

GERONIMO DUSEPEC, ADMINISTRATOR OF THE ESTATE LEFT BY THE DECEASED TAN PO PIK, YU TENG NIU, TAN CHIONG YAN, TAN CUI AND TAN YIN TI, THE LAST TWO BEING REPRESENTED BY THEIR GURAD...

G.R. No. 13670. March 25, 1919

Ponente: TORRES, J.

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TORRES, J.:

On January 18, 1916, counsel for the plaintiffs filed a complaint in the Court of First Instance of Rizal, which complaint was later amended, alleging that Geronimo Dusepec, one of the plaintiffs, is the duly appointed and qualified administrator of the estate left by the deceased Tan Po Pik; that Yu Teng Niu named in this case as one of the plaintiffs is the widow of Tan Po Pik; that Tan Chiong Yan, Tan Cui, and Tan Yin Ti, of 19, 17, and 15 years of age, respectively, are the children and sole heirs of the said decedent Tan Po Pik and are represented by their guardian ad litem, Tan Po O, and all the plaintiffs are residents of the city of Manila; that the defendant Marta Torres resides in Malabon, Rizal, and pretends to be the widow of the said Tan Po Pik and to have an interest in the estate of the latter; that the defendant Juliana Torres also resides in Malabon and claims to be the guardian of Genaro, Maria Ana, and Agaton Benigno, all surnamed Tan Po Pik and Torres, who allege that they are the minor children of said Tan Po Pik and have an interest in the property of the latter; that said Tan Po Pik was married to said Yu Teng Niu in the Province of Fokien, China, in April 1887, in accordance with the laws, rights, and customs of China; that the law observed in the marriage of Tan Po Pik with Yu Teng Niu consisted in the exchange of letters between the parents of Tan Po Pik and those of Yu Teng Niu, whereby the said parents agreed to the marriage of their children Tan Po Pik and Yu Teng Niu, and that, immediately after the close of the five days festivity in the houses of both of the contracting parties according to the custom which was the law in the Province of Fokien in the Empire of China, the bride was taken, in company with the invited guests to the house of the bridegroom's parents, in a chair painted red and received upon her arrival at the said house by her husband Tan Po Pik, and accepted to form a part of the family of the latter; that thus the marriage ceremony was completed and the invited guests came to be the witnesses of the realization of the marriage contracted by said Tan Po Pik and Yu Teng Niu; that from this marriage were born said Tan Chiong Yan, Tan Cui, and Tan Yin Ti, who are his legitimate heirs, and who, having lived and resided in the Philippine Islands, have the right to succeed to the inheritance of the deceased Tan Po Pik in accordance with the laws now in force in these Islands, but that, if it be declared that they have the right to succeed him according to the laws of China, then according to these laws and customs of China the widow of said Tan Po Pik, Yu Teng Niu, has the right to the usufruct of all the property of her husband during her lifetime, she being obliged to support her minor children, and afterwards the property of said Tan Po Pik will be distributed in equal parts among the children of Tan Po Pik, named Tan Chiong Yan, Tan Cui, and Tan Yin Ti (Laws of the Dynasty of Tai Ching, Vol. 8, title distribution); that the deceased Tan Po Pik, who was a resident of the Philippine Islands, died intestate in Manila on May 10, 1914, leaving property acquired during his marriage with Yu Teng Niu the value of which amounts to thirty one thousand, three hundred eighty one pesos, and fifty-five centavos (\$31,381.55) consisting of movable and immovable property as set out in

