THIRTEENTH DIVISION

[CA-G.R. SP No. 123156, March 20, 2014]

NARCISO PABLO, JR., PETITIONER, VS. EMILIO PABLO, RESPONDENT.

D E C I S I O N

YBAÑEZ, J.:

This is a Petition for Review from the Decision dated 15 December 2011,[1] of the Regional Trial Court, Branch 19, Bangui, Ilocos Norte, in Civil Case No. 1261-19, disposing that:

> **WHEREFORE, the judgment of the Municipal Trial Court is hereby set aside and direct defendant-appellant and plaintiff-appellee, who is in good faith, to comply with the objective of the law embodied and explicitly stated in Article 448 of the New Civil Code of the Philippines, to wit: the owner of the land on which anything has been built, sown or planted in good faith shall have the right to appropriate as his own the works, sowing or planting after payment of the indemnity provided for in Articles 546 and 548, or to oblige the one who built or planted to pay the price of the land, and x x x. However, the builder or planter cannot be obliged to buy the land if its value is considerably more than that of the building or tree. In such case, he shall pay reasonable rent if the owner of the land does not choose to appropriate the building or trees after proper indemnity. The parties shall agree upon the terms of the lease and in case of disagreement, the court shall fix the terms thereof.**
>
> **No pronouncement as to costs.**
>
> **SO ORDERED**.[2]

which reversed the Decision dated 23 June 2011 of the Municipal Circuit Trial Court of Bangui-Pagudpod-Adams-Dumalneg, Bangui, Ilocos Norte, in Civil Case No. 271-B,[3] declaring the plaintiff (petitioner herein) and the defendant (respondent herein) as co-owners of the subject property being heirs of the late spouses Faustino Pablo and Andrea Lauricio and ordering the partition of the subject lot between the parties in equal shares in accordance with the proposal in paragraph 9 of the complaint, taking into consideration the portion where their respective houses are built.

The Facts

As summarized by the RTC, the facts of this case are:

> **In the memorandum of the plaintiff, he asserted that he and defendant-appellant are co-owners of the subject land having acquired the same by inheritance from their common ancestor Faustino Pablo married to Andrea Lauricio. The said spouses in turn acquired the same by purchase from the late Narciso Rivera who acquired the same from the original owner, Toribio Rivera. The late spouses Faustino Pablo and Andrea Lauricio were survived by their children – the defendant Emilio Pablo and Narciso Pablo, now deceased, and is survived by the plaintiff Narciso Pablo, Jr. and Rogelio Pablo. After the death of the spouses Faustino Pablo, and Andrea Lauricio and their son Narciso Pablo, the share of the parties on said lot remained undivided despite the fact that they constructed their respective houses thereon. Thus, contending that the share of the parties in the above-described parcel of land are as follows: an undivided ½ share to plaintiff Narciso Pablo, Jr. and Rogelio Pablo, an undivided ½ share to defendant Emilio Pablo. A partition on said parcel of land was then proposed by the Plaintiff that the same shall be divided into two (2) equal shares taking into consideration the sites of the respective houses of the parties. However, Defendant-Appellant refused the proposal of partition notwithstanding repeated demands.**
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> **Earnest efforts were exerted to settle the case amicably between the parties being close relatives but to no avail averring that plaintiff has no interest or right to ask for partition on the subject lot and he is misrepresenting himself as the heir of Narciso Pablo.**
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> **For the defendant's part through his children whom he had appointed as his attorney-in-fact, denies that Narciso Pablo, Jr. (Narciso Francisco, Jr) has any rightful claim on the property now subject of litigation for he categorically stated that Narciso Pablo, Jr. (Narciso Francisco, Jr.) is not a rightful heir as he claims to be, for the latter is misrepresenting himself as the lawful heir of his brother Narciso Pablo. He maintains that after his brother's released (sic) from incarceration at the National Bilibid, his brother with his wife Gloria Favilla went to live with them at Lanao, Bangui, Ilocos Norte. Gloria Favilla died in 1964 while his late brother died in 1970. Their union did not promise any offspring. In 1972, spouses Mauro Francisco and Fidela Francisco begged him to take Narciso Francisco (Narciso Pablo, Jr.) for a while as they needed to sort their problematic affairs in their Manila residence promising to return and get back Narciso**

