

FIRST DIVISION

[G.R. No. 211034, November 18, 2020]

MARIO CHIONG BERNARDO, IN HIS BEHALF AND IN BEHALF OF ALL THE HEIRS OF THE LATE JOSE CHIONG, PETITIONER, VS. JOSE C. FERNANDO, LILIA C. FERNANDO, NOEMI FERNANDO MOLINA, CYNTHIA C. FERNANDO, AIDA FERNANDO POINTDEXTER AND ELSA FERNANDO, RESPONDENTS.

[G.R. No. 211076]

JOSEFINA L. BERNARDO, LETICIA L. BERNARDO, FELIX BERNARDO, AND MARCELO SAN JUAN, PETITIONERS, VS. JOSE C. FERNANDO, LILIA C. FERNANDO, NOEMI FERNANDO MOLINA, CYNTHIA C. FERNANDO, AIDA FERNANDO POINTDEXTER AND ELSA FERNANDO, RESPONDENTS.

RESOLUTION

CAGUIOA, J:

Before the Court are consolidated^[1] petitions^[2] under Rule 45 of the Rules of Court (Rules), filed by Mario Chiong Bernardo (Mario) in his behalf and in behalf of all the heirs of the late Jose Chiong, and Josefina Bernardo (Josefina), Leticia L. Bernardo (Leticia), Felix Bernardo (Felix), and Marcelo San Juan (Marcelo) (collectively, Josefina, *et al.*), all assailing the Decision^[3] dated November 7, 2013 (Decision) of the Court of Appeals (CA), Special Sixteenth Division, in CA-G.R. CV No. 92724.

The assailed Decision reversed the Regional Trial Court's (RTC) Consolidated Decision^[4] dated November 10, 2008, and dismissed the complaints filed by Mario and Josefina, *et al.* (collectively, petitioners) for lack of cause of action, as well as the compulsory counterclaim filed by Jose C. Fernando, Lilia C. Fernando (Lilia), Noemi Fernando Molina (Noemi), Cynthia C. Fernando (Cynthia), Aida Fernando Pointdexter (Aida), and Elsa Fernando (Elsa) (collectively, respondents).

The petitioners filed their respective Motions for Reconsideration,^[5] but both were denied by the CA for lack of merit, through its Resolution dated January 27, 2014.^[6]

Factual Antecedents

The uncontroverted factual history of the case revolves around five parcels of land left behind by the late Jose Chiong, covered by Transfer Certificate of Title (TCT) Nos. RT-26575, RT-26580, RT-26578, RT-26577 and RT-26576 (subject properties).^[7]

On May 18, 1925, the late Jose Chiong executed a Deed of Donation, bequeathing

the subject properties to Jose Chiong Fernando, the predecessor-in-interest of respondents. On June 18, 2002, respondents executed an "Affidavit of Identity [of] Heirs" (Affidavit), where they claimed to be the legal heirs of the late Jose Chiong. On the sole basis of the said Affidavit, respondents caused the cancellation of the titles of the subject properties under the original collective name of "Heirs of Jose Chiong" and had them transferred to their names, under TCT Nos. T-165083 to T-165087.

On September 25, 2003, Mario, on behalf of the heirs of the late Jose Chiong, filed a complaint for Annulment, Reconveyance and Accounting with Prayer for Preliminary Injunction^[8] with the RTC of Malolos, Bulacan, Branch

84 against respondents, docketed as Civil Case No. 194-M-2003.

On November 17, 2003, Josefina, *et al.* and the heirs of Gregorio Domingo (Gregorio) as unwilling co-plaintiffs (petitioners in G.R. No. 211076) filed a separate complaint^[9] for Recovery of Ownership and Possession, Declaration of Heirship and Partition before the RTC of Malolos Bulacan, Branch 82 against the same respondents, docketed as Civil Case No. 853-M-2003,^[10] and offered the same averments as those in Mario's earlier complaint. Said complaint was also answered by respondents, countering with the same arguments they responded with in their Answer to Mario's complaint.

Arguing for his claim, Mario primarily alleged that his mother, Barbara Chiong (Barbara), was born on December 4, 1912 in Manila, to spouses Jose Chiong and Ambrosia Domingo (Ambrosia), as shown in the certified photocopy of her certificate of birth issued by the Local Civil Registrar (LCR) of Manila.^[11] Also submitted was Barbara's Certificate of Baptism dated January 13, 2006 to prove that Barbara was baptized on March 2, 1913 at Our Lady of Most Holy Rosary in Binondo, Manila.^[12] Mario submitted that he and his siblings, namely Eduardo Bernardo (Eduardo), Felix, and Josefina are the children of Barbara. Hence, being grandchildren of Jose Chiong, they are the ones who are entitled to the subject properties. Mario averred that respondents were not the true heirs of Jose Chiong, but were only collateral relatives as descendants of Jose Chiong's cousin through their maternal grandfather,^[13] whose claim in inheriting the subject properties was subordinate to his and his siblings' claim.

He also assailed the validity of the Affidavit, which was the basis for the transfer of the properties from Heirs of Jose Chiong to respondents, alleging irregularities in its execution, including the allegation that Lilia, one of the affiants, had already passed away at the time of its execution.^[14] Upon cross examination, Mario acknowledged that indeed he was the one who caused the correction of the spelling of the surname of his mother Barbara, from "Chong" to "Chiong" through a mere request with the LCR of Valenzuela City, and that said request was made after the filing of the complaint.^[15]

When confronted with the fact that in the marriage contract evidencing his marriage with Sevilla Delino, the names that Mario indicated there for him and his mother were "Mario Bernardo" and "Barbara Domingo" respectively, he explained that he merely erred in entering those names.^[16] With respect to his relationship with the

other parties to the suit, he also acknowledged that Eduardo, Josefina and Felix are his half-siblings by Jose Chiong and that Leticia is his sister-in-law.

For their part and to assail the validity of the Affidavit, Josefina, *et al.* presented several witnesses who testified as to the circumstances of the transfer of the title over the subject properties from the name of Jose Chiong to the names of the Heirs of Jose Chiong.

For their first witness, Josefina, *et al.* presented Edwin Flor Barroga (Barroga), the Deputy Register of Deeds of Bulacan, Tabang, Guiguinto Branch who testified that the cancellation of the title over the subject properties under the names of Heirs of Jose Chiong and the transfer of title were indeed effected by virtue of the Affidavit, and that the transfer's publication and the presentation of the affiants before the court were not deemed necessary at that time in accordance with the LRC Consulta Ruling No. 463 of the Land Registration Authority (LRA).^[17] Barroga likewise testified that the issuance of the titles under the names of respondents was deemed a ministerial duty on the part of the Register of Deeds upon the presentation of the Affidavit.^[18]

The facts as testified to by Barroga were further corroborated by Atty. Ramon C. Sampana (Sampana), then the Register of Deeds of Bulacan, who added that as the Register of Deeds, it was not within his function to examine beyond the face of the instrument submitted to him for registration. He also added that the non-publication of the Affidavit was in accordance with the LRC Consulta Ruling No. 453, and a decision dated October 5, 1964 of the LRA in the case of *Consolacion Chikano, et al. v. Register of Deeds of Samar*.^[19]

Josefina, *et al.* also presented Candelaria delos Santos (delos Santos), the Statistical Coordination I of National Statistics Office (NSO), Provincial Branch, Malolos City, Bulacan, who testified that her office has no birth records pertaining to the following, namely: Felix D. Bernardo, Josefina Bernardo, Eduardo Bernardo, Gregorio Chiong, Azucena P. Chiong, Apolonia D. Chiong (Apolonia), and Jose Antonio Fernando, Jr.^[20] In addition, they also presented Arlene Rosales (Rosales), then the City Civil Registrar of Valenzuela City, who testified that the National Archives also has no records of the birth certificates of the above Bernardos and Chions, apart from Gregorio Domingo and Gregorio Chiong,^[21] whom Mario alleged is his mother's brother. She also testified that persons born before 1945 could apply for registration at the LCR, but that the Bernardos and the Chions never applied for the same.^[22]

On the other hand, respondents, through their Answer with Counterclaim, disputed Mario's assertions, and argued that their predecessor-in-interest, Jose Chiong Fernando, legally acquired the subject properties from Jose Chiong through a Deed of Donation executed on May 18, 1925. Further, they argued that the authenticity and enforceability of the said donation were sustained by a Court of First Instance (CFI) Decision dated November 24, 1969, in Civil Case No. 1902, which was however not found in the records. Respondents prayed for the dismissal of the complaint along with a counterclaim for damages, attorney's fees and costs of suit.

The two complaints were ordered consolidated by Presiding Judge Wilfredo T. Nieves

of Branch 84 of RTC Malolos, Bulacan who, through a Consolidated Decision^[23] dated November 10, 2008, decided in favor of petitioners, to wit:

WHEREFORE, judgment is hereby rendered in favor of the Plaintiff Mario Chiang Bernardo and his siblings, plaintiffs [sic] heirs of Josefina Chiang and the heirs of Gregorio Chiang as follows:

1. declaring as null and void the affidavit of identity (heirs) executed by the defendants Fernandos;
2. ordering the defendants Fernandos to reconvey to the plaintiff Mario Chiang Bernardo and his siblings and the heirs of Josefina and Gregorio Chiang the subject five (5) real properties; and
3. To pay the costs of suit.

