

SECOND DIVISION

[G.R. No. 231459, January 21, 2019]

**HEIRS OF PAULA C. FABILLAR, AS REPRESENTED BY AUREO*
FABILLAR, PETITIONERS, VS. MIGUEL M. PALLER, FLORENTINA
P. ABAYAN, AND DEMETRIA P. SAGALES, RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*^[1] assailing the Decision^[2] dated August 31, 2016 and the Resolution^[3] dated March 10, 2017 of the Court of Appeals, Cebu City (CA) in CA-G.R. CEB-S.P. No. 08293, which affirmed the Decision on Appeal^[4] dated January 17, 2014 of the Regional Trial Court of Balangiga, Eastern Samar, Branch 42 (RTC) in Civil Case No. 0114, declaring respondents Miguel M. Paller (Miguel), Florentina P. Abayan, and Demetria P. Sagales (Demetria; collectively, respondents) as the lawful owners of the subject land and ordering Antonio and Matilda Custodio (Spouses Custodio), and petitioners' predecessor-in-interest, Paula C. Fabillar (Paula), to surrender the ownership and physical possession of the land, and to pay actual damages, attorney's fees, and the costs of suit.

The Facts

The instant case stemmed from an Amended Complaint^[5] for Recovery of Ownership, Possession, and Damages filed by respondents against Spouses Custodio and Paula (collectively, the Custodios), before the 9th Municipal Circuit Trial Court of Giporlos-Quinapondan, Eastern Samar (MCTC), docketed as Civil Case No. 273, involving a 3.1003-hectare parcel of agricultural coconut land situated in Sitio Cabotjo-an, Brgy. Parina, Giporlos, Eastern Samar, with an assessed value of P950.00 (subject land).^[6]

Respondents claimed that the subject land was a portion of a bigger parcel of land originally owned by their grandfather, Marcelino Paller (Marcelino). After the latter's death, or sometime in 1929 or 1932, his children, Ambrosio Paller (Ambrosio),^[7] Isidra Paller (Isidra), and Ignacia Paller (Ignacia),^[8] along several others,^[9] orally partitioned his properties and took possession of their respective shares.

From Marcelino's estate, respondents' father, **Ambrosio**, was given about one (1) hectare of the subject land, in addition to a smaller property situated in Sitio Dungon, Brgy. 07; while **Isidra** was given two (2) hectares as her rightful share. After Isidra's death, her son, Juan Duevo (Juan), sold the two (2)-hectare land to Ambrosio's wife and respondents' mother, Sabina Macawile (Sabina). Through

succession upon their parents' death, respondents alleged that the subject land was passed on to them.^[10] On the other hand, the Custodios' predecessor-in-interest and petitioners' grandmother, **Ignacia**, was assigned two (2) parcels of land situated in Sitio Dungon, Brgy. 07 and Sitio Bangalog, Brgy. Parina as her share.^[11]

In 1995, respondent Demetria, daughter of Ambrosio, mortgaged the subject land to Felix R. Aide with right to repurchase. Upon her return from Manila in 2000, she redeemed the same but discovered that the Custodios took possession of the land and refused to vacate therefrom despite demands; hence, the complaint.^[12]

In their Answer,^[13] the Custodios claimed to be legitimate and compulsory heirs of Marcelino who can validly and legally possess the subject land which has not been partitioned, and thus, commonly owned by his heirs. They further averred that Ambrosio is not a child of Marcelino and, as such, has no right to claim the subject land.^[14]

To support respondents' claim that Ambrosio is a child of Marcelino and Susana Paller, they presented before the MCTC a copy of Ambrosio's baptismal certificate^[15] indicating that his father was Marcelino;^[16] however, his mother was reflected therein as "Talampona Duevo"^[17] (Talampona). On the other hand, to establish their acquisition of the two (2)-hectare portion, they adduced a copy of the unnotarized deed of sale dated May 3, 1959 in *waray* dialect denominated as "*Documento Hin Pag Guibotongan Hin Cadayunan*"^[18] (unnotarized deed of sale) purportedly covering the sale of the said portion by Juan to respondents' mother, Sabina, who, however, was described therein as married to "Marcos Paller" (Marcos),^[19] not to Ambrosio. To explain the discrepancies in the names reflected in the above documents, Miguel explained that "Ambrosio" and "Talampona" are the real names, and that "Marcos" and "Susana" were mere aliases.^[20]