Francisco (Narciso Pablo, Jr.) as soon as they settle their quandary. Having that benevolent heart, he acceded to the appeal of the spouses knowing and expecting them to come back but said assurance of getting back their child never came to realization. Nonetheless, he supported and provided the needs of Narciso Francisco (Narciso Pablo, Jr.) till (sic) the latter was strong enough to sustain or buttress himself. In 1988, plaintiff beseeched Emilio Pablo to allow him to build his house on a small portion of the subject property which was granted with the condition that if Emilio Pablo will need the said property, Narciso Francisco (Narciso Pablo, Jr.) must have to voluntarily leave said parcel of land. Soon after, he learned that Narciso Francisco (Narciso Pablo, Jr.) was in the process of selling the property. Surprised and angered, he ordered plaintiff to leave and vacate the property but instead of absconding, plaintiff filed a case for Ownership and Partition solely on the ground of having the initiative to have assumed his name as Narciso Pablo, Jr. through self-serving entries he supplied the Local Civil Registrar's Office of Bangui, Ilocos Norte when he himself applied for late registration of his birth at the age of 23 to 24.[4]

On 20 June 2006, Narciso Pablo, Jr., filed against Emilio Pablo, a complaint for Ownership and Partition before the Municipal Circuit Trial Court of Bangui-Pagudpod-Adams-Dumalneg, Bangui, Ilocos Norte. Said complaint was docketed as Civil Case No. 271-B.[5]

In a Decision dated 23 June 2011,[6] the MCTC declared the plaintiff (petitioner herein) and the defendant (respondent herein) as co-owners of the subject property being heirs of the late spouses Faustino Pablo and Andrea Lauricio and ordered the partition of the subject lot between the parties in equal shares and in accordance with the proposal in paragraph 9 of the complaint, taking into consideration the portion where their respective houses are built.

Aggrieved thereby, defendant Emilio Pablo perfected an appeal before the RTC, Branch 19, Bangui, Ilocos Norte. In a Decision dated 15 December 2011, said court reversed and set aside the MCTC Decision and disposed of the case in the manner aforestated.[7]

The Issues

Before Us, petitioner Narciso Pablo, Jr. contends that:

1. THE HONORABLE RTC SERIOUSLY ERRED IN ALLOWING A COLLATERAL ATTACK BY THE RESPONDENT UPON THE FILIATION OR LEGITIMACY OF THE PETITIONER;

(2) THE HONORABLE RTC REVERSIBLY ERRED WHEN IT DISCARDED THE CERTIFICATE OF LIVE BIRTH OF THE PETITIONER AND HELD IT TO BE COMPLETELY SELF-SERVING;

(3) THE HONORABLE RTC MANIFESTLY ERRED IN FAILING TO APPRECIATE THAT THE PETITIONER'S CERTIFICATE OF LIVE BIRTH BEING AN OFFICIAL RECORD/DOCUMENT IS PRIMA FACIE EVIDENCE OF THE FACTS STATED THEREIN;

(4) THE HONORABLE RTC UTTERLY ERRED WHEN IT FAILED TO CONSIDER THAT, BY PREPONDERANCE OF EVIDENCE, PETITIONER HAS SHOWN HIS RIGHTS AS A CO-OWNER OF THE SUBJECT LOT.[8]

Our Ruling

The Petition is not meritorious.

The issues for determination before Us are:

1. Whether the respondent could still impugn the filiation of petitioner as the son of the late Narciso Pablo? and

2. Whether the petitioner has adduced preponderant evidence to prove that he is the son of the late Narciso Pablo?

Anent the first issue, petitioner, relying on Articles 170-171 of the Family Code,[9] as amended, contends that respondent could not attack, as a defense in the instant case, petitioner's filiation because an independent action must be brought for the said purpose. Moreover, even if respondent is considered a proper party to impugn petitioner's legitimacy, he still cannot properly do so because the one year period to file an independent action already lapsed.

This is misplaced.

A careful reading of the said articles will show that the same do not contemplate a situation like in the instant case, where a child is alleged not to be the child of nature or biological child of a certain couple. Rather, these articles govern a situation where a husband (or his heirs) denies as his own a child of his wife. Thus, under Article 166, it is the husband who can impugn the legitimacy of the said child by proving: (1) it was physically impossible for him, to have sexual intercourse with his wife within the first 120 days of the 300 days which immediately preceded the birth of the child; (2) that for biological or other scientific reasons, the child could not have been his child; and (3) that in case of children conceived by insemination, the written authorization or ratification by either parent was obtained through mistake, fraud, violence, intimidation or undue influence. Articles 170 and 171 reinforce this reading as they speak of the prescriptive period within which the husband or any of his heirs should file the action impugning the legitimacy of said child.[10] The ruling in *Ida Labagala vs. Nicolasa Santiago, et. al.*,[11] is instructive on this point,viz: