Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EUGENIO SAN JUAN GERONIMO,
Petitioner,

- versus -

KAREN SANTOS,
Respondent.

G.R. No. 197099

Present:

VELASCO, JR., *J., Chairperson,*
PERALTA,
VILLARAMA, JR.,
PEREZ,* and
JARDELEZA, *JJ.*

Promulgated:

September 28, 2015

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DECISION

VILLARAMA, JR., *J.*:

At bar is a petition for review on certiorari of the Decision[1] and Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No. 88650 promulgated on January 17, 2011 and May 24, 2011, respectively, which affirmed the Decision[3] of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 8. Both courts *a quo* ruled that the subject document titled *Pagmamana sa Labas ng Hukuman* is null and void, and ordered herein petitioner Eugenio San Juan Geronimo (Eugenio), who was previously joined by his brother Emiliano San Juan Geronimo (Emiliano) as co-defendant, to vacate the one-half portion of the subject 6,542-square meter property and surrender its possession to respondent Karen Santos. In a Resolution[4] dated November 28, 2011, this Court ordered the deletion of the name of Emiliano from the title of the instant petition as co-petitioner, *viz.*:

> x x x The Court resolves:
>
> x x x x

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* Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2084 dated June 29, 2015.

1 *Rollo*, pp. 20-29. Penned by Associate Justice Mario L. Guariña III with Associate Justices Apolinario D. Bruselas, Jr. and Rodil V. Zalameda concurring.

2 Id. at 33.

3 Id. at 35-48. Penned by Judge Manuel R. Ortiguerra.

4 Id. at 62.

(2) to ***AMEND*** the title of this petition to read "Eugenio San Juan Geronimo, petitioner vs. Karen Santos, respondent," considering the sworn statement of Eugenio San Juan Geronimo that he does not know whether his brother is still alive and that his brother did not verify the instant petition; x x x[5]

The following facts were found by the trial court and adopted by the appellate court in its assailed Decision, *viz.*:

> On April 17, 2001, plaintiff Karen Santos, claiming to be the only child of deceased Rufino and Caridad Geronimo filed a complaint for annulment of document and recovery of possession against the defendants Eugenio and Emiliano Geronimo who are the brothers of her father. She alleged that with the death of her parents, the property consisting of one-half of the parcel of land located at San Jose, Paombong, Bulacan with Tax Declaration No. 99-02017-00219 and belonging to her parents was passed on to her by the law on intestacy; that lately, she discovered that defendants executed a document entitled *Pagmamana sa Labas ng Hukuman* declaring themselves as the only heirs of spouses Rufino and Caridad and adjudicating to themselves the property in question; and that consequently[,] they took possession and were able to transfer the tax declaration of the subject property to their names. She prayed that the document Exhibit C be annulled and the tax declaration of the land transferred to her, and that the defendants vacate the property and pay her damages.
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> In an amended answer, the defendants denied the allegation that plaintiff was the only child and sole heir of their brother. They disclosed that the deceased Rufino and Caridad Geronimo were childless and took in as their ward the plaintiff who was in truth, the child of Caridad's sister. They claimed that the birth certificate of the plaintiff was a simulated document. It was allegedly impossible for Rufino and Caridad to have registered the plaintiff in Sta. Maria, Ilocos Sur because they had never lived or sojourned in the place and Caridad, who was an elementary teacher in Bulacan never filed any maternity leave during the period of her service from August 1963 until October 1984.
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> The plaintiff took the stand and testified that her parents were Rufino and Caridad Geronimo. The defendants Eugenio and Emiliano were the half-brothers of her father Rufino, being the children of Rufino's father Marciano Geronimo with another woman Carmen San Juan. Rufino co-owned Lot 1716 with the defendants' mother Carmen, and upon his death in 1980, when the plaintiff was only 8 years old, his share in the property devolved on his heirs. In 1998, some 18 years later, Caridad and she executed an extra-judicial settlement of Rufino's estate entitled *Pagmamanahan Sa Labas ng Hukuman Na May Pagtalikod Sa Karapatan*, whereby the plaintiff's mother Caridad waived all her rights to Rufino's share and in the land in question to her daughter the plaintiff. Be that as it may, in 1985, guardianship proceedings appeared to have been instituted with the Regional Trial Court of Malolos by Caridad in which it was established that the plaintiff was the minor child of Caridad with her late husband Rufino. Caridad was thus appointed guardian of the person and estate of the plaintiff.

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[5] Id.