details in the complaint; that on the death of Tan Po Pik, the latter had -some debts the amount of which the plaintiffs do not know; that immediately after the death of said Tan Po Pik, the defendant Marta Torres illegally took possession of all the property described in paragraph 5 of the complaint and at present possesses them and has illegally appropriated them together with their fruits and income after dividing them into two parts between herself and the alleged minors mentioned above; that the plaintiffs are entitled to the possession of all the said property including their income and fruits from the death of said Tan Po Pik, which property the defendants have been squandering and continue to squander, and there is great danger that they will squander all to the irreparable injury of the plaintiffs unless the court name a depository of the property above-mentioned who should preserve them during the pendency of this action, the plaintiffs being willing to give the bond required; wherefore, the said plaintiffs pray that said depository of all the property described in the complaint be appointed; that the defendants be ordered to render an account of the administration of all the said property from the death of Tan Po Pik, and that a judgment be rendered in favor of the plaintiffs and against the defendants for the delivery to the former of all the said property, and, in case the delivery of all the said property can not be made, that the defendants pay the value of that which they may not be able to deliver, with the costs of this action.

The defendant Juliana Torres, guardian of the minors Genaro, Maria Ana, and Agaton Benigno surnamed Tan Po Pik and Torres, in answer to the complaint, denies generally all the allegations therein, and as a special defense alleged that her wards are the legitimate children born out of a lawful wedlock celebrated in the Philippine Islands in accordance with the laws thereof between the deceased Tan Po Pik and the defendant Marta Torres; that said Tan Po Pik died intestate and a legal partition between the widow of Tan Po Pik and her children was already had; that the plaintiff who alleges her name to be Yu Teng Niu is not such Yu Teng Niu, and even granting that she was the same Yu Teng Niu, she was not the wife of the deceased Tan Po Pik in China, and that the allegations made, that the deceased Tan Po Pik had contracted marriage with Yu Teng Niu and that with her he had the plaintiffs as children, as they thus, supposed in the lifetime of Tan Po Pik, were fraudulent and made only to evade the immigration laws of these Islands. For these reasons, the said defendant prayed that she be absolved from the complaint, with the costs against the plaintiffs.

The defendant Marta Torres, in her answer to the complaint, denied all the allegations therein contained, and, as a special defense, set up the same facts alleged by the defendant Juliana Torres in the latter's answer, and prayed that she be absolved from the complaint, with the costs against the plaintiffs.

On motion of the plaintiffs, Juan L. Javier was substituted in the place of Geronimo Dusepec, because said Juan L. Javier was then the administrator, duly appointed and qualified, of the estate left by the deceased Tan Po Pik, and moreover the title of the complaint was changed in such a way that J. C. Tan Po-0 appears as plaintiff in representation and as guardian only of the minors Tan Cui and Tan Yin Ti, and that Tan Chiong Yan is a plaintiff in his own rights, as he was then of age.

The trial was had and evidence on both sides adduced. Under date of July 21, 1917, the court rendered judgment condemning the defendants to pay to the plaintiffs the sum of five hundred pesos (P500) which was the private capital which Tan Po Pik had when he married Marta Torres, and absolving them from the other allegations contained in the plaintiffs' complaint.

From this judgment both parties excepted and moved for a new trial on the ground that the decision is not supported by the evidence. These motions were denied. Both parties excepted to the order of the court overruling their motions and presented the corresponding bills of exceptions which were approved, certified to, and forwarded together with all the records of the case to the clerk of this court.

The principal question submitted for the decision of this court is whether or not the plaintiff Yu Teng Niu was the

legitimate wife of the deceased Tan Po Pik and her coplaintiffs are legitimate children of the same with the right to succeed the said deceased Tan Po Pik.

Yu Teng Niu declared at the trial had in 1917 that at the age of 18 years she was married to Tan Po Pik on March 29, 1887; that at the age of 22 she came to Manila for the first time; and when she was 31 years old, she returned to China and a few months after her arrival there, she gave birth to her daughter Tan Yin Ti, having had three children with Tan Po Pik. These are: Tan Chiong Yan who was then 22 years old; Tan Cui, 17 years; and Tan Yin Ti, 19 years (record, p. 175). She also stated that when she returned to China, the Americans had already been two years in the Philippines, and that the last time she came to these Islands was after the death of her husband; and that during the period that transpired from the time she was 22 years to the time that she was 31, she lived in Manila.

