

THIRD DIVISION

[G.R. No. 126707, February 25, 1999]

**BLANQUITA E. DELA MERCED, LUISITO E. DELA MERCED,
BLANQUITA M. MACATANGAY, MA. OLIVIA M. PAREDES,
TERESITA P. RUPISAN, RUBEN M. ADRIANO, HERMINIO M.
ADRIANO, JOSELITO M. ADRIANO, ROGELIO M. ADRIANO,
WILFREDO M. ADRIANO, VICTOR M. ADRIANO, CORAZON A.
ONGOCO, JASMIN A. MENDOZA AND CONSTANTINO M.
ADRIANO, PETITIONERS, VS. JOSELITO P. DELA MERCED,
RESPONDENT.**

DECISION

PURISIMA, J.:

This is a Petition for Review on *Certiorari* of the Decision of the Court of Appeals, dated October 17, 1996, in CA-G.R. CV No. 41283, which reversed the decision, dated June 10, 1992, of the Regional Trial Court, Branch 67, Pasig City, in Civil Case No. 59705.

The facts of the case are, as follows:

On March 23, 1987, Evarista M. dela Merced died intestate, without issue. She left five (5) parcels of land situated in Orambo, Pasig City.

At the time of her death, Evarista was survived by three sets of heirs, viz: (1) Francisco M. dela Merced, her legitimate brother ; (2) Teresita P. Rupisan, her niece who is the only daughter of Rosa de la Merced-Platon (a sister who died in 1943) ; and (3) the legitimate children of Eugenia dela Merced-Adriano (another sister of Evarista who died in 1965), namely: Herminio, Ruben, Joselito, Rogelio, Wilfredo, Victor and Constantino, all surnamed Adriano, Corazon Adriano-Ongoco and Jasmin Adriano-Mendoza.

Almost a year later or on March 19, 1988, to be precise, Francisco (Evarista's brother) died. He was survived by his wife Blanquita Errea dela Merced and their three legitimate children, namely, Luisito E. dela Merced, Blanquita M. Macatangay and Ma. Olivia M. Paredes.

On April 20, 1989, the three sets of heirs of the decedent, Evarista M. dela Merced, referring to (1) the abovenamed heirs of Francisco; (2) Teresita P. Rupisan and (3) the nine ^[9] legitimate children of Eugenia, executed an extrajudicial settlement, entitled "Extrajudicial Settlement of the Estate of the Deceased Evarista M. dela Merced" adjudicating the properties of Evarista to them, each set with a share of one-third (1/3) pro-indiviso.

On July 26 ,1990, private respondent Joselito P. Dela Merced , illegitimate son of the

late Francisco de la Merced, filed a "Petition for Annulment of the Extrajudicial Settlement of the Estate of the Deceased Evarista M. Dela Merced with Prayer for a Temporary Restraining Order", alleging that he was fraudulently omitted from the said settlement made by petitioners, who were fully aware of his relation to the late Francisco. Claiming successional rights, private respondent Joselito prayed that he be included as one of the beneficiaries, to share in the one-third (1/3) pro-indiviso share in the estate of the deceased Evarista, corresponding to the heirs of Francisco.

On August 3, 1990, the trial court issued the temporary restraining order prayed for by private respondent Joselito, enjoining the sale of any of the real properties of the deceased Evarista.

After trial, however, or on June 10, 1992, to be definite, the trial court dismissed the petition, lifted the temporary restraining order earlier issued, and cancelled the notice of lis pendens on the certificates of title covering the real properties of the deceased Evarista.

In dismissing the petition, the trial court stated:

"The factual setting of the instant motion after considering the circumstances of the entire case and the other evidentiary facts and documents presented by the herein parties points only to one issue which goes into the very skeleton of the controversy, to wit: "Whether or not the plaintiff may participate in the intestate estate of the late Evarista M. Dela Merced in his capacity as representative of his alleged father, Francisco Dela Merced, brother of the deceased, whose succession is under consideration.

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It is to be noted that Francisco Dela Merced, alleged father of the herein plaintiff, is a legitimate child, not an illegitimate. Plaintiff, on the other hand, is admittedly an illegitimate child of the late Francisco Dela Merced. Hence, as such, he cannot represent his alleged father in the succession of the latter in the intestate estate of the late Evarista Dela Merced, because of the barrier in Art. 992 of the New Civil Code which states that:

'An illegitimate child has no right to inherit *ab intestato* from the legitimate children and relatives of his father or mother, nor shall such children or relatives inherit in the same manner from the illegitimate child.'

The application of Art. 992 cannot be ignored in the instant case, it is clearly worded in such a way that there can be no room for any doubts and ambiguities. This provision of the law imposes a barrier between the illegitimate and the legitimate family. x x x" (Rollo, p. 87-88)

Not satisfied with the dismissal of his petition, the private respondent appealed to the Court of Appeals.

In its Decision of October 17, 1996, the Court of Appeals reversed the decision of the trial court of origin and ordered the petitioners to execute an amendatory