



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DANIEL RIVERA AND ELPIDIO RIVERA, G.R. No. 197310

Petitioners,

PRESENT:
 GESMUNDO, C.J.,
Chairperson,
 CAGUIOA,
 CARANDANG,
 ZALAMEDA, and
 GAERLAN, JJ.

-versus-

**FLORA P. VILLANUEVA,
 RUPERTO PACHECO,
 VIRGILIO PACHECO AND THE
 HEIRS OF DONATO PACHECO,
 JR., namely, ESTELITA
 PACHECO, ROLAND
 PACHECO, DANILO PACHECO,
 AND EDMOND PACHECO,**

Respondents.

Promulgated:

JUN 23 2021

X

DECISION

CARANDANG, J.:

This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeks to nullify the Decision² dated May 19, 2010 and the Resolution³ dated June 13, 2011 of the Court of Appeals (CA) in CA-G.R. CV No. 70177, which dismissed Daniel Rivera and Elipidio Rivera's (collectively, petitioners) appeal and denied their motion for reconsideration, respectively. The CA affirmed with modification the Decision⁴ dated February 13, 2001 of the Regional Trial Court (RTC) of Manila, Branch 20 in Civil Case No. 91-

¹ *Rollo*, pp. 27-44.

² Penned by Associate Justice Amelita G. Tolentino, with the concurrence of Associate Justices Normandie B. Pizarro and Ruben C. Ayson: *id.* at 8-21.

³ *Id.* at 23-24.

⁴ Penned by Pairing Judge Amor A. Reyes; *CA rollo*, pp. 57-62.

55653, in that respondents' accounting of the income derived from the subject properties shall be reckoned from the death of the late Donato Pacheco, Sr. (Donato, Sr.).

Facts of the Case

This case stemmed from a complaint⁵ for partition of real property filed by respondents against petitioners before the RTC.

Donato, Sr. was legally married to Anatacia Santos and they had two children, namely: Emerenciana Pacheco-Tiglao (Emerenciana), and Milagros Pacheco-Rivera (Milagros).⁶ Emerenciana was married to Glorificador Tiglao (Glorificador). Milagros, on the other hand, has two children, herein petitioners.⁷

During his marriage, Donato, Sr. had illicit relation with Emiliana dela Cruz. They begot four children, namely: Flora Pacheco (Flora), born on May 9, 1928; Donato Pacheco, Jr. (Donato, Jr.), born on April 22, 1930; Ruperto Pacheco (Ruperto), born on March 27, 1934; and Virgilio Pacheco (Virgilio), born on May 28, 1937. Flora and Donato, Jr., now deceased, are substituted by their heirs in the present action.⁸

On August 21, 1956, Donato, Sr. died intestate, leaving several properties he acquired during his lifetime.⁹ In their Second Amended Complaint,¹⁰ respondents identified the properties as follows:

(a) a parcel of land located in San Miguel, Bulacan with an area of more or less 788 square meters covered by Transfer Certificate of Title No. T-14024 issued by the Registry of Deeds of Bulacan, with an assessed value of P20,000.00 [*Bulacan property*];

(b) a parcel of land located in San Anton St., Sampaloc, Manila with an assessed valued xxx of P109,960 consisting of more or less 251 square meters, [*Sampaloc property*];

(c) apartment and rooms located at 2441 San Anton St., Sampaloc, Manila with an assessed value xxx of P43,330.00;

(d) shares of stocks with San Miguel Corporation which is now more or less 1,500 shared with a par value of P5.00 per share [*SMC shares*];

(e) house and lot located at 608-B M. Earnshaw, Sampaloc Manila with an assessed value of P65,100.00 [*Earnshaw property*].¹¹

⁵ Records (Vol. I), pp. 1-3.

⁶ Now both deceased.

⁷ *Rollo*, p. 9.

⁸ *Id.* at 35; records (Vol. I), p. 6.

⁹ *Id.* at 9.

¹⁰ Records (Vol. I), pp. 126-130.

¹¹ *Id.* at 127.