> The plaintiff further declared that she and her mother had been paying the real estate taxes on the property, but in 2000, the defendants took possession of the land and had the tax declaration transferred to them. This compelled her to file the present case.
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> Eugenio Geronimo, the defendant, disputes the allegation that the plaintiff is the only child and legal heir of his brother Rufino. He disclosed that when Rufino's wife could not bear a child, the couple decided to adopt the plaintiff who was Caridad's niece from Sta. Maria, Ilocos Sur. It was in 1972, 13 years after the marriage, when Karen joined her adoptive parents' household. Believing that in the absence of a direct heir, his brother Emiliano and he should succeed to the estate of their brother, they executed in 2000 an extra-judicial settlement called *Pagmamana sa Labas ng Hukuman*.
>
> Eugenio was able to obtain a copy of the plaintiff's alleged birth certificate. It had irregular features, such as that it was written in pentel pen, the entry in the box *date of birth* was erased and the word and figure *April 6, 1972* written and the name *Emma Daño* was superimposed on the entry in the box intended for the informant's signature.
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> Two more witnesses were adduced. Atty. Elmer Lopez, a legal consultant of the DECS in Bulacan brought the plaintiff's service record as an elementary school teacher at Paombong[,] Bulacan to show that she did not have any maternity leave during the period of her service from March 11, 1963 to October 24, 1984, and a certification from the Schools Division Superintendent that the plaintiff did not file any maternity leave during her service. He declared that as far as the service record is concerned, it reflects the entry and exit from the service as well as the leaves that she availed of. Upon inquiry by the court, he clarified that the *leaves* were reflected but the *absences were not*. Testifying on the plaintiff's birth certificate, Exhibit 14, Arturo Reyes, a representative of the NSO, confirmed that there was an alteration in the date of birth and signature of the informant. In view of the alterations, he considered the document questionable.[6]

On October 27, 2006, the trial court ruled in favor of respondent, *viz.*:

> **WHEREFORE**, judgment is hereby rendered as follows:
>
> 1. Declaring the document Pagmamana sa Labas ng Hukuman dated March 9, 2000 executed in favor of Eugenio San Juan-Geronimo and Emilio San Juan-Geronimo as null and void;
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> 2. Annulling Tax Declaration No. 99-02017-01453 of the subject property in the names of Eugenio San Juan-Geronimo and Emiliano San Juan-Geronimo;
>
> 3. Ordering defendants Eugenio San Juan-Geronimo and Emiliano San Juan-Geronimo to vacate the ½ portion of the subject property and to surrender the possession to the plaintiff;
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> 4. Ordering the defendants to pay the plaintiff the amount of [₱]30,000.00 as attorney's fees;
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> 5. To pay the costs of the suit.

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6 Id. at 20-23.

SO ORDERED.[7]

The trial court ruled that respondent is the legal heir – being the legitimate child – of the deceased spouses Rufino and Caridad Geronimo (spouses Rufino and Caridad). It found that respondent's filiation was duly established by the certificate of live birth which was presented in evidence. The RTC dismissed the claim of petitioner that the birth certificate appeared to have been tampered, specifically on the entries pertaining to the date of birth of respondent and the name of the informant. The trial court held that petitioner failed to adduce evidence to explain how the erasures were done. Petitioner also failed to prove that the alterations were due to the fault of respondent or another person who was responsible for the act. In the absence of such contrary evidence, the RTC relied on the *prima facie* presumption of the veracity and regularity of the birth certificate as a public document.

The trial court further stated that even granting *arguendo* that the birth certificate is questionable, the filiation of respondent has already been sufficiently proven by evidence of her open and continuous possession of the status of a legitimate child under Article 172 of the Family Code of the Philippines. The RTC considered the following overt acts of the deceased spouses as acts of recognition that respondent is their legitimate child: they sent her to school and paid for her tuition fees; Caridad made respondent a beneficiary of her burial benefits from the Government Service Insurance System; and, Caridad filed a petition for guardianship of respondent after the death of her husband Rufino. Lastly, the trial court held that to be allowed to impugn the filiation and status of respondent, petitioner should have brought an action for the purpose under Articles 170 and 171 of the Family Code. Since petitioner failed to file such action, the trial court ruled that respondent alone is entitled to the ownership and possession of the subject land owned by Rufino. The extrajudicial settlement executed by petitioner and his brother was therefore declared not valid and binding as respondent is Rufino's only compulsory heir.

On appeal, petitioner raised the issue on the alterations in the birth certificate of respondent and the offered evidence of a mere certification from the Office of the Civil Registry instead of the birth certificate itself. According to petitioner, respondent's open and continuous possession of the status of a legitimate child is only secondary evidence to the birth certificate itself. Respondent questioned if it was legally permissible for petitioner to question her filiation as a legitimate child of the spouses Rufino and Caridad in the same action for annulment of document and recovery of possession that she herself filed against petitioner and his then co-defendant. Respondent argued that the conditions enumerated under Articles 170 and 171 of the Family Code, giving the putative father and his heirs the right to bring an action to impugn the legitimacy of the child, are not present in the instant case. She further asserted that the Family Code contemplates a

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[7] Id. at 48.

direct action, thus her civil status may not be assailed indirectly or collaterally in this suit.