This witness said that she gave birth in China to Tan Yin Ti two years after the arrival of the Americans in the Philippines and that said daughter Tan Yin Ti was 19 years old on the day of the trial. Now then, since the arrival of the Americans in the Philippines till 1917, nineteen years had not yet elapsed, and from two years after the said arrival of the Americans till 1917 only seventeen years had elapsed; for this reason, it is not true that Tan Yin Ti, 19 years of age, was born in 1900 as asserted by Yu Teng Niu. This falsehood is not a mere mistake regarding the age of Tan Yin Ti, because this same girl stated that she was 19 years old (record, p. 181). It follows that Yu Teng Niu either deliberately told a lie or did not know that her supposed daughter was born before or after the American occupation of the Islands. In either case, Tan Yin Ti is not her daughter, and much less is she the daughter of Tan Po Pik, because, if Tan Yin Ti was born in China as declared by Yu Teng Niu, and was 19 years old in 1917, Tan Yin Ti must have been born in 1898, and, as Yu Teng Niu alleged that she was in the Philippines seven years before the arrival of the Americans here, that is, from 1891, and that during that time Tan Po Pik lived with her and was making trips from Manila to Arayat, it is physically impossible that Tan Yin Ti was born of her and is the daughter of Tan Po Pik, inasmuch as said Tan Yin Ti was born in 1898 in China to which country the supposed mother did not return till 1900.

Again, Yu Teng Niu said that the two other sons she had with Tan Po Pik were born in the Philippines, and one of them, Tan Cui, was 17 years of age. According to this, Tan Cui must have been born in 1900, or before her departure for China, and consequently he must be older than Tan Yin Ti, but, nevertheless, the said witness testified that Tan Cui was 17 years old and Tan Yin Ti, 19 years. This is an absurdity. This is not likewise a mere mistake regarding the age of Tan Cui, because Tan Cui himself said that he was 17 years old (record, p. 184).

Tan Cui testified that he was born in China and that he came to the Philippines sometime in 1913 (record, p. 185). This testimony is contrary to what has been stated by his supposed mother Yu Teng Niu who said that her daughter Tan Yin Ti was born in China and her other children, namely, Tan Chiong Yan and Tan Cui, were born in the Philippines. And she had to testify thus to make the feigned filiation appear real, because if Yu Teng Niu was in the Philippines several years before the American regime, from 1891 till two years after 1900, according to Yu Teng Niu herself, Tan Cui must have been born in the Philippines, if Yu Teng Niu and Tan Po Pik were his real parents. From this we may deduce the inevitable conclusion that Tan Cui is not the son of Yu Teng Niu for the reason that said Tan Cui was born in China when his supposed mother was in the Philippines and continuously lived here for several years, and consequently it is also an inevitable conclusion that Tan Cui is not a son of Tan Po Pik.

Yu Teng Chiu, another witness for the plaintiffs, testified that he was a cousin of Yu Teng Niu and that two of the children of the latter were born in the Philippines. Whoever may be those two children, his testimony would necessarily be contradictory to that of Yu Teng Niu or to that of Tan Cui.

So Tiao Ke, another witness for the plaintiffs, said that two of the children of Yu Teng Niu with Tan Po Pik were born in the Philippines, thus contradicting Yu Teng Niu or Tan Cui; that he came to the Philippines after the marriage of Yu Teng Niu with Tan Po Pik in China, leaving them there, whereas in another place he said that he came to the Philippines together with Tan Po Pik; that Yu Teng Niu came to the Philippines four years after her marriage to Tan Po Pik, while Yu Hing Chiu said that Yu Teng Niu came to the Philippines some nine months after the marriage of the latter to Tan Po Pik. If the said marriage were not a mere creation of the imagination of these witnesses, they would not have incurred in such contradictions.

Gua Gociong, another witness for the plaintiffs, said that Yu Teng Niu and Tan Po Pik had a daughter and a son, both of whom were born in the Philippines, thus contradicting the testimony of the previous witnesses for the plaintiffs. This same witness said that Yu Teng Niu came to the Philippines four years after Tan Po Pik had been here, which testimony also contradicts that of Yu Hing Chiu.

It follows therefore that it has not been proven that Tan Chiong Yan, Tan Cui, and Tan Yin Ti are children of Tan Po Pik and Yu Teng Niu, and, as it is desired that the first three persons named are the alleged children of that pretended marriage, without any further evidence, it could be established that the alleged marriage is feigned as well as the pretended filiation of the said children. But, independently of what has been said, let us see if the alleged marriage of Yu Teng Niu and Tan Po Pik has been established by clear and reliable proofs.

Yu Teng Niu, Yu Hing Chiu, So Tiao Ke, and Gua Gociong testified that Tan Po Pik was married to Yu Teng Niu in China, and that they were present when the marriage was celebrated. But, if, as has been previously said, these witnesses made contradictory, unreliable, and absurd statements, their testimony to this effect is therefore questionable and, far from establishing the alleged marriage denies it.

In order to prove the marriage in question, the plaintiffs presented as Exhibit C (record, p. 378) a Chinese paper, red in color, with Chinese characters, which paper, according to the translations (record, pp. 379 and 380), is a letter addressed to Tan by Yu Si Siong.

Yu Teng Niu said that this letter was signed by her mother and her brother He Siong and written by a school teacher in her town and that it remained in the possession of her parents, and after the death of the latter it came to her hands.

This Exhibit C was not admitted in evidence by the lower court on the ground that the authenticity of the signature thereon has not been proven although it was provided that the attorney who presented it would later identify it, which fact the attorney for the plaintiffs appears not to have done at all. In view, therefore, of the fact that the authenticity of this document was not duly proven, it can not be legally taken into account in the decision of this case. Even if its authenticity had been proven, it would not have any weight at all as evidence, because if it be true, according to the certificate by the Chinese Consul in these Islands (record, p. 381), that it is legal form of a Chinese matrimonial document, it is nevertheless true that, if this document were authentic, it would have been a letter addressed by the family of Yu Teng Niu to that of Tan Po Pik, and, as the same document says it is a reply to another matrimonial letter, it is supposed that a communication or letter relative to the marriage agreed upon has been received by the family of Yu Teng Niu from that of Tan Po Pik. Now then, Yu Teng Niu said that this letter (Exhibit C) was in the possession of her parents and passed to her hands after the death of the latter. Therefore, this letter was never in the possession of the family of Tan Po Pik or is a recent fiction also invented. From this, it is inferred that, if the alleged marriage had really taken place and this Exhibit C is an answer, the said Exhibit C should be found in the possession of the family of Tan Po Pik, and the previous letter of which the same is an answer is what should be found in the possession of the family of Yu Teng Niu, and not viceversa as it appears in the present case. It is very seldom that an event should have taken place precisely contrary to the

ordinary and natural course of things.

Moreover, in the same Exhibit C, according to the two translations which accompany it, the words "April * * * 1887" appear. Now then, in all the Chinese documents on record, the date has always been indicated, by putting first, second, or third month, and the year of the rule of the then reigning Emperor, Exhibits 16-22 (record, pp. 436-470). This fact gives way to suspicions because, notwithstanding that the said Exhibit C was written in China by a Chinese and addressed to another Chinese resident in China, the writer thereof wrote "April * * * 1887" as the date of the same letter, from, which fact it may be deduced that the document Exhibit C had been written by a Chinese resident in Manila who had been accustomed to write letters and to date the same in accordance with the Gregorian calendar.

Granting that the writer of Exhibit C happened to use the Gregorian calendar instead of the Chinese calendar in dating the same, nevertheless the contents of the said exhibit appear absurd. In fact, Yu Teng Niu, Yu Hing Chiu, and Gua Gociong stated that the marriage of Yu Teng Niu and Tan Po Pik took place in the month of March, and So Tiao Ke said that the marriages in China are arranged by the parents before the ceremony itself. In Exhibit C dated April 1887, Yu Si Siong says to Tan that he (Yu Si Siong) was appointed by his mother to act as the master of ceremonies of the marriage of his sister Yu Teng Niu to the second son of Tan Po Pec, for which reason he asked that he be recognized as such official. Now then, if the marriage was celebrated according to the plaintiffs' witnesses in the month of March, it is absurd that in the month of April the brother of Yu Teng Niu wrote to Tan Po Pec a letter to the same effect as that of Exhibit C.

It follows that, according to the very evidence presented by the plaintiffs, it is difficult to believe the reality of the alleged marriage of Yu Teng Niu and Tan Po Pik and of the alleged filiation of the Chinese youths who are joined as plaintiffs in this case.

On the other hand, the evidence adduced by the defendants established beyond all doubt that Marta Torres was the legitimate wife of Tan Po Pik and that the wards of the defendant Juliana Torres are the legitimate children of the deceased Tan Po Pik, had by him with said Marta Torres in lawful wedlock.

Alberto Saual said that Tan Po Pik and Marta Torres were married in the Roman Catholic Church of the municipality of Macabebe, Province of Pampanga, in December, 1895, before Christmas, Tan Po Pik having been baptized in the same church with the name of Manuel Tan Po Pik, and that he (Saual) and his wife were the witnesses to the marriage.

Marta Torres stated also that she was married to Manuel Tan Po Pik in Macabebe and had four children with him, to wit: Genaro, Macario, Maria Ana, and Benigno Agaton, all surnamed Tan Torres, Genaro having been born a year before their marriage.

Jose Guevara, parish priest of the Roman Catholic Church of Macabebe, testified that the books containing the records of the baptisms and marriages in that parochial church were burned, and that the only books remaining were those of 1899 and of the succeeding years, and that for this reason he could not present any copy of the record of the marriage of Manuel Tan Po Pik and Marta Torres.

The foregoing facts are sufficient to justify the conclusion that the action of the plaintiffs is unfounded. But, in view of the fact that when these plaintiffs entered the Philippines the deceased Tan Po Pik declared under oath before the Customs authorities that Tan Chiong Yan, Tan Cui, and Tan Yin Ti were his legitimate children (Exhibit B, record, p. 375), it becomes necessary to elucidate this point.

The plaintiffs adduced as evidence the Exhibit B wherein appears the proceeding had before the plaintiffs were admitted in the Philippine Islands and wherein is contained the declaration of Tan Po Pik to the effect that the

plaintiffs are his legitimate children. The arrival and admission of these plaintiffs into these Islands and the declaration of Tan Po Pik to enable them to enter are isolated parts of an event which is the voyage from China to the Philippines of these supposed children of the deceased, of which voyage are also parts their preparations for the same and the plans conceived by them to obtain their sure entrance into this country which is foreign to them. For this reason, according to section 279 of the Code of Civil Procedure, in order to discuss in this case the declaration made by Tan Po Pik before the customs authorities, the other acts, declarations, and events occurring before the said entrance into the Islands, the declaration of Tan Po Pik, which may have an essential bearing or which have led to the realization of the said entrance into the Islands on the part of the plaintiffs, are admissible in evidence in this case on the ground that they constitute parts of the same transaction, or of the *res gestae*, as the said Code says.

The reason for the existence of this legal provision is that a word, an expression, or an act of a person, considered apart from the circumstances surrounding them, does not signify anything, and in many cases it signifies the opposite of the true sense of the said word, expression, or act. Hence, it is imprudent and, under the above-mentioned legal provision, it is illegal to consider the declaration made by Tan Pp Pik before the customs authorities separately from the circumstances which prompted him to make such a declaration. It is for u& therefore to inquire into circumstances which surrounded the entrance of the plaintiffs into the Islands and the declaration made by Tan Po Pik on that occasion.

