21877 issued on September 1, 1941 to co-owners, Francisco Arguelles and Petrona Reyes.

Petitioners are sisters, their parents being Tiburcio Pangilinan and Leogarda Arguelles, who died in 1946. Leogarda was the daughter of Francisco Arguelles who died on February 18, 1949 and Emilia Pineli, who died on May 2, 1950. Private respondent Simon Arguelles is a half brother of Leogarda, with Francisco Arguelles as their common father.

Petitioners claim that as granddaughters of Francisco Arguelles, they and private respondent Simon Arguelles are co-owners of the 1/2 portion of Lot No. 926, as the only heirs of the late Francisco Arguelles. But according to private respondent, petitioners are not the legal heirs of Francisco Arguelles because their (petitioners') mother, Leogarda Arguelles, was allegedly an illegitimate child of his father, Francisco Arguelles, and Emilia Pineli who were not married. Under the old Civil Code, which should be applied since Francisco Arguelles died in 1949, before the effectivity of the New Civil Code, an illegitimate child did not have successional rights.

After trial, the lower court came out with a decision ordering the parties herein to partition among themselves subject portion of Lot No. 926; and disposing thus:

"In view of all the foregoing, plaintiffs Virginia P. Sarmiento and Apolonia P. Catibayan and defendant Simon Arguelles are hereby ordered to partition among themselves the one-half portion of lot No. 926 of the Naic Estate, located in Naic, Cavite, covered by Transfer Certificate of Title No. 21877, pertaining to the deceased Francisco Arguelles.

The counterclaim, for lack of merit, is hereby dismissed.

No pronouncement is made as to costs.

SO ORDERED."[6]

Dissatisfied therewith, the private respondents went to the Court of Appeals on a Petition for Review; theorizing that:

"I. The Lower Court erred in holding that Francisco Arguelles and Emilia Pineli were legally married and that Leogardo (sic) Arguelles was their legitimate daughter.

II. The Lower Court erred in not holding that the cause of action of the plaintiffs-appellees if any, had already prescribed.

III. The Lower Court erred in ordering the partition of the property involved in this case among the plaintiffs-appellees and the defendant-appellant."[7]

On October 26, 1989, the Court of Appeals handed down its judgment, reversing the decision of the Regional Trial Court of origin and disposing as follows:

"WHEREFORE, judgment is hereby entered REVERSING the decision appealed from and DISMISSING the complaint for judicial partition. Without pronouncement as to costs.

SO ORDERED."[8]

With the denial of their Motion For Reconsideration on January 4, 1991, petitioners found their way to this court via the present Petition; posing as issues:

"I. WHETHER OR NOT A MAN AND A WOMAN WHO LIVED TOGETHER AS HUSBAND AND WIFE ARE PRESUMED MARRIED; and

II. WHETHER THE BORN OUT OF SUCH MARRIAGE IS LEGITIMATE OR NOT."[9]

The pivotal issue for determination is: whether or not the petitioners offered sufficient evidence to substantiate their submission that Francisco Arguelles and Emilia Pineli were legally married.

Section 3 (aa) of Rule 131 of the Revised Rules of Court provides:

"Section 3. Disputable presumptions. - The following presumptions are satisfactory if uncontradicted, but may be contradicted or overcome by other evidence:

x x x x

(aa) That a man and a woman deporting themselves as husbands and wife have entered into a lawful contract of marriage;

x x x x"

Guided by the aforecited provision of law, the trial court ratiocinated:

"The fact that no marriage certificate of Francisco Arguelles and Emilia Pineli was submitted in evidence does not lead to the conclusion that the said parties were not legally married and that Leogarda was their illegitimate child. The defendant admitted that his father and Emilia Pineli lived and cohabited together as husband and wife, even staying in the same house where he was also residing. The presumption is that `A man and a woman deporting themselves as husband and wife have entered into a lawful contract of marriage (sic) (Sec. 5 (bb), Rule 131, Rules of Court).[10] Every intendment of law or facts leans toward the validity of marriage and the legitimacy of children (Art. 220, Civil Code). In this case, no evidence adduced by defendant Arguelles to rebut this presumption. Neither did he attempt to show that Francisco and Emilia could not validly marry each other because of some legal impediments to their marriage."[11]

While it is true that Francisco Arguelles and Emilia Pineli cohabited as husband and wife, private respondent Simon Arguelles testified that the said cohabitation was without the benefit of marriage. In *People vs. Borromeo*[12], this Court held that persons living together in apparent matrimony are presumed absent any counter presumption or evidence special to the case, to be in fact married.[13]

In the case under consideration, the presumption of marriage, on which the trial court premised its decision, has been sufficiently offset.[14] Records reveal that petitioners tried to justify the non-presentation of the marriage certificate of Francisco and Emilia by submitting a certification issued by Assistant Treasurer Lucila Lucero of Naic, Cavite, to the effect that:

"the Marriage Certificate of Francisco Arguelles married to Emilia Pineli on the 18[th] day of August, 1918 at Naic, Cavite, is no longer available due to destruction of the records during the Japanese occupation, and as such no certified copy of Marriage could be issued to the parties concerned,"[15]

However, Assistant Treasurer Lucila Lucero admitted later[16] on the witness stand that she signed the said certificate prepared by a certain Consuelo Pangilinan, without verifying its correctness. In reality, the records of marriage of Naic are intact. The said records were brought and examined before the trial court, and its pages 20 to 22 containing entries from July 3, 1917 to May 1918 do not reflect the names of Francisco Arguelles and Emilia Pineli.

