

IN RE ESTATE OF JOSE YAP SIONG, DECEASED. MARIA LAO AND JOSE LAO, PETITIONERS AND APPELLEES, VS. DEE TIM, YAP KIM TING, YAP KIM SENG, AND YAP HU CHO, RESPONDENTS AND APPELLANTS.*G.R. No. 21017. February 25, 1924*

Ponente: JOHNSON, J.

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It appears from the record that on the 5th day of September, 1922, Yap Siong died in the municipality of Angeles, Province of Pampanga, Philippine Islands, leaving a considerable amount of property to be distributed among his heirs. An administrator was appointed to administer his estate. During the course of the administration and distribution of the estate there appeared the petitioners and the respondents, each claiming to be the legitimate heirs of Yap Siong and entitled to his estate. The petitioner Maria Lao claims to be the legitimate widow of Yap Siong, having been legally joined to him in holy wedlock on the 24th day of June, 1903, in the Philippine Islands (Exhibit 1) and that Jose Lao is a legitimate child born of that marriage, and that they are therefore entitled, as heirs, to the estate of Yap Siong, deceased.

Upon the other hand Dee Tim claims to be the legitimate widow of Yap Siong; that she and Yap Siong were joined in holy wedlock on the 14th day of September, 1893, in accordance with the laws of China (Exhibits A and A-l), and that the said Yap Kim Ting, Yap Kim Seng, and Yap Hu Cho were her legitimate children born of that wedlock.

In support of the contention of the petitioners, Maria Lao and her son Jose Lao, a great deal of proof was presented. Exhibits 1 and 1-A, certificates of marriage, were presented to show that she had been legally married to Yap Siong. A number of other documents (Exhibits 9 to 13) were presented to show that Yap Siong had admitted that he was a married man. Exhibits 14 to 17 were presented for the purpose of proving that Yap Siong had admitted in a public document that Maria Lao was his wife.

The respondent Dee Tim presented a great deal of proof to show that she was the legitimate wife of Yap Siong, lawfully joined to him in holy wedlock in China on the 14th day of September, 1893. To support that contention she presented what she contended was a certificate of marriage, marked Exhibit A—Exhibit A-l. She contended that Exhibit A was positive proof of her marriage and that it complied with the custom and practice in China with reference to marriage ceremonies. To support her contention she presented a number of witnesses. Jan Peng, a Chinaman of 52 years of age, swore that he knew the forms of ceremonies of marriage in China, and that Exhibit A was the ordinary and customary document issued to prove that the ceremony of marriage had taken place. He described in detail the ceremony of marriage performed in accordance with the customs and practice in China.

Dee Tim also presented a witness, Ty Cong Ting, a Chinaman, 32 years of age and a lawyer, who testified concerning the laws and customs in China with reference to the forms of marriage ceremony. He testified that he

knew and was well acquainted with the customs and practices of Chinamen in China with reference to marriages and the manner and form in which they were celebrated, and the form of proof issued for the purpose of proving that a marriage ceremony had been performed. He further testified that Exhibit A was the usual proof or certificate issued for the purpose of proving that a marriage ceremony had taken place. He further testified that Exhibit A was the usual and ordinary proof, or certificate, if it may be called a certificate, issued to show that a marriage ceremony had been performed between the persons mentioned therein. Mr. Ty Cong Ting was, at the time he declared as a witness, the legal attorney of the Chinese Consul General in the City of Manila.

The respondent Dee Tim presented several witnesses who confirmed her contention that she was the legitimate wife of Yap Siong and that her three children Yap Kim Ting, Yap Kim Seng, and Yap Hu Cho were her legitimate children, born of her marriage with Yap Siong. To further sustain her contention she presented Exhibits B, C, D, E, F, G, H, I, and J, documents in which Yap Siong had expressly recognized his marriage to her.