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Upon the death of Donato, Sr., Emerenciana took over the management and administration of his father's business and properties. The SMC shares were said to have been transferred in the name of the Pacheco siblings. It was alleged that Emerenciana was able to purchase several more properties using the proceeds or income of her father's business and properties. When Emerenciana died on February 13, 1964, Milagros took over the management of the business and properties of her father.¹²

On February 20, 1964, Glorificador, Emerenciana's husband, filed a petition for issuance of letters of administration in the Court of First Instance (CFI) of Manila, Branch IV, in the special proceedings for the settlement of the estate of Emerenciana. Glorificador moved *ex parte* to be appointed special administrator, which was vehemently opposed by Milagros. Glorificador, likewise, petitioned the trial court to be allowed to perform acts of preservation over the D.R. Pacheco Private Detective and Special Watchman Agency, likewise owned by the late Donato, Sr.¹³

In said settlement proceedings of Emerenciana's estate, respondents intervened therein alleging that the properties of the late Donato, Sr. were included as part of the estate of Emerenciana. In the Order¹⁴ dated October 14, 1977, Judge Serafin R. Cuevas declared that Flora, Donato, Jr., Ruperto and Virgilio, all surnamed Pacheco, the illegitimate children of the deceased Donato R. Pacheco, Sr. and are, therefore, entitled not only to intervene in the proceedings but also to inherit from his estate pursuant to the pertinent provisions of the New Civil Code.¹⁵

Further, in the Order¹⁶ dated November 22, 1984, Judge Herminio C. Mariano held that the following properties are owned by the deceased Donato, Sr. and ordered excluded from the estate of Emerenciana, to wit: (1) the parcel of land with an area of 788 square meters, more or less, covered by TCT No. T-14029 of the Registry of Deeds of Bulacan; (2) the undivided portion of the San Anton property (2441 San Anton, Sampaloc, Manila) to the extent of 46.9% thereof; and (3) the shares of stocks with the San Miguel Brewery, now San Miguel Corporation.¹⁷

Judge Herminio C. Mariano (Judge Mariano) ruled that Donato, Sr. owned the San Anton, Sampaloc lot to the extent of 46.9% having paid 49 installments during his lifetime, and 53.1% was owned by Emerenciana having paid the 50th to 120th installments. As to the improvements constructed on said San Anton lot, it was found that the construction expenses were taken from the personal funds of Milagros and Emerenciana, as evidenced by various receipts submitted by the administratrix.¹⁸

¹² *Rollo*, p. 10.

¹³ *Id.*

¹⁴ Records (Vol. I), pp. 5-9.

¹⁵ *Id.*

¹⁶ *Id.* at 20-23.

¹⁷ *Id.* at 23.

¹⁸ *Id.* at 21-22.

As to the agency (Donato R. Pacheco Private Detective and Watchmen Agency), Judge Mariano held that it was Donato, Sr. who operated the same during his lifetime as sole proprietor thereof. Said business which he left behind after his death could never be inherited by his heirs, and its assets consisting of assorted guns have been surrendered to the Philippine Constabulary.¹⁹

With regard to the San Miguel, Bulacan lot, and the SMC shares of stocks, Judge Mariano declared them to be owned by Donato, Sr. and formed part of his estate.²⁰

In their complaint, which was amended twice,²¹ respondents claimed that herein petitioners are their half-blood nephews, the latter's mother, Milagros, being respondents' half-blood sister, having the same father, Donato, Sr. Respondents averred that their paternity and filiation to their father, Donato, Sr., had been duly established, determined, and proven. They alleged that the aforesaid properties left by Donato, Sr. had always been in petitioners' possession, control, and administration including the fruits and income derived from said properties. Respondents have not received a single centavo from the fruits or income of said properties. They now desire that the properties be partitioned among themselves. Respondents made a demand from petitioners to partition the properties but their call was unheeded.²²

Respondents further contended that petitioners were able to have one-half of the parcel of land located in San Anton, Sampaloc titled in the name of Milagros and Emerenciana covered by TCT No. 1988-31, while the other half was titled in the name of Emerenciana and Donato, Sr. covered by TCT No. 1988-32. They made it appear that Milagros and Emerenciana are the only heirs of Donato, Sr., when in fact they are not. Respondents claimed that the registration of the property in the name of Milagros and Emerenciana greatly prejudiced them. Aside from asking the court for the partition of the subject properties, respondents also prayed that TCT Nos. 1988-31 and 1988-32 be declared null and void.²³

