

## THIRD DIVISION

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

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

### DECISION

**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<sup>[1]</sup> dated October 26, 1989 and the Resolution<sup>[2]</sup> dated January 4, 1991, of the Court of Appeals<sup>[3]</sup> in CA - G.R. CV NO. 11750, reversing the Decision<sup>[4]</sup>, dated May 30, 1986, of Branch XV, Regional Trial Court, in Trece Martires City<sup>[5]</sup> 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."<sup>[6]</sup>

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."<sup>[7]</sup>

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."<sup>[8]</sup>

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."<sup>[9]</sup>

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 aforesaid 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).<sup>[10]</sup> 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."<sup>[11]</sup>*

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*<sup>[12]</sup>, 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.<sup>[13]</sup>

In the case under consideration, the presumption of marriage, on which the trial court premised its decision, has been sufficiently offset.<sup>[14]</sup> 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<sup>th</sup> 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,"<sup>[15]</sup>*

However, Assistant Treasurer Lucila Lucero admitted later<sup>[16]</sup> 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.<sup>[17]</sup>