Subsequently, the Custodios filed a Demurrer to Evidence^[21] dated July 20, 2008, averring that respondents failed to establish their claim that Ambrosio is a son of Marcelino, pointing out: (a) the discrepancies in the names indicated in their pleadings and the documentary evidence they presented; and (b) the lack of documents/evidence other than Ambrosio's baptismal certificate to prove his filiation to Marcelino. Thus, they contended that respondents cannot claim to have lawfully and validly acquired the subject land by right of representation from Ambrosio. They further pointed^[22] out that respondents' evidence failed to prove not only their ownership of the subject land, but likewise the identity of the land they seek to recover, considering the different boundaries reflected in the unnotarized deed of sale and the tax declarations (TD) they presented.^[23]

However, the Demurrer to Evidence was denied in an Order^[24] dated October 24, 2008, and the Custodios were allowed to present their evidence.

The MCTC Ruling

In a Decision^[25] dated November 12, 2012, the MCTC declared respondents as the lawful owners of the subject land, and ordered the Custodios to surrender the

ownership and physical possession of the subject land, and to pay actual damages, attorney's fees, and the costs of suit.^[26] It gave weight to the baptismal certificate as sufficient and competent proof of Ambrosio's filiation with Marcelino which the Custodios failed to successfully overthrow. It further ruled that: (a) respondents' claim of oral partition was effectively admitted by Paula, who testified that her mother received her share of Marcelino's properties; and (b) respondents had duly established that they are the prior possessors of the subject land who had exercised acts of dominion over the same, and had paid the corresponding realty taxes therefor.^[27]

Aggrieved, the Custodios appealed to the RTC.^[28]

The RTC Ruling

In a Decision on Appeal^[29] dated January 17, 2014, the RTC affirmed the MCTC ruling, considering the Custodios' failure to rebut: (a) Ambrosio's baptismal certificate indicating that his father is Marcelino, concluding the same to be proof of his pedigree;^[30] and (b) respondents' possession in the concept of owner.^[31]

Dissatisfied, Spouses Custodio and herein petitioners, heirs of Paula,^[32] elevated the matter to the CA,^[33] additionally raising^[34] the defense of failure to state a cause of action for failure to declare heirship prior to the institution of the complaint in accordance with the case of *Heirs of Yaptinchay v. Hon. del Rosario (Yaptinchay)*.^[35]

The CA Ruling

In a Decision^[36] dated August 31, 2016, the CA affirmed the RTC Decision, finding Marcelino to be the father of Ambrosio, thereby declaring that respondents, as children of Ambrosio, have a right over the subject land. It rejected the Custodios' claim of lack of cause of action for failure to declare heirship prior to the institution of the complaint for having been raised only for the first time on appeal, and considering further the parties' active participation in presenting evidence to establish or negate respondents' filial relationship to Marcelino.^[37]

Petitioners and Spouses Custodio filed their motion for reconsideration^[38] which was denied in a Resolution^[39] dated March 10, 2017; hence, this petition solely filed by petitioners.

The Issue Before the Court

The essential issue in this case is whether or not the CA erred in holding that respondents' predecessor, Ambrosio, is a child of Marcelino and is entitled to inherit the subject land.

The Court's Ruling

In the present case, petitioners insist that the filiation of Ambrosio to Marcelino can only be successfully proved by virtue of a declaration of heirship by a competent court in a special proceeding, absent which, respondents cannot claim any right over the subject land.^[40] Moreover, they insist that mere allegations in the complaint and the presentation of Ambrosio's baptismal certificate cannot be considered as competent proof of the claimed filiation.^[41]

I. A special proceeding for declaration of heirship is not necessary in the present case, considering that the parties voluntarily submitted the issue of heirship before the trial court.

Although the principal action in this case was for the recovery of ownership and possession of the subject land, it is necessary to pass upon the relationship of Ambrosio to Marcelino for the purpose of determining what legal rights he may have in the subject land which he can pass to his heirs, petitioners herein. Notably, the issue of whether or not Ambrosio is one of the children of Marcelino was squarely raised by both parties in their respective pre-trial briefs.^[42] Hence, insofar as the parties in this case are concerned, the trial court is empowered to make a declaration of heirship, if only to resolve the issue of ownership.

