PAULA CATALAN, IT AL., PLAINTIFFS AND APPELLANTS, VS. CIPRIAUO ASIU ® CATALAN, DEFENDANT AND APPELLEE.

G. R. No. 34084. December 05, 1931

Ponente: MALCOLM, J.

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MALCOLM, J.:

This was originally an action for the recovery of land brought in the Court of First Instance of Oriental Negros. An incidental question raised toy the defendant was whether or not he was the natural son of Monaco Catalan and Alexandra Asin. The evidence was taken before two judges, after which Judge Garcia rendered judgment absolving the defendant from the complaint, with costs against the plaintiffs.

Cipriano Catalan, the defendant, was born on September 26, 1908, and according to the church record was "el primer hijo legitimo y de legitimo matrimonio de Monico y de Alejandra Asin". It has, however, not been shown that Monico Catalan and Alejandra Asin were legally united in marriage. The godfather mentioned in the church certificate was Benito Gumaran, who testified relative to the baptism and the questions propounded by the priest. There is also in the record other oral testimony that Monico Catalan treated Cipriano Catalan as his son, and that Cipriano was so considered in the community. Monico died in 1920, and apparently the son, although then a minor, went into possession of the little property left by his father. As against this, the plaintiffs now contend that Cipriano is not the son of Monico and Alexandra but is the son of Apolonio Catalan and Juana Aranas. But the trial Judge rejected this theory as untenable, and we think properly.

The action, although begun in a defensive manner, was brought within time under article 137 of the Civil Code and further conforms to the provisions of No. 2 of article 135 of the same Code.; The plaintiffs have raised a number, of interesting question which need not be decided, for it suffices for us to say that we are of the opinion that the findings made below conform to a clear preponderance of the evidence.

Judgment affirmed, with, the costs of this instance against the appellants.

Ten days from the publication of this decision, judgment will be entered, and five days thereafter, the record will be remanded to the court below.

Avanceña, C. J., Malcolm, Romualdez, and Imperial, JJ., concur.

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