In the assailed Decision dated January 17, 2011, the appellate court held that under Article 170, the action to impugn the legitimacy of the child must be reckoned from either of these two dates: the date the child was born to the mother during the marriage, or the date when the birth of such child was recorded in the civil registry. The CA found no evidence or admission that Caridad indeed gave birth to respondent on a specific date. It further resolved that the birth certificate presented in this case, Exhibit 14, does not qualify as the valid registration of birth in the civil register as envisioned by the law, *viz.*:

> x x x The reason is that under the statute establishing the civil register, Act No. 3753, *the declaration of the physician or midwife in attendance at the birth or in default thereof, that declaration of either parent of the newborn child, shall be sufficient for the registration of birth in the civil register*. The document in question was signed by one Emma Daño who was not identified as either the parent of the plaintiff or the physician or midwife who attended to her birth. Exhibit 14, legally, cannot be the birth certificate envisioned by the law; otherwise, with an informant as shadowy as Emma Daño, the floodgates to spurious filiations will be opened. Neither may the order of the court Exhibit E be treated as the *final judgment* mentioned in Article 172 as another proof of filiation. The final judgment mentioned refers to a decision of a competent court finding the child legitimate. Exhibit G is merely an order granting letters of guardianship to the parent Caridad based on her representations that she is the mother of the plaintiff.[8]

Noting the absence of such record of birth, final judgment or admission in a public or private document that respondent is the legitimate child of the spouses Rufino and Caridad, the appellate court – similar to the trial court – relied on Article 172 of the Family Code which allows the introduction and admission of secondary evidence to prove one's legitimate filiation *via* open and continuous possession of the status of a legitimate child. The CA agreed with the trial court that respondent has proven her legitimate filiation, *viz.*:

> We agree with the lower court that the plaintiff has proven her filiation by open and continuous possession of the status of a legitimate child. The evidence consists of the following: (1) the plaintiff was allowed by her putative parents to bear their family name *Geronimo*; (2) they supported her and sent her to school paying for her tuition fees and other school expenses; (3) she was the beneficiary of the burial benefits of Caridad before the GSIS; (4) after the death of Rufino, Caridad applied for and was appointed legal guardian of the person and property of the plaintiff from the estate left by Rufino; and (5) both Caridad and the plaintiff executed an extrajudicial settlement of the estate of Rufino on the basis of the fact that they are both the legal heirs of the deceased.
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> It is clear that the status enjoyed by the plaintiff as the legitimate child of Rufino and Caridad has been *open* and *continuous*. x x x The

[8] Id. at 27. Citations omitted.

> conclusion follows that the plaintiff is entitled to the property left by Rufino to the exclusion of his brothers, the defendants, which consists of a one-half share in Lot 1716.[9]

Petitioners moved for reconsideration[10] but the motion was denied in the assailed Resolution dated May 24, 2011. Hence, this petition raising the following assignment of errors:

> I. THAT THE COURT OF APPEALS GRAVELY ERRED AND ABUSED ITS DISCRETION, AMOUNTING TO LACK OF JURISDICTION, WHEN IT ALLOWED THE INTRODUCTION OF SECONDARY EVIDENCE AND RENDERED JUDGMENT BASED THEREON NOTWITHSTANDING THE EXISTENCE OF PRIMARY EVIDENCE OF BIRTH CERTIFICATE [EXHIBIT 14].
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> II. THAT THE COURT OF APPEALS GRAVELY ERRED AND ABUSED ITS DISCRETION, AMOUNTING TO LACK OF JURISDICTION WHEN IT RULED THAT PETITIONERS HAVE NO PERSONALITY TO IMPUGN RESPONDENT'S LEGITIMATE FILIATION.[11]

On the first issue, petitioner argues that secondary evidence to prove one's filiation is admissible only if there is no primary evidence, *i.e*, a record of birth or an authentic admission in writing.[12] Petitioner asserts that herein respondent's birth certificate, Exhibit 14, constitutes the primary evidence enumerated under Article 172 of the Family Code and the ruling of both courts *a quo* that the document is not the one "envisioned by law" should have barred the introduction of secondary evidence. Petitioner expounds this proposition, *viz.*:

> The findings of the courts *a quo* that the birth certificate [Exhibit 14] is not [the] one envisioned by law finds support in numerous cases decided by the Honorable Supreme Court. Thus, a certificate of live birth purportedly identifying the putative father is not competent evidence as to the issue of paternity, when there is no showing that the putative father had a hand in the preparation of said certificates, and the Local Civil Registrar is devoid of authority to record the paternity of an illegitimate child upon the information of a third person. Where the birth certificate and the baptismal certificate are *per se* inadmissible in evidence as proof of filiation, they cannot be admitted indirectly as circumstantial evidence to prove the same. x x x
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> x x x The birth certificate Exhibit 14 contains erasures. The date of birth originally written in ball pen was erased and the date April 6, 1972 was superimposed using a pentel pen; the entry on the informant also originally written in ball pen was erased and the name E. Dano was superimposed using also a pentel pen; there is no signature as to who received it from the office of the registry. Worst, respondent Karen confirms the existence of her birth certificate when she introduced in

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9 Id. at 27-28.
10 Id. at 30-32.
11 Id. at 10.
12 FAMILY CODE, Art. 172.

> evidence [Exhibit A] a mere Certification from the Office of the Local Civil Registrar of Sta. Maria, Ilocos Sur, which highlighted more suspicions of its existence, thus leading to conclusion and presumption that if such evidence is presented, it would be adverse to her claim. True to the suspicion, when Exhibit 14 was introduced by the petitioner and testified on by no less than the NSO representative, Mr. Arturo Reyes, and confirmed that there were alterations which renders the birth certificate questionable.
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> Argued differently, with the declaration that the birth certificate is a nullity or falsity, the courts *a quo* should have stopped there, ruled that respondent Karen is not the child of Rufino, and therefore not entitled to inherit from the estate.[13]

On the second issue, petitioner alleges that the CA gravely erred and abused its discretion amounting to lack of jurisdiction when it ruled that he does not have personality to impugn respondent's legitimate filiation.[14] While petitioner admits that the CA "did not directly rule on this particular issue,"[15] he nonetheless raises the said issue as an error since the appellate court affirmed the decision of the trial court. Petitioner argues that in so affirming, the CA also adopted the ruling of the trial court that the filiation of respondent is strictly personal to respondent's alleged father and his heirs under Articles 170 and 171 of the Family Code,[16] thereby denying petitioner the "right to impugn or question the filiation and status of the plaintiff."[17] Petitioner argues, *viz.*:

> x x x [T]he lower court's reliance on Articles 170 and 171 of the Family Code is totally misplaced, with due respect. It should be read in conjunction with the other articles in the same chapter on paternity and filiation of the Family Code. A careful reading of said chapter would reveal that it contemplates situations where a doubt exists that a child is indeed a man's child, and the father [or, in proper cases, his heirs] denies the child's filiation. It does not refer to situations where a child is alleged not to be the child at all of a particular couple. Petitioners are asserting not merely that respondent Karen is not a legitimate child of, but that she is not a child of Rufino Geronimo at all. x x x[18]

We grant the petition.

Despite its finding that the birth certificate which respondent offered in evidence is questionable, the trial court ruled that respondent is a legitimate child and the sole heir of deceased spouses Rufino and Caridad. The RTC based this conclusion on secondary evidence that is similar to proof admissible under the second paragraph of Article 172 of the Family Code to prove the filiation of legitimate children, *viz.*:

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13 *Rollo*, pp. 13-14.
14 Id. at 14.
15 Id.
16 Id.
17 Id. at 15.
18 Id.

> ART. 172. The filiation of legitimate children is established by any of the following:
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> (1) The record of birth appearing in the civil register or a final judgment; or
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> (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 following 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.

Petitioner argues that such secondary evidence may be admitted only in a direct action under Article 172 because the said provision of law is meant to be instituted as a separate action, and proof of filiation cannot be raised as a collateral issue as in the instant case which is an action for annulment of document and recovery of possession.

Petitioner is correct that proof of legitimacy under Article 172, or illegitimacy under Article 175, should only be raised in a direct and separate action instituted to prove the filiation of a child. The rationale behind this procedural prescription is stated in the case of *Tison v. Court of Appeals*,[19] *viz.*:

> x x x [W]ell settled is the rule that the issue of legitimacy cannot be attacked collaterally.
>
> The rationale for these rules has been explained in this wise:
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> > "The presumption of legitimacy in the Family Code x x x actually fixes a civil status for the child born in wedlock, and that civil status cannot be attacked collaterally. The legitimacy of the child can be impugned only in a direct action brought for that purpose, by the proper parties, and within the period limited by law.
> >
> > **The legitimacy of the child cannot be contested by way of defense or as a collateral issue in another action for a different purpose.** The necessity of an independent action directly impugning the legitimacy is more clearly expressed in the Mexican Code (Article 335) which provides: 'The contest of the legitimacy of a child by the husband or his heirs must be made by proper complaint before the competent court; any contest made in any other way is void.' This principle applies under our Family Code. Articles 170 and 171 of the code confirm this view, because they refer to "the action to impugn the legitimacy."