To be sure, while the Court, in *Yapinchay*, ruled that a declaration of heirship can only be made in a special proceeding inasmuch as what is sought is the establishment of a status or right,^[43] by way of exception, the Court, in *Heirs of Ypon v. Ricaforte*,^[44] declared that **"the need to institute a separate special proceeding for the determination of heirship may be dispensed with for the sake of practicality, as when the parties in the civil case had voluntarily submitted the issue to the trial court and already presented their evidence regarding the issue of heirship,"**^[45] and **"the [trial court] had consequently rendered judgment upon the issues it defined during the pre-trial,"**^[46] as in this case.^[47] Indeed, recourse to administration proceedings to determine who the heirs are is sanctioned only if there are good and compelling reasons for such recourse,^[48] which is absent herein, as both parties voluntarily submitted the issue of Ambrosio's heirship with Marcelino^[49] before the trial court and presented their respective evidence thereon. Thus, the case falls under the exception, and there is no need to institute a separate special proceeding for the declaration of Ambrosio's heirship.

II. Ambrosio's baptismal certificate cannot be considered as competent proof of the claimed filiation with Marcelino.

In the absence of the record of birth and admission of legitimate filiation, Article 172^[50] of the Family Code (Code) provides that filiation shall be proved by any other means allowed by the Rules of Court and special laws. **Such other proof of one's filiation may be a baptismal certificate,** a judicial admission, a family Bible in which his name has been entered, common reputation respecting his pedigree, admission by silence, the testimonies of witnesses, and other kinds of

proof admissible under Rule 130 of the Rules of Court (Rules).^[51] Article 175^[52] of the same Code also allows illegitimate children to establish their filiation in the same way and on the same evidence as that of legitimate children.

However, **it is jurisprudentially settled that a baptismal certificate has evidentiary value to prove filiation only if considered alongside other evidence of filiation.**^[53] Because the putative parent has no hand in the preparation of a baptismal certificate, the same has scant evidentiary value if taken in isolation;^[54] while it 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."^[55] As such, a baptismal certificate alone is not sufficient to resolve a disputed filiation, and the courts must peruse other pieces of evidence instead of relying only on a canonical record.^[56]

In this case, the MCTC, the RTC, and the CA did not appreciate any other material proof related to the baptismal certificate of Ambrosio that would establish his filiation with Marcelino, whether as a legitimate or an illegitimate son. Contrary to the ruling of the said courts, the burden of proof is on respondents to establish their affirmative allegation that Marcelino is Ambrosio's father,^[57] and *not for petitioners to disprove the same*, because a baptismal certificate is neither conclusive proof of filiation^[58]/parentage nor of the status of legitimacy or illegitimacy of the person baptized.^[59] Consequently, while petitioners have admitted that Marcelino's heirs had partitioned Marcelino's properties among them,^[60] the Court finds respondents' evidence to be inadequate to prove the claimed filiation with the property owner, Marcelino, as to entitle Ambrosio and his successors-in-interest, herein respondents, to share in the properties left by Marcelino. However, it is well to point out that the portion of the property supposedly inherited by Ambrosio from Marcelino involved only a one (1)-hectare portion of the subject land.

III. Respondents failed to prove the identity of the land they are seeking to recover.

The Court finds that respondents failed to establish the identity of the land they were seeking to recover, in the first place. To support their claim over the remaining two (2)-hectare portion of the subject land, respondents presented: (a) the unnotarized deed of sale^[61] by which Marcelino's grandson,^[62] Juan, purportedly sold the said portion to respondents' mother, Sabina, who, however, was described therein as married to "Marcos Paller"; (b) Miguel's testimony that Ambrosio is the real name, and that "Marcos" was a mere alias;^[63] and (c) Demetria's testimony as to the boundaries of the land they are seeking.^[64] However, respondents' evidence are insufficient to warrant a conclusion that the two (2)-hectare parcel of land subject of the unnotarized deed of sale is indeed a portion of the subject land.

Firstly, the subject land is admittedly covered^[65] by TD No. 6618^[66] which remained in the name of Marcelino, but the unnotarized deed of sale^[67] bears different boundaries^[68] as TD No. 6618. Notably, the Municipal Assessor of Giporlos, Eastern Samar (Municipal Assessor) testified that the subject land was once part of a 37,904-square meter (sq. m.) tract of land declared in the name of Marcelino, and