SO ORDERED.^[24]

The RTC was persuaded that by preponderance of evidence, Mario was able to prove that Barbara was indeed the daughter of Jose Chiong.^[25] It respected and gave credence to and considered authentic and legitimate both Barbara's birth certificate, which was registered on December 7, 1912, and baptismal certificate, which was dated March 2, 1913.^[26]

In ruling that Barbara's birth certificate was authentic and legitimate, it found that, on its face, the certificate showed that Barbara was born a legitimate daughter of Jose Chiong. The RTC further found that the fact that the dorsal portion of the same, containing an acknowledgment of either parent, was not presented did not take away from its authenticity. Citing Section 44,^[27] Rule 130 of the Rules, it held that entries in official records made in the performance of official duty are *prima facie* evidence of the facts stated therein^[28] and, therefore, the birth certificate of Barbara should be given full probative value, viz.:

Withal, Article 172 (now 265) of the Family Code provides that the filiation of legitimate children is established by any of the following: (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; or any other means allowed by the Rules of Court or special laws which may consist of the child's baptismal certificate, a judicial admission, a family bible in which the child's name has been entered, a common reputation respecting the child's pedigree, admission by silence, the testimony of witnesses, and other kinds of proof of admission under Rule 130 of the Rules of Court (*Cruz v. Cristobal*, G.R. No. 140422, August 7, 2006, 498 SCRA 37). Moreover, baptismal certificate is one of the acceptable documentary evidence to prove filiation in accordance with the Rules of Court and Jurisprudence.^[29]

The RTC also held that the fact that some documents indicated Barbara's surname as "Domingo" was aptly explained with the reason that Ambrosia had harbored anger towards Jose Chiong, so much so that she refused to let her children use "Chiong" as their surname.^[30] It further held that the correction of the spelling of

Mario's surname from "Chong" to "Chiong" did not affect the legitimacy of Mario's claim, as such correction was not established to be improper or illegal, and hence could be presumed proper, regular, and pursuant to the performance of the duties of the LCR concerned.^[31]

With respect to the claim of Josefina, *et al.*, the RTC held that although Josefina and her siblings did not present any documentary proof of their filiation to Jose Chiong through their mother, Apolonia, the admission of Mario in open court that Apolonia as well as Gregorio were the legitimate and full-blooded siblings of Barbara, and therefore also children of Jose Chiong, was deemed sufficient to prove their claim.^[32] Based on this, the RTC concluded that Mario, Josefina, *et al.*, and respondent heirs of Gregorio Chiong were similarly situated, all of them being direct grandchildren of Jose Chiong, and were therefore all entitled to the estate of Jose Chiong as legitimate descendants.^[33]

The RTC added that whoever alleges the illegitimacy of a child must prove such allegation, and given that respondents offered no evidence to refute Barbara's legitimate status, the same should be upheld.^[34]

The RTC also dismissed respondents' allegations that the subject properties were already donated by Jose Chiong to their father, Jose Chiong Fernando, since no documentary evidence was submitted to prove the same.^[35] Particularly, respondents asserted that the donation was affirmed by the CFI of Bulacan in Civil Case No. 1092, but no such decision was presented before the RTC. The RTC was also unpersuaded by respondents' submission that the Register of Deeds merely committed an error in placing the titles of the subject properties under the name of heirs of "Jose Chiong" instead of "Jose Chiong Fernando" when the titles were reconstituted. The RTC found it incredible that from March 17, 1959 when the titles were reconstituted, until their transfer to respondents' names by way of the execution of the Affidavit, respondents were never alerted by the error of omission of the surname "Fernando". It also noted that such an assertion was belied by the fact that in the Affidavit, the respondents were identified as heirs of "Jose Chiong".^[36]

It also discredited the Affidavit as invalid for being an act of misrepresentation,^[37] finding that not only were most of the heirs named therein not signatories thereto, but that some of the heirs were abroad while one was already deceased at the time of its execution. It also found fault in the Affidavit for its lack of notarization.^[38] It also noted that respondents could not validly invoke prescription by long occupation, after having admitted that they were, in fact, not in possession of the subject properties.

Finally, the RTC ruled that even granting *in arguendo* that there was a legitimate donation of the subject properties to Jose Chiong Fernando, the same would still have to be subordinate to the claim of petitioners on the estate of Jose Chiong, as his legitimate heirs.^[39]

Respondents appealed to the CA *via* Rule 41 of the Rules of Court, which, through its Decision^[40] dated November 7, 2013, granted the appeal, reversed the