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[19] 342 Phil. 550 (1997).

> This action can be brought only by the husband or his heirs and within the periods fixed in the present articles.
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> Upon the expiration of the periods provided in Article 170, the action to impugn the legitimacy of a child can no longer be brought. The status conferred by the presumption, therefore, becomes fixed, and can no longer be questioned. The obvious intention of the law is to prevent the status of a child born in wedlock from being in a state of uncertainty for a long time. It also aims to force early action to settle any doubt as to the paternity of such child, so that the evidence material to the matter, which must necessarily be facts occurring during the period of the conception of the child, may still be easily available.
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> x x x x
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> Only the husband can contest the legitimacy of a child born to his wife. He is the one directly confronted with the scandal and ridicule which the infidelity of his wife produces; and he should decide whether to conceal that infidelity or expose it, in view of the moral and economic interest involved. It is only in exceptional cases that his heirs are allowed to contest such legitimacy. Outside of these cases, none – even his heirs – can impugn legitimacy; that would amount to an insult to his memory."[20]

What petitioner failed to recognize, however, is that this procedural rule is applicable only to actions where the legitimacy – or illegitimacy – of a child is at issue. This situation does not obtain in the case at bar.

In the instant case, the filiation of a child – herein respondent – is not at issue. Petitioner does not claim that respondent is not the legitimate child of his deceased brother Rufino and his wife Caridad. What petitioner alleges is that respondent is not the child of the deceased spouses Rufino and Caridad at all. He proffers this allegation in his Amended Answer before the trial court by way of defense that respondent is not an heir to his brother Rufino. When petitioner alleged that respondent is not a child of the deceased spouses Rufino and Caridad in the proceedings below, jurisprudence shows that the trial court was correct in admitting and ruling on the secondary evidence of respondent – even if such proof is similar to the evidence admissible under the second paragraph of Article 172 and despite the instant case not being a direct action to prove one's filiation. In the following cases, the courts *a quo* and this Court did not bar the introduction of secondary evidence in actions which involve allegations that the opposing party is not the child of a particular couple – even if such evidence is similar to the kind of proof admissible under the second paragraph of Article 172.

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[20] Id. at 558-559, citing Tolentino, A., COMMENTARIES AND JURISPRUDENCE ON THE CIVIL CODE OF THE PHILIPPINES, Vol. 1, 1990 ed., 536-537. Emphasis supplied.

In the 1994 case of *Benitez-Badua v. Court of Appeals*,[21] therein deceased spouses Vicente Benitez (Vicente) and Isabel Chipongian (Isabel) owned various properties while they were still living. Isabel departed in 1982, while Vicente died intestate in 1989. In 1990, Vicente's sister (Victoria Benitez-Lirio) and nephew (Feodor Benitez Aguilar) instituted an action before the trial court for the issuance of letters of administration of his estate in favor of Feodor. In the said proceedings, they alleged that Vicente was "survived by no other heirs or relatives be they ascendants or descendants, whether legitimate, illegitimate or legally adopted x x x."[22] They further argued that one "Marissa Benitez[-]Badua who was raised and cared for by them since childhood is, in fact, not related to them by blood, nor legally adopted, and is therefore not a legal heir [of Vicente]."[23] Marissa opposed the petition and proffered evidence to prove that she is an heir of Vicente. Marissa submitted the following evidence, *viz.*:

> 1. her Certificate of Live Birth (Exh. 3);
> 2. Baptismal Certificate (Exh. 4);
> 3. Income Tax Returns and Information Sheet for Membership with the GSIS of the late Vicente naming her as his daughter (Exhs. 10 to 21); and
> 4. School Records (Exhs. 5 & 6).
>
> She also testified that the said spouses reared and continuously treated her as their legitimate daughter.[24]

Feodor and his mother Victoria offered mostly testimonial evidence to show that the spouses Vicente and Isabel failed to beget a child during their marriage. They testified that the late Isabel, when she was 36 years old, was even referred to an obstetrician-gynecologist for treatment. Victoria, who was 77 years old at the time of her testimony, also categorically stated that Marissa was not the biological child of the said spouses who were unable to physically procreate.[25]

The trial court, relying on Articles 166 and 170 of the Family Code, declared Marissa as the legitimate daughter and sole heir of the spouses Vicente and Isabel. The appellate court reversed the RTC's ruling holding that the trial court erred in applying Articles 166 and 170 of the Family Code. On appeal to this Court, we affirmed the reversal made by the appellate court, *viz.*:

> A careful reading of the above articles will show that **they 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 said child by proving: (1) it was physically impossible for him to have sexual intercourse, with his

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21 G.R. No. 105625, January 24, 1994, 229 SCRA 468.
22 Id. at 470.
23 Id.
24 Id.
25 Id. at 470-471.