So also, the death certificate of Francisco Arguelles contained the word "none" opposite the phrase "surviving spouse", indicating that he died a widower on February 18, 1949. His deceased wife was Petrona Reyes, the mother of private respondent.[17]

Then too, TCT No. 21877 covering Lot 926 as well as the reconstituted TCT No. 21877, Rt-19055, show the status of Francisco Arguelles as "widower".[18] On this point, the respondent court said:

"x x x Emilia would not have allowed Francisco Arguelles to place the property in his name alone as widower if in fact they were legally married to each other. If there was a mistake in indicating in the title Francisco's status as a widower, the same could have been easily cured by presenting a petition for correction in the proper court. If it is true, as Tiburcio Pangilinan testified, that the certificate of title was in the possession of Emilia Pineli and was given to him (Tiburcio) before her death, there is no conceivable reason why Emilia never exerted any effort to correct the mistake in the description of Francisco's status in the certificate of title as 'widower' knowing that she would not be able to transmit any part of the property to her heirs upon her death if the error was not corrected. Her omission only serves to bolster the proposition that she had no right to protect, in the first place, because she was not legally married to Francisco."[19]

Consequently, with the presumption of marriage sufficiently overcome, the onus probandi of private respondent shifted to the petitioners. It then became the burden of the petitioners, Virginia P. Sarmiento and Apolonia P. Catibayan, to prove that their deceased grandparents, Francisco Arguelles and Emilia Pineli, were legally married.

In *Trinidad vs. Court of Appeals, et al.*[20], this Court ruled that as proof of marriage may be presented: a) testimony of a witness to the matrimony; b) the couple's public and open cohabitation as husband and wife after the alleged wedlock; c) the birth and baptismal certificate of children born during such union; and d) the mention of such nuptial in subsequent documents.

Pertinent records show that the petitioners failed to substantiate their theory that Francisco Arguelles and Emilia Pineli were married. What is more, the available records of marriage contradict the allegation that Francisco Arguelles and Emilia Pineli were legally married. But petitioners, to whom the burden of proving the fact of marriage shifted, did not present anybody who witnessed the marriage ceremony of Francisco Arguelles and Emilia Pineli. As aptly reasoned out by the respondent court:

"x x x Not one of the three witnesses for plaintiffs ever declared having observed that Francisco and Emilia acted as husband and wife. Tiburcio Pangilinan testified mainly on the fact that he is the father of the plaintiffs and husbands of the late Leogarda Arguelles who was the daughter of Francisco Arguelles and Emilia Pineli. The rest of his testimony touched on the certificate of title covering Lot 926 which Emilia allegedly delivered two weeks before she died but was later on taken from him by defendant. Plaintiffs on their part did not testify that Francisco Arguelles and Emilia Pineli lived together as husband and wife, which may be explained by the fact that Virginia Sarmiento and Apolonia Catibayan were only 6 and 5 years old, respectively, when Emilia Pineli died and were then too young to perceive the nature of whatever the relationship existed Francisco and Emilia." [21]

Evidently, petitioners relied mainly on the legal presumption that Francisco Arguelles and Emilia Pineli were married, without introducing any evidence to prove the marriage theorized upon.

In a belated attempt to establish the legitimacy of Leogarda Arguelles, petitioner have theorized for the first time, in the present Petition, that the birth certificate [22] of Leogardo Arguelles which they allegedly presented during the trial below, shows the legitimate status of Leogarda Arguelles. [23] Concededly, such birth certificate may be used to show the alleged marriage. But be that as it may, the totality of evidence for the private respondents preponderates over petitioners.' Preponderant evidence means that, as a whole, the evidence adduced by one side outweighs that of the adverse party. [24] Compared with the evidence introduced by the private respondent, petitioners rely heavily on the legal presumption of marriage which, as earlier pointed out, has been effectively rebutted. We are concluded by the factual findings of the Court of Appeals.

Premises studiously considered, we are of the ineluctable conclusion, and so hold, that the Court of Appeals erred not in reversing the decision of the Regional Trial Court a quo.

WHEREFORE, the Petition is DENIED and the assailed Decision, dated October 26, 1989, and Resolution dated January 4, 1991, of the Court of Appeals AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Romero (Chairman), Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.

[1] Annex "A" of Petition, Rollo, pp. 21-27.

[2] Annex "B" of Petition, Rollo, p. 28.

[3] Third Division, composed of Associate Justices: Santiago M. Kapunan (Chairman and ponente), Minerva Gonzaga-Reyes (member), and Asaali S. Isnani (acting member).

[4] Annex "C" of Petition, Rollo, pp. 20-35.

[5] Presided by Judge Alfredo J. Gustilo.

[6] Decision, Annex "C" of Petition, Rollo, p. 35.

[7] Decision, Annex "A" of Petition, Rollo, p. 24.

[8] Decision Annex "A" of Petition, Rollo, p. 27.

[9] Petition, Rollo, p. 8.

[10] Now Section 3(aa), Rule 131 of the Revised Rules of Court.

[11] Decision, Annex "C," Rollo, p. 31.

[12] 133 SCRA 106, p. 109.

[13] *Id.*, p. 109.

[14] *Fernandez vs. Puatu, et al.*, 102 Phil. 363, p. 372.

[15] See p. 7 of the Decision of the Court of Appeals, (Annex "A").

[16] *Ibid.*

[17] *Ibid.*

[18] *Ibid.*

[19] See pp. 7-8 of the Court of Appeals' Decision.

[20] G.R. No. 118904, April 20, 1998, citing *Pugueda vs. Trias*, 4 SCRA 849, 855 [March 31, 1962].

[21] Decision, Annex "A", Rollo, pp. 24-25.

[22] Not appended to the petition.

[23] Petition, Rollo, p. 17.

[24] *Trinidad vs. Court of Appeals, et al.*, G.R. No. 118904, [April 20, 1989], citing: *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.*

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