In their Answer, which was likewise twice amended,²⁴ petitioners countered that the Bulacan property and SMC shares had been the subject of an Affidavit of Extrajudicial Partition executed by the siblings Emerenciana and Milagros on September 7, 1956. The Affidavit was duly registered, and said to be unopposed from the time of its registration to date. They further claimed that the rights and interests of Donato, Sr. with respect to the Sampaloc property is limited only to the extent of 46.9% since Emerenciana continued to pay the acquisition costs over a portion of the Sampaloc property to the extent of 53.1% as ruled in the Order dated November 22, 1984 by the

¹⁹ Id. at 22.

²⁰ Id. at 23.

²¹ Id. at 1-3, 80-83, 126-130.

²² Id.

²³ Id.

²⁴ Id. at 14-16, 89-91, 135-140.



CFI of Manila, Branch IV. The Sampaloc property is now covered by Transfer Certificate of Title (TCT) No. 198832 in the name of Milagros and Emerenciana. The house and lot located at Earnshaw is now covered by TCT No. 198832 acquired by Milagros and Emerenciana long after the death of their father; hence, exclusively owned by them.²⁵

By way of affirmative defenses, they claimed that petitioner Elpidio Rivera assumed the administration of the estate of his aunt, Emerenciana, after the death of her mother, Milagros, on July 30, 1988. Petitioners maintained that respondents have no cause of action against them since the complaint was filed only on January 9, 1991 or 35 years after the death of Donato, Sr. on August 12, 1956, and after the execution of the Affidavit of Extrajudicial Partition on September 7, 1956 by Emerenciana and Milagros. Assuming that respondents have a cause of action, petitioners averred that the same has already prescribed. Further, respondents did not make a formal demand for partition from Emerenciana or Milagros.²⁶

Ruling of the Regional Trial Court

On February 13, 2011, the RTC rendered a Decision²⁷ partially ruling in favor of respondents, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. declaring plaintiffs [respondents] as part owners of the parcels of land with improvements located at San Miguel, Bulacan; San Anton St., Sampaloc, Manila, and shares of stock with San Miguel Corporation.
2. ordering defendants [petitioners] to render an accounting of the income of the property owned in common from the filing of the complaint on January 1, 1991 up to the date of this decision;
3. parties are ordered to submit thereon project of partition over the property owned in common in accordance with their sharing for approved (*sic*) by the Court within forty-five days from the finality of the decision;
4. ordering the defendants [petitioners] to pay P30,000.00 representing the expenses incurred by the plaintiffs [respondents] in prosecuting this case; and
5. ordering defendants [petitioners] to pay the costs.

SO ORDERED.²⁸

²⁵ Id. 14-15, 89-91, 135-139.

²⁶ Id. at 15-16, 139-140.

²⁷ Supra note 4.

²⁸ CA *rollo*, pp. 61-62.

The RTC first made a determination of the properties of the late Donato, Sr. It ruled that the parcel of land with improvements located in 2441 San Anton, Sampaloc, Manila was not wholly owned by Donato, Sr.; only 46.9% of the 251.80-square meter thereof was owned by Donato, Sr. As to the house and lot located at 60 B Earnshaw Sampaloc, Manila, no evidence was presented by respondents to prove that it was owned by Donato, Sr.; hence, the same cannot be included in the properties to be partitioned.²⁹

According to the RTC, there is no dispute that respondents are the illegitimate children and nephews and nieces of the late Donato, Sr. and the legitime of each illegitimate child shall consist of one-half (1/2) of the legitime of legitimate child. Notwithstanding that the complaint was filed 35 years after the death of Donato, Sr. and after an extrajudicial settlement of estate had been executed on September 7, 1956 by his legitimate children, Emerenciana and Milagros, petitioners' possession of the inherited properties did not ripen into ownership for they only possessed the same as trustees for the other co-owners. The RTC held that respondents have the right to ask for the partition of the properties owned by their father, Donato Pacheco, Sr.³⁰

Both parties appealed to the CA.