> 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; (3) that in case of children conceived through artificial 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. **Doubtless then, the appellate court did not err when it refused to apply these articles to the case at bench. For the case at bench is not one where the heirs of the late Vicente are contending that petitioner is not his child by Isabel. Rather, their clear submission is that petitioner was not born to Vicente and Isabel.** Our ruling in Cabatbat-Lim vs. Intermediate Appellate Court, 166 SCRA 451, 457 cited in the impugned decision is apropos, *viz*:
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> > "Petitioners' recourse to Article 263 of the New Civil Code [now Art. 170 of the Family Code] is not well-taken. This legal provision refers to an action to impugn legitimacy. It is inapplicable to this case because this is not an action to impugn the legitimacy of a child, but an action of the private respondents to claim their inheritance as legal heirs of their childless deceased aunt. **They do not claim that petitioner Violeta Cabatbat Lim is an illegitimate child of the deceased, but that she is not the decedent's child at all.** Being neither legally adopted child, nor an acknowledged natural child, nor a child by legal fiction of Esperanza Cabatbat, Violeta is not a legal heir of the deceased."[26]

Similarly, the 2001 case of *Labagala v. Santiago*[27] originated from a complaint for recovery of title, ownership and possession before the trial court. Respondents therein contended that petitioner is not the daughter of the decedent Jose and sought to recover from her the 1/3 portion of the subject property pertaining to Jose but which came into petitioner's sole possession upon Jose's death. Respondents sought to prove that petitioner is not the daughter of the decedent as evidenced by her birth certificate which did not itself indicate the name of Jose as her father. Citing the case of *Sayson v. Court of Appeals* and Article 263 of the Civil Code (now Article 170 of the Family Code),[28] petitioner argued that respondents cannot impugn her filiation collaterally since the case was not an action impugning a child's legitimacy but one for recovery of title, ownership and possession of property. We ruled in this case that petitioner's reliance on Article 263 of the Civil Code is misplaced and respondents may impugn the petitioner's filiation in an action for recovery of title and possession. Thus, we affirmed the ruling of the appellate court that the birth certificate of petitioner Labagala proved that she "was born of different parents, not Jose and his

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26 Id. at 473-474.
27 422 Phil. 699 (2001).
28 Id. at 706. Citations and emphases omitted.

wife."[29] Citing the aforecited cases of *Benitez-Badua* and *Lim v. Intermediate Appellate Court*,[30] we stated, *viz.*:

> This article should be read in conjunction with the other articles in the same chapter on paternity and filiation in the Civil Code. A careful reading of said chapter would reveal that it contemplates situations where a doubt exists that a child is indeed a man's child by his wife, and the husband (or, in proper cases, his heirs) denies the child's filiation. It does not refer to situations where a child is alleged not to be the child at all of a particular couple.[31]
>
> Article 263 refers to an action to impugn the *legitimacy* of a child, to assert and prove that a person is not a man's child by his wife. **However, the present case is not one impugning petitioner's legitimacy. Respondents are asserting not merely that petitioner is not a legitimate child of Jose, but that she is not a child of Jose at all.** x x x[32]

Be that as it may, even if both courts *a quo* were correct in admitting secondary evidence similar to the proof admissible under Article 172 of the Family Code in this action for annulment of document and recovery of possession, we are constrained to rule after a meticulous examination of the evidence on record that all proof points to the conclusion that herein respondent is not a child of the deceased spouses Rufino and Caridad. While we ascribe to the general principle that this Court is not a trier of facts,[33] this rule admits of the following exceptions where findings of fact may be passed upon and reviewed by this Court, *viz.*:

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures (*Joaquin v. Navarro*, 93 Phil. 257 [1953]); (2) When the inference made is manifestly mistaken, absurd or impossible (*Luna v. Linatok*, 74 Phil. 15 [1942]); (3) Where there is a grave abuse of discretion (*Buyco v. People*, 95 Phil. 453 [1955]); (4) When the judgment is based on a misapprehension of facts (*Cruz v. Sosing*, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (*Casica v. Villaseca*, L-9590 Ap. 30, 1957; unrep.); (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (*Evangelista v. Alto Surety and Insurance Co.*, 103 Phil. 401 [1958]); (7) The findings of the Court of Appeals are contrary to those of the trial court (*Garcia v. Court of Appeals*, 33 SCRA 622 [1970]; *Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]); (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (*Ibid.*,); (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Ibid.*,); and (10) The finding of fact of the Court of Appeals is premised

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29 Id.

30 248 Phil. 684 (1988).

