



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

HEIRS OF PAULA C. FABILLAR, as represented by AUREO* FABILLAR,
Petitioners,

G.R. No. 231459

Present:

- versus -

CARPIO, J., Chairperson,
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
HERNANDO,** JJ.

**MIGUEL M. PALLER,
FLORENTINA P. ABAYAN, and
DEMETRIA P. SAGALES,**
Respondents.

Promulgated:

21 JAN 2019

X ----- X

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*¹ assailing the Decision² dated August 31, 2016 and the Resolution³ 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 Appeal⁴ 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.

* "Aureo" in the Petition (see *rollo*, p. 9).

** Designated Additional Member per Special Order Nos. 2629 and 2630 dated December 18, 2018.

¹ *Rollo*, pp. 9-26.

² *Id.* at 117-125. Penned by Associate Justice Germano Francisco D. Legaspi with Executive Justice Gabriel T. Ingles and Associate Justice Marilyn B. Lagura-Yap concurring.

³ *Id.* at 135-136.

⁴ *Id.* at 106-115. Penned by Acting Presiding Judge Rolando M. Lacdo-o.

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The Facts

The instant case stemmed from an Amended Complaint⁵ 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 ₱950.00 (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. Alde 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

⁵ Dated August 29, 2006. Id. at 61-65. Initially, respondents filed their complaint before the MCTC dated March 1, 2004 (see id. at 54-59).

⁶ See id. at 61-62.

⁷ "Ambrocio" in some portion of the records.

⁸ "Inacia" in some portion of the records.

⁹ Including Benita, Catalino, Eulalio, Regino, Magdalino, Arsenio, and Pedro (see amended complaint; records, p. 122). See also Pre-Trial Order dated May 22, 2006 (see id. at 86-89), wherein it was admitted that Marcelino had nine (9) children, namely: Catalino, Arsenio, Regino, Pedro, Magdalino, Benita, Isidra, Ignacia, and Eulalio.

¹⁰ *Rollo*, pp. 61-62 and 93.

¹¹ Id. at 62-63 and 94.

¹² See id. at 63 and 94.

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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 certificate¹⁵ 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 Evidence²¹ 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 pointed²² 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 Order²⁴ dated October 24, 2008, and the Custodios were allowed to present their evidence.

¹³ See Answer with Affirmative Defenses dated December 22, 2004; *id.* at 67-70.

¹⁴ See *id.* at 67-69.

¹⁵ See Certificate of Baptism dated May 31, 2006; records, p. 226.

¹⁶ See *id.*

¹⁷ See *id.*

¹⁸ *Id.* at 228.

¹⁹ See *id.*

²⁰ See *rollo*, p. 86.

²¹ *Id.* at 85-92.

²² See Memorandum dated August 9, 2012; records, pp. 558-571.

²³ See *id.* at 565-568.

²⁴ *Id.* at 285-287. Issued by Presiding Judge Rebecca Gavan-Almeda.

The MCTC Ruling

In a Decision²⁵ 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 Appeal²⁹ 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 raising³⁴ 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 Decision³⁶ dated August 31, 2016, the CA affirmed the RTC Decision, finding Marcelino to be the father of Ambrosio, thereby declaring

²⁵ *Rollo*, pp. 93-100.

²⁶ See *id.* at 100.

²⁷ See *id.* at 96-99.

²⁸ See Notice of Appeal dated December 28, 2012 and Order dated January 18, 2013; records, pp. 585 and 589, respectively.

²⁹ *Rollo*, pp. 106-115.

³⁰ See *id.* at 110-111.

³¹ See *id.* at 114.

³² See Notice of Death with Motion for Substitution of Parties dated April 2, 2014; *CA rollo*, pp. 8-11.

³³ See Petition for Review (under Rule 42) dated April 1, 2014; *id.* at 14-29.

³⁴ See *id.* at 19-23.

³⁵ 363 Phil. 393 (1999).

³⁶ *Rollo*, pp. 117-125

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 reconsideration³⁸ which was denied in a Resolution³⁹ 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

³⁷ See *id.* at 123-124.

³⁸ Dated September 29, 2016. *Id.* at 126-133.

³⁹ *Id.* at 135-136.

⁴⁰ See *id.* at 21.

⁴¹ See *id.* at 18.

⁴² See Plaintiffs' Pre-Trial Brief dated May 8, 2006 (records, p. 79), and Defendants' Pre-Trial Brief dated April 6, 2006 (*id.* at 67). The issue of whether or not Ambrosio is one of the children of Marcelino was included as one of the issues for resolution in the case. See Pre-Trial Order dated May 22, 2006; records, p. 89.