Ruling of the Court of Appeals

In its Decision³¹ dated May 19, 2010, the CA dismissed the appeal. It affirmed with modification the Decision of the RTC in that petitioners' accounting of the income derived from the controverted properties shall be reckoned from the time of the death of the late Donato, Sr. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the appeal is **DISMISSED**. The impugned decision of the court a quo is hereby **AFFIRMED WITH THE MODIFICATION** that the accounting of the income derived from the controverted properties at bat by the defendants-appellants [petitioners] shall be reckoned from the time of the death of the late Donato Pacheco, Sr.. Costs against the defendants-appellants.

SO ORDERED.³² (Emphasis in the original)

The CA stressed that the filiation of respondents to the late Donato, Sr., as their putative father, has been duly proven. As such, the inevitable legal consequence thereof is that they are entitled to inherit from the intestate estate of Donato, Sr., and are thus, deemed co-owners, together with Emerenciana and Milagros, of the properties left by their common father.³³

²⁹ Id. at 59-60.

³⁰ Id. at 60-61.

³¹ Supra note 2.

³² *Rollo*, p. 21.

³³ Id. at 18.

The CA held that the Affidavit of Extrajudicial Partition where Emerenciana and Milagros attested therein to be the sole surviving heirs of their father, Donato, Sr., is fraudulent to that effect, in view of the falsity of said declaration. A deed of extrajudicial partition executed without including some of the heirs, who had no knowledge of and consent to the same, is fraudulent and vicious. Further, the CA affirmed the RTC that the Sampaloc property (Earnshaw) does not form part of the estate of Donato, Sr., since said property is already covered by TCT No. 198832 issued in the name of the heirs of Emerenciana and Milagros.³⁴

As to the reckoning period to render accounting of the income derived from the subject properties, the CA ruled that it should be reckoned from the time of the death of Donato, Sr. on August 21, 1956, as expressed under Article 774 of the Civil Code, since it is from the moment that his property, rights, and obligations, to the extent of the value of his inheritance, are transmitted to his intestate legal heirs. Moreover, the legitime of each of the respondents, being illegitimate children or acknowledged natural children of Donato, Sr., shall consist of one-half of the legitime of each of the legitimate children or descendants. The heirs of Donato, Jr. are entitled to inherit by right of representation.³⁵

Petitioners moved for reconsideration but it was denied in the Resolution³⁶ dated June 13, 2011.

Hence, this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court filed by petitioners.

Petitioners' Arguments

Petitioners argue that respondents are already barred by estoppel to move anew for partition and liquidation. The Affidavit of Extrajudicial Partition was executed by Emerenciana and Milagros on September 7, 1956 covering the SMC shares and the Bulacan property. At that time, respondents were not yet recognized and considered illegitimate children of the late Donato, Sr. After that, respondent Flora Villanueva came to know of the existence of said document. Petitioners claim that while partition is imprescriptible, this applies only if and when the party seeking the same is entitled to demand under the law. Before partition could be made, the person so demanding must show that she or he is entitled to a portion thereof, and has not lost such right by any of the means laid down by law. Petitioners aver that the Sampaloc property is not wholly owned by the late Donato, Sr. as only 46.97 of the 251.81 square meters should be divided among the heirs. Further, the SMC shares and Bulacan property are owned in common by Emerenciana and Milagros. Hence, petitioners argue that the CA erred in concluding that the improvements as well as the land in San Anton St., also in San Miguel

³⁴ Id. at 19-20.

³⁵ Id. at 20-21.

³⁶ Supra note 3.