31 *Labagala v. Santiago*, supra note 27, at 707, citing *Benitez-Badua v. Court of Appeals*, supra note 21, at 473.

32 Id. at 708, citing *Lim v. Intermediate Appellate Court*, supra note 30, at 690. Emphasis supplied.

33 *Rivera v. Heirs of Romualdo Villanueva*, 528 Phil. 570, 578 (2006), citing *Twin Towers Condominium Corp. v. Court of Appeals*, 446 Phil. 280, 309 (2003); *Fuentes v. Court of Appeals*, 335 Phil. 1163 (1997); *Reyes v. Court of Appeals*, 328 Phil. 238 (1996); *Vda. de Alcantara v. Court of Appeals*, 322 Phil. 490 (1996).

> on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, 33 SCRA 242 [1970]).[34]

It is clear in the case at bar that the ruling of both courts *a quo* declaring respondent as a legitimate child and sole heir of the deceased spouses Rufino and Caridad is one based on a misapprehension of facts.

A mere cursory reading of the birth certificate of respondent would show that it was tampered specifically on the entries pertaining to the date of birth of respondent and the name of the informant. Using pentel ink, the date of birth of respondent – April 6, 1972 – and the name of the informant – Emma Daño – were both superimposed on the document. Despite these glaring erasures, the trial court still relied on the *prima facie* presumption of the veracity and regularity of the birth certificate for failure of petitioner to explain how the erasures were done and if the alterations were due to the fault of respondent. It thus ruled that respondent's filiation was duly established by the birth certificate. The appellate court did not agree with this finding and instead ruled that the birth certificate presented does not qualify as the valid registration of birth in the civil register as envisioned by the law. We reiterate the relevant pronouncement of the CA, *viz.*:

> x x x The document in question was signed by one Emma Daño who was not identified as either the parent of the plaintiff or the physician or midwife who attended to her birth. Exhibit 14, legally, cannot be the birth certificate envisioned by the law; otherwise, with an informant as shadowy as Emma Daño, the floodgates to spurious filiations will be opened. Neither may the order of the court Exhibit E be treated as the *final judgment* mentioned in Article 172 as another proof of filiation. The final judgment mentioned refers to a decision of a competent court finding the child legitimate. Exhibit G is merely an order granting letters of guardianship to the parent Caridad based on her representations that she is the mother of the plaintiff.[35]

Nonetheless, the appellate court agreed with the trial court that respondent has proven her filiation by showing that she has enjoyed that open and continuous possession of the status of a legitimate child of the deceased spouses Rufino and Caridad, *viz.*:

> x x x The evidence consists of the following: (1) the plaintiff was allowed by her putative parents to bear their family name *Geronimo*; (2) they supported her and sent her to school paying for her tuition fees and other school expenses; (3) she was the beneficiary of the burial benefits of Caridad before the GSIS; (4) after the death of Rufino, Caridad applied for and was appointed legal guardian of the person and property of the plaintiff from the estate left by Rufino; and (5) both Caridad and the plaintiff executed an extrajudicial settlement of the estate of Rufino on the basis of the fact that they are both the legal heirs of the deceased.[36]

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34 *Medina v. Asistio, Jr.*, 269 Phil. 225, 232 (1990).
35 *Rollo*, p. 27. Citations omitted.
36 Id. at 27-28.

We do not agree with the conclusion of both courts *a quo*. The appellate court itself ruled that the irregularities consisting of the superimposed entries on the date of birth and the name of the informant made the document questionable. The corroborating testimony of Arturo Reyes, a representative of the NSO, further confirmed that the entries on the date of birth and the signature of the informant are alterations on the birth certificate which rendered the document questionable. To be sure, even the respondent herself did not offer any evidence to explain such irregularities on her own birth certificate. These irregularities and the totality of the following circumstances surrounding the alleged birth of respondent are sufficient to overthrow the presumption of regularity attached to respondent's birth certificate, *viz.*:

1. The identity of one Emma Daño, whose name was superimposed as the informant regarding the birth of respondent, remains unknown.

2. The testimony of Atty. Elmer De Dios Lopez, a legal consultant of the Department of Education in Bulacan, proved that the deceased Caridad did not have any maternity leave during the period of her service from March 11, 1963 to October 24, 1984 as shown by her Service Record as an elementary school teacher at Paombong, Bulacan. This was corroborated by a certification from Dr. Teofila R. Villanueva, Schools Division Superintendent, that she did not file any maternity leave during her service. No testimonial or documentary evidence was also offered to prove that the deceased Caridad ever had a pregnancy.

3. Based on the birth certificate, respondent was born in 1972 or 13 years into the marriage of the deceased spouses Rufino and Caridad. When respondent was born, Caridad was already 40 years old. There are no hospital records of Caridad's delivery, and while it may have been possible for her to have given birth at her own home, this could have been proven by medical or non-medical records or testimony if they do, in fact, exist.