Exhibit 16 (record, p. 435) which is translated on pages 436 and 440 of the record is a letter in Chinese written by Tan Po Ho to Tan Po Piac who is Tan Po Pik. The said letter contains data relative to the departure of the plaintiffs from China with a view to entering the Philippine Islands. Marta Torres said that she found the said letter in the drawer of her husband's writing-desk. William Kampton, expert in Chinese letters and manuscript, said that the signature placed by Tan Po Ho in Exhibit 23 is the same as that on Exhibit 16 (record, p. 277). This fact was corroborated by the testimony of Young Pakhing, another expert in the comparison of Chinese signatures (record, pp. 278-279).

The documents or letters, Exhibits 1, 17, 19, 21, and 22, also contain data relative to the entrance of the plaintiffs into the Philippine Islands and have the same signature of Tan Po Ho. Their authenticity has been proven in the same manner as Exhibit 16, and were also found in the drawer of the writing-desk of the deceased Tan Po Pik.

In all these letters we find indications of the motive for the plaintiffs' coming into the Islands and of the plan conceived by them to effect their admission into these Islands, and consequently they are admissible in evidence as parts of the *res gestae*.

Tan Po Ho is a cousin of Tan Po Pik according to the former's declaration and also according to the testimony of Tan Po Pik given before the customs authorities, although in the above-mentioned exhibits Tan Po Ho treats Tan Po Pik as his brother.

In Exhibit 16, Tan Po Ho asks Tan Po Pik to procure passports for Chang Wang, Chang Yuen, Chang Kwai, and Iy Yan Te, in order that these persons could come to Manila and thus have the opportunity of earning their living and of helping their parents in China out of their difficulties.

The interpreter, William Kampton, stated under oath that in the Chinese language "Genaro" and "Hilario" have a similar sign; that "Chang Cuay" could be written as "Chan Cui" or "Chong Cuy;" that the letter "k" can be translated "c"; that the spelling of "City" is of the Mandarin style and that of "Cui," of Amuy; that Po Piak is in the official language and Po Pik in that of Amuy, but that both have the same meaning; and that in Chinese the surname is written before the name, as for example, in Tan Cui the surname is Tan and the name is Cui (record, pp. 268-269).

In view of this explanation Iy Yan Te mentioned in Exhibit 16 is the one who now appears as Tan Yin Ti, she having stricken out her own surname and adopted that of the deceased Tan; that Chang Kwai mentioned in Exhibit 16 is the plaintiff Tan Cui, he having changed the monosyllable Chang of his name with the surname Tan of the deceased; and that Chang Yuen named in Exhibit 16 is the one who now pretends to be called Tan Chiong Yan. This same fact is corroborated by Exhibit 17 (record, p. 443), wherein these persons appear respectively with the names of Tan Yan Te, Tan Chang Kwai, and Tan Chiong Yan with the precise ages which Tan Po Pik in his testimony before the Customs authorities gave respectively to Tan Yan Tee, Tan Kuy, and Tan Shiong Yan (Exhibit B, record, p. 375).

In Exhibit 1 (record, p. 386), Tan Po Ho makes it known to Tan Po Pik that the declarations attached thereto have been learned by heart by the child.

In Exhibit 22 (record, p. 474), Tan Po Ho says to Tan Po Pik that the latter's nephew Chiong Kui could appear as his son, and although the latter is only 12 years old he could tell that he is 13, as in fact he did.

In the last paragraph of the letter, Exhibit 17, Tan Po tells Tan Po Pik the following:

"The following data constitute the registry of the birth of the nephew Chang Yuen. The family is composed of five members, to wit: a brother, sister-in-law, two sons, and one daughter:

"Father: Tan Po Piac, 44 years of age, a merchant in Malabon, P. I. "Mother: Yu Teng Niu who died two years ago.