Bulacan, together with the shares of stocks are subject to partition among the parties in this case.³⁷

Petitioners contend that the properties subject of accounting do not belong to respondents. They reiterate that the San Miguel Bulacan property and the SMC shares, as well as the improvements in San Anton property, are owned in common by Milagros and Emerenciana by virtue of the Affidavit of Extrajudicial Partition.³⁸

Petitioners also assert that the CA erred in ruling that the legitime of each illegitimate child shall consist of 1/2 of the legitime of a legitimate child pursuant to Article 176 of the Family Code. Petitioners posit that since Donato, Sr. died on August 12, 1956, what applies should be Article 983 in relation to Article 895 of the Civil Code which provides that the share of an illegitimate child shall be equal, among others, in every case to 4/5 of the legitime of an acknowledged natural child. If the Family Code is applied, petitioners claim that their rights will be impaired because instead of the illegitimate children getting a smaller share, they get more at the expense of the legitimate children.³⁹

Petitioners likewise assail the award of ₱30,000.00 as litigation expenses for being without basis in fact and in law. They did not act in bad faith in defending themselves.⁴⁰

Finally, petitioners argue that the subject properties can no longer be the subject of partition because they had been adjudicated in a similar case penned by RTC Judge Herminio C. Mariano in his Order dated November 22, 1984 which had become final and executory. Thus, this case is already barred by *res judicata* and that respondents committed forum-shopping.⁴¹

Petitioners reiterated the above arguments in their Reply.⁴²

Respondents' Comment

Respondents counter that their right to demand partition has not prescribed. The two-year period provided under Section 4, Rule 74 of the Rules of Court does not apply to those who had no part or no notice of the settlement, like respondents. The partition in this case was invalid because it excluded the illegitimate children of Donato, Sr. The partition was null and void and it did not affect the excluded heirs; hence, respondent still have the right to demand partition.⁴³

³⁷ *Rollo*, pp. 38-39.

³⁸ *Id.* at 38-40.

³⁹ *Id.* at 40-41.

⁴⁰ *Id.* at 41-42.

⁴¹ *Id.* at 42-43.

⁴² *Id.* at 150-155.

⁴³ *Id.* at 134-136.



Respondents aver that the CA was correct when it ordered an accounting of the properties of Donato, Sr. reckoned from the latter's death on August 21, 1956.⁴⁴ Also, the CA properly declared that the legitime of each illegitimate child shall consist of one-half of the legitime of each legitimate children or descendants as provided under Article 176 of the Family Code.⁴⁵

Lastly, respondents claim that they are entitled to litigation expenses. Petitioners, as well as their mother and aunt, are fully aware of the existence of their half-blood brothers and sister, but without any valid reason, they refused to give to respondents what rightfully belong to them.⁴⁶

Issues raised in the Petition

I. The Court of Appeals committed serious error of law when it ordered anew the partition and liquidation of the properties of the late Donato Pacheco, Sr.

II. The Court of Appeals committed serious error of law when it ordered an accounting of the properties of Donato Pacheco, Sr. reckoned from the latter's death on August 21, 1956.

III. The Court of Appeals committed serious error of law in pronouncing that the legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child in this case.

IV. The Court of Appeals committed serious error of law when it awarded litigation expenses to the respondents.⁴⁷

Ruling of the Court

The petition is partially granted.

The inheritance rights of respondents and the properties included in the estate of Donato, Sr. are already settled matters. The fact that respondents Flora Pacheco-Villanueva, Ruperto Pacheco, Virgilio Pacheco, and Donato Pacheco, Jr.⁴⁸ are the illegitimate children of Donato, Sr. had been determined by Judge Serafin Cuevas in its Order⁴⁹ dated October 14, 1977 in the settlement of the estate of Emerenciana, wherein respondents participated and were admitted as intervenors. Likewise, the properties included in the estate of Donato, Sr. had been resolved as contained in the Order⁵⁰ dated November 22, 1984 of Judge Mariano.

⁴⁴ Id. at 136.

⁴⁵ Id. at 137.

⁴⁶ Id. at 138.

⁴⁷ Id. at 37.

⁴⁸ Deceased, as substituted by his heirs.

⁴⁹ Supra note 14.

⁵⁰ Supra note 16.