To overcome the proof adduced by Dee Tim in support of her marriage to Yap Siong, the petitioner presented Exhibits 2, 3, 4, 5, 6, 7, and 8. Said exhibits are alleged letters supposed to have been written by an uncle in China of Yap Siong during the years 1900 to 1906, urging him to return to China for the purpose of marrying, thus attempting to establish the fact that Yap Siong during that period was not a married man. When we first studied the record in this case we were inclined to give said letters great credit, but upon a further examination of the record and a further argument by the respective parties, we are now inclined to believe that said letters were fabricated for the very purpose of defeating the contention of Dee Tim. They were not identified properly by persons who had reason to know that they were genuine in character and were actually prepared in China and sent to Yap Siong in the Philippine Islands. We are of the opinion, and we believe that was the real opinion of the trial court, that said exhibits should not be admitted as proof to sustain the fact for which they were presented. We are now persuaded that said letters are pure fabrications.

The petitioner further presents two or three witnesses for the purpose of showing that the marriage between Dee Tim and Yap Siong never took place for the reason that Yap Siong was in the Philippine Islands on the 14th day of September, 1893, and that at that time he was living in the municipality of Bacolor, of the Province of Pampanga, and that he never left that municipality. A careful reading of their testimony, however, does not convince us that it is altogether reliable. The testimony which they gave was given in the month of January, 1923, and they testified positively as to exact dates, times, and places in the year 1897. Their testimony contains no facts, or data, or peculiar circumstances or conditions which caused them to remember the particular facts concerning which they testified. They gave no reason why they were able to remember the exact whereabouts of Yap Siong during the period to which their testimony referred. Upon the contrary there is much proof in the record that Yap Siong returned to China a number of times after his first arrival here. The petitioner further presents some proof to show that Yap Siong had admitted on several occasions that Dee Tim was his querida and not his wife.

The respondents further attempted to show that Maria Lao and Jose Lao, her son, were not the legitimate wife and son of Yap Siong, by presenting Exhibits L and LL. Exhibit L is the baptismal certificate issued by the parish priest of the municipality of Angeles, in which it is made to appear that on the 5th day of January, 1904, he baptized a child named Jose Martin, a natural son of Maria Lao, and whose father was unknown. Exhibit LL is a certificate of birth issued by the secretary of the municipality of Angeles, in which it appears that Jose Martin Lao, a child, was born on the first day of January, 1904, a natural son of Maria Lao. There is nothing, however, in Exhibits L or LL, which shows that Maria Lao was responsible for the facts which they contain. Exhibit LL contains the statement that the facts therein were not obtained from Maria Lao but from one Isabelo Lao.

There is a notable conflict between Exhibits L and LL. Exhibit LL certifies that Jose Martin Lao was born on the

first day of January, 1904, while Exhibit L certifies that the baptism took place on the 5th day of January, 1904, and that the child was then 34 days old. It is apparent therefore that the facts stated in one or the other of said exhibits are untrue. And, moreover, when we consider the customs of the Filipino people in their relation with the Holy Roman Catholic Apostolic Church, it is easily understood, in view of the alleged fact that Maria Lao and Yap Siong had been joined in holy matrimony under the forms of the Protestant Church, why the parish priest of the municipality of Angeles stated in his certificate that the father of the child, then Jose Martin, was unknown.

The respondents further attempted to show that Yap Siong and Maria Lao had never been joined legally in holy wedlock, by the testimony of a number of witnesses to the fact that Yap Siong had on numerous occasions asserted that Maria Lao was his querida only. It is perhaps true that Yap Siong did on various occasions, depending upon his interest and convenience at the particular time, state that Maria Lao was his querida and not his wife. It is also perhaps true, for the same reason, that he stated that Dee Tim was not his wife but his querida. Evidently he was attempting to keep the information, that he was married to each of said women, from coming to the knowledge of the other, which, as the facts show, he was quite able to do, until he had passed to that bourn from which none returns, and until a distribution of his large accumulated earnings among his heirs became necessary.