"First child: A boy, Tan Chang Yuen, 17 years; born at two, a. m., on the fifth day of the fifth month, 23d year of the reign of K. S.

"Second child: A girl, Tan Yan Te, 15 years old; born at 12 noon, on the tenth day of the third month, the 25th year of the reign of K. S.

"Third child: A boy, Tan Chang Kwai, aged 13; born at 6 p. m., on the 20th day of the second month, the 27th year of the reign of Emperor Kwong Sui."

The foregoing facts evidently prove that Tan Po Ho and Tan Po Pik have agreed as to what they should declare before Customs authorities in order to effect the entrance of the plaintiffs into the Philippine Islands. Now then, if these plaintiffs were really children of Tan Po Pik and Yu Teng Niu, there would have been no necessity in preparing such declarations; Tan Po Ho would not have said that Chiong Cui is a nephew of Tan Po Pik and could appear as son of the latter; neither would there have been any necessity for Tan Po Ho revealing to Tan Po Pik the genealogy of the family of Chang Yuen. Hence, if Tan Po Pik testified before the customs authorities that they were his children, he did it in order that the said children might be allowed to enter the Philippines, and such a declaration is entirely false. These plaintiffs had no other means of living than to come to the Philippines and be under the protection of Tan Po Pik, and had no other means to secure their entrance into the Islands than to present themselves as the minor children of Tan Po Pik, and, so they did with the help of Tan Po Ho and Tan Po Pik who also deceived the Customs authorities.

All these documents formed an essential part of the fact of the coming of these plaintiffs to Manila, because if these letters had not been transmitted and received the plaintiffs could not have succeeded in entering the Philippines. Moreover, these documents show a conspiracy between Tan Po Ho and Tan Po Pik to evade the Chinese Immigration Laws. Therefore, all the statements and declarations of Tan Po Ho in these documents relative to the prosecution of the object of the conspiracy are admissible in evidence, even if Tan Po Ho were within the jurisdiction of the Philippines at the time of the trial of this case (section 298, paragraph 6, Code of Civil Procedure).

Genaro Tan Torres testified that when he was in China, in Cualing, Lamo, his father's town, Tan Po Ho introduced him to Tan Cui, saying that the latter was a son of the deceased brother of Genaro's father, Tan Po Pik, and that in the Philippines Tan Cui himself told him that his (Tan Cui's) father was Cak, the deceased brother of Tan Po Pik. Witness admits that he does not understand Chinese, but says that Tan Pa Ho and Tan Po Chong, who had been in the Philippines before and consequently understand Tagalog, acted as his interpreters. Genaro Tan Torres further says that while he was in China, he was never told that his father had any wife there, and in fact he had never known that he had one. On the other hand, his father was known in that place as a bachelor.

Felipe Crame stated that when he taught Tagalog to Yan Yin Ti and Tan Cui, both told the witness that Tan Cui was a nephew of Tan Po Pik and that Tan Yin Ti had come to the Philippines to marry Genaro. Macario Tan Torres testified to the same effect and added that Yan Ti told him that she was the daughter of the wife of Cak and had no relation whatsoever with Cak (record, pp. 243-244). These declarations or manifestations were made by the interested parties when they were living in Malabon with the Filipino family of Tan Po Pik (record, pp. 243-244).

But there is a very eloquent fact which demonstrates in an incontrovertible manner the false claim of Yu Teng Niu and the other plaintiffs.

On July 20, 1913, Tan Po Pik addressed a letter to Genaro Tan Torres who was then in China, and in the said letter he says among other things the following:

"GENARO :

"I have received news that you are now in China with your uncle.

* * * * *

"P. S. It is now 30 years that I have not returned to that place. Your arrival there pleases me because I feel like having arrived there myself." (See Exhibit 9, record, p. 407.)