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 *Yaptinchay*, 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 Marcelino⁴⁹ 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 172⁵⁰ 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 175⁵² of the same Code also allows

⁴³ See supra note 35, at 398-399.

⁴⁴ 713 Phil. 570 (2013).

⁴⁵ Id. at 576-577.

⁴⁶ *Rebusquillo v. Spouses Gualvez*, 735 Phil. 434, 442 (2014).

⁴⁷ The issue of whether or not Ambrosio is one of the children of Marcelino was included as one of the issues for resolution in the case. See Pre-Trial Order dated May 22, 2006; records, p. 89.

⁴⁸ *Rebusquillo v. Spouses Gualvez*, supra note 46.

⁴⁹ The issue of whether or not Ambrosio is one of the children of Marcelino was included as one of the issues for resolution in the case. See Pre-Trial Order dated May 22, 2006; records, p. 89.

⁵⁰ Article 172. 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.

In the absence of the foregoing evidence, the legitimate filiation shall be proved by:

- (1) The open and continuous possession of the status of a legitimate child; or
- (2) Any other means allowed by the Rules of Court and special laws.

⁵¹ See *Makati Shangri-La Hotel and Resort, Inc. v. Harper*, 693 Phil. 596, 615 (2012), citing *Heirs of Conti v. CA*, 360 Phil. 536, 548-549 (1998).

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 filiation⁵⁸/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.

⁵² Article 175. Illegitimate children may establish their illegitimate filiation in the same way and on the same evidence as legitimate children.

The action must be brought within the same period specified in Article 173, except **when the action is based on the second paragraph of Article 172, in which case the action may be brought during the lifetime of the alleged parent.** (Emphasis supplied)

⁵³ See *Heirs of Roldan v. Heirs of Roldan*, G.R. No. 202578, September 27, 2017, citing *Makati Shangri-La Hotel and Resort, Inc. v. Harper*, supra note 51, at 616.

⁵⁴ See *Heirs of Roldan v. Heirs of Roldan*, id., citing *Fernandez v. CA*, 300 Phil. 131, 137 (1994), which referred to the earlier ruling in *Berciles v. Government Service Insurance System*, 213 Phil. 48, 72-73 (1984).

⁵⁵ *Cabatania v. CA*, 484 Phil. 42, 51 (2004), citing *Macadangdang v. CA*, 188 Phil. 192, 201 (1980).

⁵⁶ *Heirs of Roldan v. Heirs of Roldan*, supra note 53.

⁵⁷ See *Go Kim Huy v. Go Kim Huy*, 417 Phil. 822, 832 (2001).

⁵⁸ *Heirs of Cabais v. CA*, 374 Phil. 681, 688 (1999).

⁵⁹ *Board of Commissioners v. dela Rosa*, 274 Phil. 1156, 1228-1229 (1991).

⁶⁰ TSN (Vol. 2), July 13, 2009, p. 7.

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 sale⁶¹ 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 covered⁶⁵ by TD No. 6618⁶⁶ which remained in the name of Marcelino, but the unnotarized deed of sale⁶⁷ bears different boundaries⁶⁸ 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 covered by TD No. 12864,⁶⁹ which was subsequently divided into two (2) parcels of land with two (2) different TDs,⁷⁰ *i.e.*, TD Nos. 2191⁷¹ and 2192⁷² with an area of 6,901 sq. m. and 31,003 sq. m., respectively, with the following boundaries:

Boundaries	TD No. 2191	TD No. 2192
North	Ambrosio Paller	Public Land
East	Pablo Pajarilla	Agaton Baldo
South	Juan Paller	Rafaella Paller
West	Ambrosio Paller	Quirina Paller

⁶¹ Records, p. 228.

⁶² Juan is the son of Isidra (see *rollo*, p. 62), who is *admittedly* a child of Marcelino (see records, p. 87 and TSN [Vol. 1], January 22, 2007, p. 6).

⁶³ See TSN (Vol. 1), January 22, 2007, p. 19.

⁶⁴ See TSN (Vol. 1), April 28, 2008, p. 19.

⁶⁵ See Formal Offer of Plaintiffs' Documentary Exhibits; records, p. 239.

⁶⁶ Id. at 126 and 151.

⁶⁷ Id. at 228.

⁶⁸ The respective boundaries are as follows:

TD No. 6618 (id. at 126 and 152)	unnotarized deed of sale (id. at 228)
North – Public Land	<i>Parte ha Amihanan – tuna ni Agaton Baldo</i>
East – Agaton Baldo	<i>Parte ha Senerangan – tuna ni Agaton Baldo</i>
South – Rafaella Paller	<i>Parte ha Salatanan – tuna ni Marcos Paller</i>
West – Quirina Paller	<i>Parte ha Natondanan – tuna ni Marcos Paller</i>

⁶⁹ Not attached to the records.