4. It is worthy to note that respondent was the sole witness for herself in the instant case.

Finally, we also find that the concurrence of the secondary evidence relied upon by both courts *a quo* does not sufficiently establish the one crucial fact in this case: that respondent is indeed a child of the deceased spouses. Both the RTC and the CA ruled that respondent is a legitimate child of her putative parents because she was allowed to bear their family name "Geronimo", they supported her and her education, she was the beneficiary of the burial benefits of Caridad in her GSIS policy, Caridad

applied for and was appointed as her legal guardian in relation to the estate left by Rufino, and she and Caridad executed an extrajudicial settlement of the estate of Rufino as his legal heirs.

In the case of *Rivera v. Heirs of Romualdo Villanueva*[37] which incisively discussed its parallelisms and contrasts with the case of *Benitez-Badua v. Court of Appeals*,[38] we ruled that the presence of a similar set of circumstances – which were relied upon as secondary proof by both courts *a quo* in the case at bar – does not establish that one is a child of the putative parents. Our discussion in the *Rivera* case is instructive, *viz.*:

> In *Benitez-Badua v. Court of Appeals*, Marissa Benitez-Badua, in attempting to prove that she was the sole heir of the late Vicente Benitez, submitted a certificate of live birth, a baptismal certificate, income tax returns and an information sheet for membership in the Government Service Insurance System of the decedent naming her as his daughter, and her school records. She also testified that she had been reared and continuously treated as Vicente's daughter.
>
> By testimonial evidence alone, to the effect that Benitez-Badua's alleged parents had been unable to beget children, the siblings of Benitez-Badua's supposed father were able to rebut all of the documentary evidence indicating her filiation. One fact that was counted against Benitez-Badua was that her supposed mother Isabel Chipongian, unable to bear any children even after ten years of marriage, all of a sudden conceived and gave birth to her at the age of 36.
>
> Of great significance to this controversy was the following pronouncement:
>
> > But definitely, **the mere registration of a child in his or her birth certificate as the child of the supposed parents is not a valid adoption, does not confer upon the child the status of an adopted child and the legal rights of such child,** and even amounts to simulation of the child's birth or falsification of his or her birth certificate, which is a public document. (emphasis ours)
>
> Furthermore, it is well-settled that a record of birth is merely a *prima facie* evidence of the facts contained therein. It is not conclusive evidence of the truthfulness of the statements made there by the interested parties. *Following the logic of Benitez, respondent Angelina and her co-defendants in SD-857 should have adduced evidence of her adoption, in view of the contents of her birth certificate. The records, however, are bereft of any such evidence.*
>
> There are several parallels between this case and *Benitez-Badua* that are simply too compelling to ignore. First, both Benitez-Badua and respondent Angelina submitted birth certificates as evidence of filiation. Second, both claimed to be children of parents relatively advanced in age. Third, both claimed to have been born after their alleged parents had lived together childless for several years.

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37 Supra note 33.
38 Supra note 21.

> There are, however, also crucial differences between *Benitez-Badua* and this case which ineluctably support the conclusion that respondent Angelina was not Gonzales' daughter, whether illegitimate or adopted. Gonzales, unlike Benitez-Badua's alleged mother Chipongian, was not only 36 years old but 44 years old, and on the verge of menopause at the time of the alleged birth. Unlike Chipongian who had been married to Vicente Benitez for only 10 years, Gonzales had been living childless with Villanueva for 20 years. Under the circumstances, we hold that it was not sufficiently established that respondent Angelina was Gonzales' biological daughter, nor even her adopted daughter. Thus, she cannot inherit from Gonzales. Since she could not have validly participated in Gonzales' estate, the extrajudicial partition which she executed with Villanueva on August 8, 1980 was invalid.[39]

In view of these premises, we are constrained to disagree with both courts *a quo* and rule that the confluence of the circumstances and the proof presented in this case do not lead to the conclusion that respondent is a child of the deceased spouses.

WHEREFORE, the petition is hereby **GRANTED**. The assailed Decision and Resolution of the Court of Appeals in CA-G.R. CV No. 88650 dated January 17, 2011 and May 24, 2011, respectively, are **REVERSED** and **SET ASIDE**. The Complaint in Civil Case No. 268-M-2001 for Annulment of Document and Recovery of Possession is hereby ordered **DISMISSED**.

With costs against the respondent.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

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[39] Supra note 33, at 578-580.

DIOSDADO M. PERALTA
Associate Justice

JOSE PORTUGAL PEREZ
Associate Justice

FRANCIS H. JARDELEZA
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.

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 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.

MARIA LOURDES P. A. SERENO
Chief Justice