

ESTATE OF THE DECEASED MARIANO CORRALES TAN. FLAVIANA SAMSON, ADMINISTRATRIX AND APPELLEE, VS. VICENTE CORRALES TAN ET AL., CLAIMANTS. VICENTE CORRALES TAN, APPELLANT.

G.R. No. 23729. December 05, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is an appeal from an order of the Court of First Instance of Manila declaring that Flaviana Samson was legally married to the deceased Mariano Corrales Tan, that she and her children Arsenia, Gregoria, Santiago, Dativa, Aurelio and Amancio Corrales Tan y Samson, are his legal heirs, and that the appellant Vicente Corrales Tan, while a natural child of said Mariano Corrales Tan, has not been legally acknowledged as such and is therefore not entitled to a share in the inheritance beyond the amount bequeathed to him in the will of the deceased.

The evidence in the case has not been brought before this court and we are, therefore, not in position to review the findings of fact of the court below. Upon these findings there can be no doubt that Flaviana Samson was legally married to the deceased and that the children of the marriage are legitimate heirs.

The only other question to be determined is whether upon the facts found Vicente Corrales Tan can be considered an acknowledged natural child of the deceased. The court below found that before his marriage to Flaviana Samson, Mariano Corrales Tan was living with a woman by the name of Prudencia Santos and with her had a child, the herein appellant, who was born on the 5th of April, 1894; that the child was baptized on the 22d of the same month and that in his certificate of baptism Exhibit A, it is stated that he was the natural child of Mariano Corrales Tan and Prudencia de los Santos; that in Exhibit B, another document of the same date on file in the archives of the parish church where the child was baptized, Mariano Corrales Tan, in the presence of two witnesses, recognized Vicente Corrales Tan Quintin as his natural child had with Florentina de los Santos.

The following articles of the Civil Code prescribe the manner in which the acknowledgment of natural children may be effected:

"Art. 131. The acknowledgment of a natural child must be made in the record of birth, in a will, or in some other public document."

"Art. 133. A person of full age may not be acknowledged as a natural child without his consent.

"The approval of the court, to be granted after hearing the prosecuting officer, shall be necessary to the acknowledgment of a minor, unless such acknowledgment be made in a certificate of birth or in a will.

"The minor may in any case contest the acknowledgment within the four years next following the attainment of his or her majority."

"Art. 137. Actions for the acknowledgment of natural children may be commenced only during the lifetime of the putative parents except in the following cases:

"1. If the father or mother died during the minority of the child, in which case the latter must commence the action within the four years next following the attainment of its majority.

"2. If, after the death of the father or mother, some document, before unknown, should be discovered in which the child is expressly acknowledged.

"In this case the action must be commenced within the six months next following the discovery of such document."

Vicente Corrales became of age long before the death of his father. Hence, paragraph 1 of article 137 above quoted is not applicable to his case and, in order to establish his status as an acknowledged natural child, he must show that he was so acknowledged during the life of the deceased. According to article 131, such acknowledgment "must be made in the record of birth, in a will, or in some other public document." The appellant argues that the entries in the records of the parish church together with document Exhibit B, must be considered as a sufficient record of birth under that article.

This contention cannot be sustained. The record of birth mentioned in article 131 is that provided for in article 326 of the same Code and as the application of that article to the Philippine Islands was suspended by decree of the Governor-General dated December 29, 1889, and was never put into effect, it follows that that form of acknowledgment did not exist in this country in the year 1894. Whether entries in the civil register provided for in section 2214 of the Administrative Code will meet the requirements of article 131, we need not here decide.

But it is argued that article 327 of the Civil Code is applicable to the present case. That article reads:

"The records of the registry shall be evidence of civil status and no other evidence thereof shall be admitted, unless such records have never existed or the books of the registry have disappeared, of the question arises in the course of litigation."

In our opinion that article only lays down a rule of evidence and has no bearing on the formalities for a valid acknowledgment of a natural child; as we have seen, article 131 requires that unless the acknowledgment is made in a will or other public document, it must be made in the record of birth, or in other words, in the civil register.

The appellant suggests that the fact that he in the will of the deceased is named as one of the legatees is an implied acknowledgment. There is, of course, no merit in this suggestion; legatees are as often as not unrelated to the testator.

It is also suggested that Exhibit B is a public document and, therefore, in itself a sufficient acknowledgment. Assuming without conceding that it is a public document, it would nevertheless not constitute an acknowledgment unless duly approved by a court (art. 133, Civil Code; *Legare vs. Cuerques*, 34 Phil., 221).

In his fourth and last assignment of error the appellant contends that the court below erred in denying his motion for a new trial based on newly discovered evidence. The new evidence is not before us, but as far as can be gathered from the record, it consists of the record of a proceeding before a customhouse immigration board, in which proceeding the deceased appears to have acknowledged that appellant was his son, and it is argued that the proceedings were of a quasi-judicial nature and that the action of the board in the matter constituted a judicial approval of the acknowledgment. We do not think so; the collector of customs and his subordinate boards are not courts within the meaning of article 133, *supra*.

The order appealed from is affirmed with the costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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