⁷⁰ See TSN (Vol. 2), July 26, 2010, pp. 8-9.

⁷¹ Records, p. 365.

⁷² Id. at 511. Effective 1949; see *id.*, reverse portion.

and that the said TDs underwent several revisions as follows:

TD No. 2191	Description	TD No. 2192	Description
TD No. 4139 ⁷³	Same area/ boundaries	TD No. 6618 ⁷⁴	Same area/boundaries
TD No. 8220 ⁷⁵	- do -	TD No. 373 ⁷⁶	31,000 sq. m./same boundaries
TD No. 08008-00140 ⁷⁷	- do -	TD No. 16361 ⁷⁸	area was reduced to 27,125 ⁷⁹ sq. m. with the sale of 3,875 sq. m. to Federico Abayan/ same boundaries
		TD No. 00281 ⁸⁰	- do -

The Municipal Assessor further stated that as of the time that he testified on July 26, 2010, TD No. 00281 has not been revised and was the latest tax declaration on file with their office.⁸¹

Secondly, other than respondents' self-serving claim,⁸² no competent proof, testimonial or documentary, was presented by them to establish that Ambrosio and "Marcos" are one and the same person, nor was there any proof showing that "Marcos" was assumed as a pseudonym for literary purposes⁸³ or had been authorized by a competent court.⁸⁴ Even assuming that Ambrosio and "Marcos" are one and the same person, the boundaries identified by Demetria⁸⁵ do not coincide with the boundaries in TD No. 6618 and its subsequent revisions.

⁷³ Id. at 517.

⁷⁴ Id. at 126 and 512. Effective 1974; see id., reverse portion.

⁷⁵ Id. at 518.

⁷⁶ Id. at 513. Effective 1980; see id., reverse portion.

⁷⁷ Id. at 519.

⁷⁸ Id. at 514. Effective 1985; see id., reverse portion.

⁷⁹ Erroneously reflected as 26,125 sq. m. in the TSN. See TSN (Vol. 2), July 26, 2010, p. 11.

⁸⁰ See TSN (Vol. 2), July 26, 2010, p. 10. Under general revision in 1993; see records. p. 514.

⁸¹ See TSN (Vol. 2), July 26, 2010, p. 10. See also TSN (Vol. 2), July 6, 2011, p. 3.

⁸² See TSN (Vol. 1), January 22, 2007, p. 19.

⁸³ Demetria testified that "Ambrosio" is the real name, and that "Marcos" is the pen name; see TSN (Vol. 1), April 28, 2008, p. 18.

⁸⁴ Section 1 of Commonwealth Act No. 142, entitled "AN ACT TO REGULATE THE USE OF ALIASES" (November 7, 1936), provides:

Section 1. Except as a pseudonym for literary purposes, no person shall use any name different from the one with which he was christened or by which he has been known since his childhood, or such substitute name as may have been authorized by a competent court. The name shall comprise the patronymic name and one or two surnames.

⁸⁵ Demetria testified that the land they are claiming has the following boundaries:

North – Miguel Paller (not her brother but her cousin)

East – Rafaela Paller

South – Quirina Paller

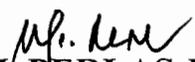
West – Agaton Baldo (see TSN [Vol. 1], April 28, 2008, p. 19)

Thirdly, the receipts of the realty tax payments adduced were of relatively recent vintage⁸⁶ and were not shown to correspond to the subject land. Considering the admitted⁸⁷ fact that the subject land is covered by TD No. 6618, it devolved upon respondents (as plaintiffs *a quo*) to prove that the tax receipts they submitted correspond to the aforementioned TDs emanating from TD No. 2192, which was cancelled by TD No. 6618, and its succeeding revisions. However, a perusal of the said tax receipts⁸⁸ reveals that none of them correspond to the said TDs, whether emanating from TD No. 2192 or TD No. 2191. Moreover, despite the opportunity given to them to present rebuttal evidence,⁸⁹ they opted to forego such presentation, and instead, submitted the case for decision.⁹⁰

By virtue of the evidence presented by respondents, the lower courts could not have justly concluded that the two (2)-hectare parcel of land subject of the unnotarized deed of sale is indeed a portion of the subject land. Accordingly, the Court finds that a reversal of the assailed Decision is warranted.