From all of the foregoing conflicting facts, and considering all of the facts of the record, we are forced to the conclusion that a preponderance of the evidence shows the following:

(1) That Dee Tim and Yap Siong were legally married in China in accordance with the laws and customs in China on the 14th day of September, 1893; that Yap Kim Ting, Yap Kim Seng, and Yap Hu Cho were the legitimate children born of that wedlock; that Dee Tim and her said children were ignorant of the fact that Yap Siong had legally married Maria Lao, and that Jose Lao was born of that wedlock; and that they had no reason to believe, until after the death of Yap Siong, that he was legally married to the petitioner herein.

(2) That Maria Lao was legally married to Yap Siong on the 24th day of June, 1903, in good faith believing that Yap Siong was not then a married man, without any knowledge or information or suspicion to the contrary; and that Jose Lao is the legitimate child born of that marriage of Yap Siong and Maria Lao.

In other words, we are fully convinced that a preponderance of the evidence shows that both Dee Tim and Maria Lao were legally married to Yap Siong in good faith, believing that each was his sole and separate wife, living in absolute ignorance of the fact of his double marriage. They were each married in good faith and in ignorance of the existence of the other marriage. Yap Siong up to the time of his death seems to have been successful in keeping each of his two wives ignorant of the fact that he was married to the other.

Under the foregoing facts, how must the property of Yap Siong be divided between the two families? Under the Leyes de Partidas (Law 1, title 13, partida 4), where two women innocently and in good faith are legally united in holy matrimony to the same man, their children born will be regarded as legitimate children and each family will be entitled to one-half of the estate of the husband upon distribution of his estate. That provision of the Leyes de Partidas is a very humane and wise law. It justly protects those who innocently have entered into the solemn relation of marriage and their descendants. The good faith of all the parties will be presumed until the contrary is positively proved. (Article 69, Civil Code; Las Leyes de Matrimonio, section 96; *Gaines vs. Hennen*, 65 U. S. 553.)

A woman who is deceived by a man who represents himself as single and who marries him, she and her children born while the deception lasted, under the Spanish law, are entitled to all the rights of a legitimate wife and children. The common law allowing none of the incidents of a true marriage to follow another marriage entered into during the continuance of a first, was early found to work a great injustice upon the innocent parties to the

second marriage, and specially upon the offspring of such second marriage. To remedy that hardship under the common law and following the wise jurisprudence of Spain, both England and many of the states of the United States adopted statutes. (Glass vs. Glass, 114 Mass., 563; Spicer vs. Spicer, 16 Abbot's Practice [N. S.], 114; Dyer vs. Brannock, 66 Mo., 391; Graham vs. Bennet, 2 Cal., 503; Smith vs. Smith, 1 Tex., 621 [46 Am. Dec, 121]; Clendenning vs. Clendenning, 7 Martin [La.], 587; Patton vs. Cities of Philadelphia and New Orleans, 1 La. Ann., 98; Abston vs. Abston, 15 La. Ann., 137; Gaines vs. Hennen, 65 U. S., 553; Ex parte Myra Clarke Whitney, 38 U. S., 404; Estate of Navarro, 24 La. Ann., 298; In re Taylor, 39 La. Ann., 823.)

The foregoing conclusions in no way conflict with the decision of this court in the case of Sy Joe Lieng vs. Encarnacion (16 Phil., 137) nor with the decision of Adong vs. Cheong Seng Gee (43 Phil., 43), for the reason that in each of said cases a preponderance of the evidence showed that no legal marriage had been performed in China, that is, that the alleged Chinese wife and the deceased in each of those cases had never been legally married.

Therefore the conclusion reached in the decision heretofore announced by this court in the present case is hereby set aside and it is hereby ordered and decreed that the judgment of the lower court be revoked and that the estate of Yap Siong be divided equally, one-half going to Maria Lao and her son, Jose Lao, and the other one-half to Dee Tim and her three children. And without any finding as to costs, it is so ordered.

Araullo, C. J., Street, Malcolm, Avanceila, Ostrand, Johns, and Romualdez, JJ., concur.

Judgment reversed.

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