

ESTATE OF THE DECEASED LIM TINGCO. FELIPE ALKUINO LIM PANG, PETITIONER, VS. UY PIAN NG SHUN AND ORENCIO RAMON LIM TINGCO, APPELLANTS; JUSTINA OLONDRES ET AL., APPELLEES.*G.R. No. 29236. December 29, 1928*

Ponente: STREET, J.

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This appeal is prosecuted on behalf of Uy Pian Ng Shun and her minor son, Ramon Lim Tingco, in the matter of the will of Mateo Lim Tingco, deceased, for the purpose of reversing an order of the Court of First Instance of Leyte, dated October 29, 1927, excluding the appellant Uy Pian Ng Shun from sharing in the estate of the testator, and declaring that Ramon, as an illegitimate child, is entitled only to support from the estate and that the appellees, Justina Olondres and Balbina Lim Tingco, are entitled to share in the same estate respectively as widow and recognized natural daughter of the testator.

The testator, Mateo Lim Tingco, of Chinese nationality, came to the Philippine Islands some forty-five or fifty years ago, making his home in the municipality of Baybay, Province of Leyte, where he lived until his death on April 18, 1927. In the early years of his abode in Baybay he became the father of a daughter, Balbina Lim Tingco, now married to Benigno Barnes, and sometimes called Imbina Barnes. This daughter, as the trial court found, was recognized in life by Lim Tingco as his natural daughter.

On November 27, 1886, a marriage was duly celebrated by Mateo Lim Tingco and Justina Olondres, otherwise known in the record as Angela Olondres and Martina Londres. The pair lived together for many years as husband and wife, but no children resulted from the union; and in course of time Lim Tingco formed an irregular connection with a Chinese woman, the appellant, Uy Pian Ng Shun, who usurped the place of the lawful wife, Justina Olondres. Thereupon Justina, becoming disgusted with her husband's infidelity, abandoned the conjugal hearth and went to live elsewhere. As a result of the irregular connection between Lim Tingco and Uy Pian a son, named Ramon, was born. This boy is now some 8 or 9 years of age and is the minor appellant in this case.

On October 2, 1925, Lim Tingco executed a will in due form of law at Baybay, Leyte, in which he stated that he was married to Uy Pian Ng Shun, and declared that he wanted his property to be shared by her and their son Ramon as his only heirs. After Lim Tingco's death this will was duly admitted to probate on July 5, 1927, without opposition from any source.

The fact that no opposition was interposed to the probate of this will by Justina Olondres or Balbina Barnes finds its explanation, no doubt, in the fact that, a few days before the petition for the probate of the will was filed, the adult parties interested in the division of Lim Tingco's property had gotten together and compromised their claims to said estate. For the effectuation of this purpose formal documents were drawn up and acknowledged before a notary public by Uy Pian Ng Shun, acting upon her own account and as representative of her son Ramon, and by Justina Olondres and Balbina Lim Tingco, with whom was joined the latter's husband, Benigno Barnes. The general purport of these documents is that Uy Pian Ng Shun assigned a part of the property belonging to the estate

of Mateo Lim Tingco to Justina Olondres and another part to Balbina (or Imbina), wife of Benigno Barnes. In consideration of the portions so received Justina Olondres and Balbina Lim Tingco in turn renounced whatever rights they might have had in the estate of the deceased, and they agreed to make no claim in court with respect thereto. The portions conceded to Justina Olondres and Balbina Lim Tinsrco by this agreement were of respectable size, amounting together to more than P3,000.

Notwithstanding the making of this compromise and the acceptance by Justina Olondres and Balbina Lim Tingco of the portions assigned to them respectively, Balbina and her husband appeared in court on July 6, 1927, and filed what may be described as an opposition, or intervention, in which they impugned the intrinsic provisions of the will with respect to the right of Uy Pian Ng Shun, as widow, and Ramon Lim Tingco, as heir, and asked the court to ascertain who were the true heirs of Mateo Lim Tingco, regardless of the statements contained in the will, and to make declaration accordingly. To this opposition, or intervention, a reply was interposed by Uy Pian Ng Shun, in which she relied upon the compromise agreement, already mentioned. The cause was then set for hearing upon the matter of the determination of heirs, whereupon Justina Olondres intervened, making common cause with Balbina. In her reply to this intervention Uy Pian Ng Shun again set up the compromise agreement. Upon hearing the cause the trial court, as stated in the first paragraph of this opinion, found that Justina Olondres, as the widow of the deceased, and Balbina Lim Tingco, as a recognized natural daughter, were alone entitled to share in, the inheritance of the deceased.

We note that no extrinsic proof was introduced by the appellant Uy Pian Ng Shun for the purpose of establishing her status as wife. Upon this point reliance is placed by her exclusively on the declaration of the testator, contained in his will, that she was his wife at the time the will was made. But while admissible as prima facie proof in favor of the appellant, this statement is not conclusive; and when it is demonstrated, as in this case, that Justina Olondres was the true wife of the decedent by virtue of an undissolved canonical marriage, of date anterior to the creation of the relation between Uy Pian and the decedent, the statement in the will must be considered rebutted. The circumstance that the will had been admitted to probate is conclusive only of the due execution of the will; and the disposition of the property made in the will is always open to question with respect to the intrinsic legality of the disposition (*Ramirez vs. Gmur*, 42 Phil., 855).

But although Uy Pian Ng Shun and her son Ramon are thus excluded from talcing under the will in so far as the disposition in their favor would prejudice the rights of the widow and the recognized daughter, it should not escape notice that the testamentary provision would have complete efficacy in so far as concerns the portion of the estate of the decedent which is of free disposition. It was therefore erroneous on the part of the court to declare that Uy Pian Ng Shun and her son could not take anything under the will.

But consideration of the relative proportions in which the four litigants would have been entitled to share under the will of Lim Tingco becomes an academic question, in view of the compromise agreement to which reference has already been made.

The effect of this agreement undoubtedly is to estop Justina Olondres and Balbina Lim Tingco from claiming any further share in the estate of the deceased. The trial court appears to have been of the opinion that the time had not yet come to consider the effect of this agreement. But it is never too soon for the court to give effect to binding contracts when issues are properly raised with respect thereto. In the case before us the appellants rely upon said agreement as a special defense to the interventions of the appellees; and it cannot be disposed of by merely ignoring it. The appellees were competent to bind themselves by said agreement, in conformity with its provisions they accepted a fair share of the estate in full satisfaction of their claims, and no suggestion has been made that the contract was vitiated by fraud or error. The consequence is that the appellees must be excluded from further participation in the property. Whatever weakness may have been inherent in the appellants' title, that defect has

been cured, as against the appellees, by said agreement.

It becomes our duty therefore to reverse the appealed decision and to declare that the appellant Uy Pian Ng Shun and her son, Ramon lam Tingco, are the only persons entitled to participate in the testate estate of Mateo Lim Tingco, the same to be shared by them in the proportions contemplated in the will. So ordered, without pronouncement as to costs.

Johnson, Malcolm, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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