Genaro Tan Torres perfectly identified his father's signature placed on this Exhibit 9 (record, p. 214). Miguel Malapitan said that he was then clerk of Tan Po Pik who dictated to him the contents of the said Exhibit 9 (record, p. 235).

Therefore, if Tan Po Pik had already been in the Philippines for thirty years in 1913 without having returned at all to China, he must have arrived here sometime in 1883, that is, four years before the alleged marriage, of Yu Teng Niu with the said Tan Po Pik, took place in China, which marriage, according to the evidence presented by the plaintiffs, took place in March or April, 1887.

It is evident that the said letter, Exhibit 9, is a legal proof that in 1913 Tan Po Pik wrote it and that in it he told his son Genaro that he had up to that time been thirty years in the Philippines. Inasmuch as Tan Po Pik had no reason whatsoever to deceive his son, it is to be believed that, if Tan Po Pik made such a manifestation to his son, he did so because it was the truth, that is, he never returned to China for so long a period of time.

Therefore, it is established beyond all doubt that Yu Teng Niu was not the wife of Tan Po Pik, and Tan Chiong Yan, Tan Yin Ti, and Tan Cui were not the children of the deceased Tan Po Pik.

The principal basis for the plaintiffs' action is the marriage which is alleged to have been celebrated in China between the deceased Tan Po' Pik and his supposed wife Yu Teng Niu in March or April, 1887, in accordance with the rites and ceremonies prescribed by the laws in force in that country and in accordance with the tradition of the Chinese constantly observed and recognized by the laws of the government of China.

If the supposed marriage had been duly justified, the courts of justice of these Islands would not perhaps have any objection in recognizing such marriage to be really true. But the evidence adduced on behalf of the plaintiffs does not show in any positive manner the existence of such marriage, and consequently it is not proper to recognize that Yu Teng Niu was a legitimate wife of the deceased Tan Po Pik, according to the laws and customs of the latter's country.

As we have elsewhere stated, it has not been shown in a conclusive and satisfactory manner that the Chinese Tan Chiong Yan, Tan Cui, and Tan Yin Ti were children, at least natural children, of Tan Po Pik and Yu Teng Niu, and for this reason the claim interposed against the hereditary succession of the deceased Tan Po Pik becomes more improper, inasmuch as the plaintiffs as strangers have no right whatsoever that may prevail over that of the widow of Tan Po Pik and the legitimate children begotten by him in a legitimate marriage with Marta Torres.

The family formed in this country by the consorts Tan Po Pik and Marta Torres, united in a legitimate marriage contracted according to the laws in force, and the rights acquired in consequence thereof by the children born of such a legitimate union, are protected by the provisions of the Civil Code and by other legal provisions which treat of a marriage legally contracted and of the paternity and filiation of the children had during such a conjugal union of their legitimate parents.

In view of the foregoing consideration whereby the pertinent errors attributed to the judgment appealed from are deemed to have been refuted, it follows that, in justice we should hold, as we hereby hold, that Yu Teng Niu was not a legitimate wife of the deceased Tan Po Pik, according to the laws of China; that the other plaintiffs Tan Chiong Yan, Tan Yin Ti, and Tan Cui were neither legitimate nor natural children of the said Yu Teng Niu and the deceased Tan Po Pik; and that consequently the said plaintiffs have no right under any law to the succession of the deceased Tan Po Pik nor to the estate left by the latter on his death, and against the widow and legitimate heirs of said-deceased Tan Po Pik. Therefore, the complaint is dismissed and the defendants are hereby absolved from the claim interposed by the plaintiffs, thus affirming the judgment appealed from in all that is in conformity with this decision, and reversing it in whatever does not conform therewith, without special finding as to costs in both instances. So ordered.

Arellano, C.J., Johnson, Araullo, Street, and Avanceña, J., concur.

Moir, J., concurs in the result.

Malcolm, J., dissents.

Judgment modified.

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