It is now conclusive that respondents have a right to inherit and the following properties form part of the estate of Donato, Sr., which are subject to partition among his heirs and subject of accounting of income, to wit:

- (a) a parcel of land located in San Miguel, Bulacan (**Bulacan property**) with an area of 788 square meters, more or less, covered by Transfer Certificate of Title (TCT) No. T-14024 issued by the Registry of Deeds of Bulacan;
- (b) **46.9%** of the 251-square meter of a parcel of land (without the improvements) located in San Anton St., Sampaloc, Manila (**Sampaloc property**); and
- (c) shares of stocks with San Miguel Corporation (**SMC shares**)

Anent the Earnshaw property, the RTC as affirmed by the CA, held that it does not form part of the estate of Donato, Sr. since said property is already covered by TCT No. 198832 issued in the name of the heirs of Emerenciana and Milagros.⁵¹ Respondents no longer questioned this ruling. They did not pursue this issue, even in their Comment to the instant petition.

Prescription of Action

Petitioners argue that respondents' action for partition had prescribed. Petitioners claim that while partition is imprescriptible, this applies only if and when the party seeking the same is entitled to demand under the law. Before partition could be made, the person so demanding must show that she or he is entitled to a portion thereof, and has not lost such right by any of the means laid down by law. Petitioners claim that respondents are no longer entitled to the subject properties considering that these had been the subject of an extrajudicial partition executed by Emerenciana and Milagros on September 7, 1956, before respondents were recognized as illegitimate children of the late Donato, Sr. Thus, the subject properties can no longer be partitioned.

Prescription does not run against respondents with respect to the filing of the action for partition *so long as the heirs for whose benefit prescription is invoked, have not expressly or impliedly repudiated the co-ownership*.⁵² In other words, prescription of action for partition does not lie except when the co-ownership is properly repudiated by the co-owner.⁵³ Indeed, Article 494 of the Civil Code provides:

Article 494. No co-owner shall be obliged to remain in the co-ownership. Each co-owner may demand at any time the partition of the thing owned in common, insofar as his share is concerned.

⁵¹ Rollo, p. 20.

⁵² *Mariategui v. Court of Appeals*, 282 Phil. 348, 357 (1992).

⁵³ *Id.* at 357-358.



Nevertheless, an agreement to keep the thing undivided for a certain period of time, not exceeding ten years, shall be valid. This term may be extended by a new agreement.

A donor or testator may prohibit partition for a period which shall not exceed twenty years.

Neither shall there be any partition when it is prohibited by law.

No prescription shall run in favor of a co-owner or co-heir against his co-owners or co-heirs so long as he expressly or impliedly recognizes the co-ownership.
(Emphasis and underscoring supplied)

Petitioners claim that respondents are no longer entitled to the subject properties considering that these had been the subject of an extrajudicial partition executed by Emerenciana and Milagros on September 7, 1956. Specifically, the Bulacan property and the SMC shares had been adjudicated to Emerenciana and Milagros; hence, these properties are no longer part of the estate of Donato, Sr.

It should be stressed that the Affidavit of Extrajudicial Partition executed by Emerenciana and Milagros is not effective as to respondents for they had no knowledge or participation therein. The partition was not valid and binding upon respondents. Under the rule, “no extra-judicial settlement shall be binding upon any person who has not participated therein or had no notice thereof.”⁵⁴

Emerenciana and Milagros cannot claim that they are the only surviving heirs of deceased Donato, Sr. considering that they were aware that they have half-brothers and a half-sister. As testified, Flora, Ruperto, and Donato, Jr. even stayed in the house of Donato, Sr. in Sampaloc. Flora stayed in San Anton, Sampaloc when she was seven years old up to 19 years old.⁵⁵ Donato, Jr. also stayed in the Sampaloc property and became the right hand of Emerenciana in their father’s business.⁵⁶

Contrary to petitioners’ claim, the principle of *res judicata* and forum-shopping do not apply in this case. The previous final and executory decision of the RTC pertain to the settlement of the estate of Emerenciana S. Pacheco. The present case concerns the partition of the intestate estate of Donato, Sr.

Reckoning Period to Render Accounting

The Court agrees with the CA that the reckoning period to render accounting of the income derived from the subject properties should be on

⁵⁴ *Cruz v. Cruz*, 826 Phil. 758, 774 (2018), citing *Neri v. Heirs of Hadji Yusop Uy*, 697 Phil. 217, 226 (2012), which cited *Segura v. Segura*, 247-A, 449, 456 (1988).