WHEREFORE, the petition is **GRANTED**. The Decision dated August 31, 2016 and the Resolution dated March 10, 2017 of the Court of Appeals, Cebu City in CA-G.R. CEB-S.P. No. 08293 are hereby **REVERSED** and **SET ASIDE**. A new judgment is entered **DISMISSING** the Amended Complaint for Recovery of Ownership, Possession, and Damages filed by respondents Miguel M. Paller, Florentina P. Abayan, and Demetria P. Sagales before the 9th Municipal Circuit Trial Court of Giporlos-Quinapondan, Eastern Samar, docketed as Civil Case No. 273.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

⁸⁶ While the claimed acquisition (through the unnotarized deed of sale) was in 1959, the earliest tax receipt presented was Official Receipt (OR) No. 1283740 dated May 20, 1989, and pertained to tax payments for the years 1985 to 1986 of the property covered by TD No. 16360; see records, p. 224.

⁸⁷ See Formal Offer of Plaintiffs' Documentary Exhibits; *id.* at 239.

⁸⁸ Notably, OR No. 1283740 dated May 20, 1989 for the years 1985 to 1986, and OR No. 1120774 dated January 20, 1992 for the years 1987 to 1991 pertained to payment for the property covered by TD No. 16360, not TD No. 16361 covering the subject land (see *id.* at 224-225). OR No. 5430039 dated February 26, 1996 for the year 1994 pertained to payment for the property covered by TD No. CN-160329 (see *id.* at 223). The payments for the years 2005, 2006, and 2007 were for the land covered by TD No. CN02-160229 (see *id.* at 220-222 and 229-230).

⁸⁹ See TSN (Vol. 2), January 11, 2012, p. 5.

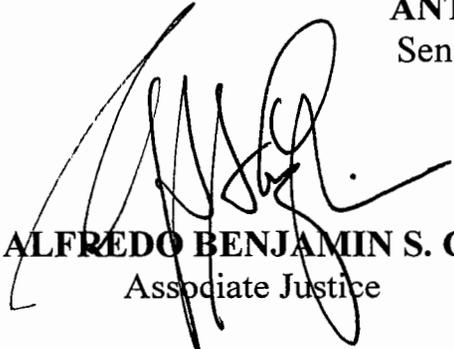
⁹⁰ See TSN (Vol. 2), July 4, 2012, pp. 2-3.

WE CONCUR:

*See:
concurring
opinion*



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice

ATTESTATION

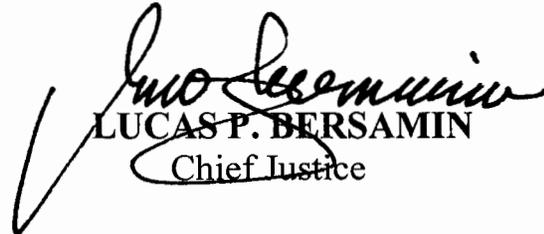
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



LUCAS P. BERSAMIN
Chief Justice

G.R. No. 231459 – Heirs of Paula C. Fabillar, as represented by Aureo Fabillar v. Miguel M. Paller, Florentina P. Abayan, and Demetria P. Sagales

Promulgated:

21 JAN 2019

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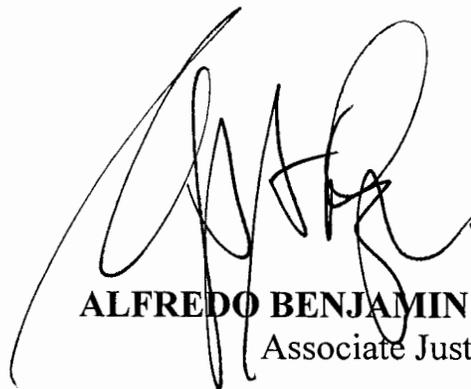
CONCURRING OPINION

CAGUIOA, J.:

I concur in the result.

Since the Court has ruled that the baptismal certificate of Ambrosio Paller (Ambrosio), respondents' father, cannot be considered by itself as competent proof of the claimed filiation with Marcelino Paller, respondents' alleged grandfather and Ambrosio's alleged father, and that respondents failed to prove the identity of the land they are seeking to recover, I take the view that the resolution of the issue of whether a special proceeding for declaration of heirship is necessary before the trial court can resolve the issue of ownership is superfluous.

I reserve my opinion on whether a declaration of heirship can only be made in a separate special proceeding is the rule. I submit that a review of relevant jurisprudence shows that the real rule is that the heirs' rights become vested without need for them to be declared as such in a separate special proceeding — pursuant to Article 777¹ of the Civil Code — which I will expound on more in an appropriate case wherein such issue is determinative of its disposition.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

¹ Article 777 of the Civil Code provides: "The rights to the succession are transmitted from the moment of the death of the decedent."