⁵⁵ TSN dated October 21, 1997, p. 12.

⁵⁶ *Id.* at 14.

August 21, 1956, the death of Donato, Sr. Pursuant to Article 774⁵⁷ of the Civil Code, “the property, rights and obligations to the extent of the value of the inheritance of a person are transmitted through his death to another x x x.” Considering that Donato, Sr. died intestate, respondents as heirs, being illegitimate children, are entitled to succeed from their father’s estate from the moment of his death. It is expressly provided that rights to the succession are transmitted from the moment of death of the decedent.⁵⁸ Hence, respondents should also have a share from whatever income derived from the subject properties starting from the death of Donato, Sr., and not only from the time of the filing of the complaint on January 1, 1991.

Contrary to respondents’ assertion, the improvements (*i.e.*, two houses) constructed in the San Anton, Sampaloc property do not form part of the estate of Donato, Sr. As decided by Judge Mariano, these improvements are not included in the accounting of income because the expenses for the construction of the building came from the personal funds of Milagros and Emerenciana. What is included in the accounting of income pertain only to: (1) 46.9% of the San Anton, Sampaloc lot; (2) the San Miguel, Bulacan property; and (3) the SMC shares of stock.

Legitime of Each Illegitimate Child

The CA did not apply the provisions of the Family Code. It is clear in the ruling that the CA applied Article 895 of the Civil Code. The Civil Code provisions apply considering that Donato, Sr. died on August 21, 1956 during the effectivity of the Civil Code and respondents became co-owners of the properties of Donato, Sr. upon the latter’s death. While Article 255⁵⁹ of the Family Code provides that it shall have retroactive effect, this is insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws. Petitioners have already acquired vested rights as to their share in the legitime, which consists of one-half of the hereditary estate as provided in Article 888 of the Civil Code.⁶⁰

The Court notes, however, that the RTC and the CA erred in ruling that the legitime of Flora, Ruperto, Virgilio and Donato, Jr. shall consist of 1/2 of the legitime of each of the legitimate children. The Court agrees with petitioners that their share is only 4/5 of the legitime of an acknowledged natural child.

Article 895 of the Civil Code provides:

⁵⁷ CIVIL CODE OF THE PHILIPPINES, Article 774. Succession is a mode of acquisition by virtue of which the property, rights and obligations to the extent of the value of the inheritance, of a person are transmitted through his death to another or others either by his will or by operation of law.

⁵⁸ CIVIL CODE OF THE PHILIPPINES, Article 777.

⁵⁹ FAMILY CODE, Article 255. This Code shall have retroactive effect insofar as it does not prejudice or impair vested or acquired rights in accordance with the Civil Code or other laws.

⁶⁰ CIVIL CODE OF THE PHILIPPINES, Article 888. The legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother.

Article 895. The legitime of each of the acknowledged natural children and each of the natural children by legal fiction shall consist of one-half of the legitime of each of the legitimate children or descendants.

The legitime of an illegitimate child who is neither an acknowledged natural, nor a natural child by legal fiction, shall be equal in every case to four-fifths of the legitime of an acknowledged natural child.

The legitime of the illegitimate children shall be taken from the portion of the estate at the free disposal of the testator, provided that in no case shall the total legitime of such illegitimate children exceed that free portion, and that the legitime of the surviving spouse must first be fully satisfied.

Flora, Ruperto, Virgilio and Donato, Jr. cannot be considered as acknowledged *natural* children of Donato, Sr. Children born outside wedlock of parents who, at the time of the conception of the former, were not disqualified by any impediment to marry each other, are natural.⁶¹ While they are acknowledged or recognized, Flora, Ruperto, Virgilio and Donato, Jr. are not natural children. They are only acknowledged illegitimate children of Donato, Sr.

Pursuant to the second paragraph of Article 895, the legitime of Flora, Ruperto, Virgilio and Donato, Jr., being illegitimate children, shall consist of 4/5 of the legitime of an acknowledged natural child. The legitime of an acknowledged natural child shall consist of 1/2 of the legitime of each of the legitimate children or descendants. Thus, the legitime of Flora, Ruperto, Virgilio and Donato, Jr., shall consist of 4/5 of the legitime of an acknowledged natural child.

Right to Litigation Expenses

The Court affirms the award of litigation expenses in the reasonable amount of ₱30,000.00, pursuant to Article 2208(2)⁶² and (5)⁶³ of the Civil Code. Despite respondents' demands to partition the subject properties, their demands remain unheeded.

Contrary to the contention of petitioners that they did not act in bad faith in defending themselves and that it was respondents who acted in bad faith knowing too well that the properties had been adjudicated in their favor, the Court holds otherwise. Petitioners had been aware that respondents are entitled to inherit from the intestate estate of Donato, Sr., yet, they still refused to give the rightful share of respondents. Because of petitioners unlawful and

⁶¹ CIVIL CODE OF THE PHILIPPINES, Article 269.

⁶² (2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest[.]

⁶³ (5) Where the defendant acted in gross and evident bad faith in refusing to satisfy the plaintiff's plainly valid, just and demandable claim[.]

unjustified refusal to partition the subject properties. Respondents were compelled to litigate to protect and defend their interests.

WHEREFORE, premises considered, the instant petition is **PARTLY GRANTED**. The Decision dated May 19, 2010 and the Resolution dated June 13, 2011 of the Court of Appeals in CA-G.R. CV No. 70177 are hereby **AFFIRMED with MODIFICATION** in that the legitime of Flora, Ruperto, Virgilio and Donato, Jr., all surnamed Pacheco, being acknowledged illegitimate children of Donato Pacheco, Sr., shall consist of four-fifths (4/5) of the legitime of an acknowledged natural child, pursuant to Article 895(2) of the Civil Code.

Further, petitioners Daniel Rivera and Elpidio Rivera are **DIRECTED** to comply with the Decision dated February 13, 2001 of the Regional Trial Court of Manila, Branch 20, in Civil Case No. 91-55653 to, among others: (1) render an accounting of the income of the properties from August 21, 1956; and (2) submit a project of partition over the following properties:

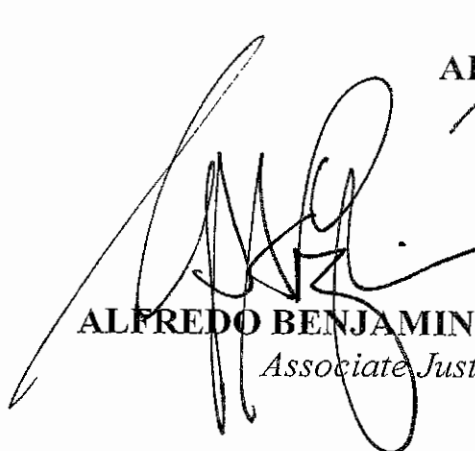
- (a) a parcel of land located in San Miguel, Bulacan with an area of 788 square meters, more or less, covered by Transfer Certificate of Title No. T-14024 issued by the Registry of Deeds of Bulacan;
- (b) 46.9% of the 251-square-meter parcel of land (without the improvements) located in San Anton Street, Sampaloc, Manila; and
- (c) shares of stocks with San Miguel Corporation.

The case is **REMANDED** to the trial court to effect the foregoing directives.

SO ORDERED.


ROSMARIE D. CARANDANG
Associate Justice

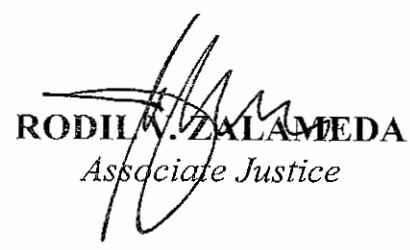
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ALEXANDER G. GESMUNDO
Chief Justice



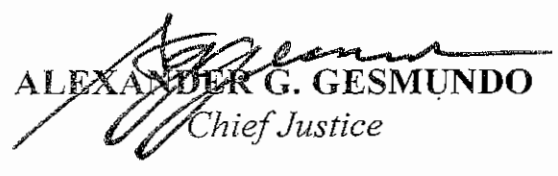
RODIL W. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



ALEXANDER G. GESMUNDO
Chief Justice