

**IN RE INTESTATE ESTATE OF THE DECEASED PEDRO DE LOS REYES.
ROSA DE LOS REYES, PETITIONER AND APPELLANT, VS. GUILLERMA
LEONARDO AND OLIMPIA DE LOS REYES, OPPOSITORS AND
APPELLEES.**

G. R. No. 35686. October 27, 1932

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 the appellee Olimpia de los Reyes as a granddaughter of the deceased Pedro de los Reyes with the right to participate in the distribution of the latter's estate.

The intestate proceeding was commenced by the appellant Rosa de los Reyes on June 16, 1930, by presenting an application with the court below, wherein it was prayed that she should be appointed administratrix of the intestate property of her deceased father, Pedro de los Reyes, who died on May 27, 1930. Guillerma Leonardo, the second widow of Pedro de los Reyes, filed an opposition to the said application. The court below deemed it proper and appointed the Bank of the Philippine Islands as administrator of the estate. Rosa de los Reyes and the opponent Guillerma Leonardo arrived later at an amicable settlement as to the way the estate should be distributed between them, and the court below, in an order issued on August 21, 1930, instructed the administrator to file an inventory of the properties of the estate and ordered the attorneys for both parties to file the corresponding agreement of partition within fifteen days after the filing of the inventory by the administrator.

On August 25, 1930, a motion was filed by the appellee Olimpia de Ios Reyes, alleging that she was the legitimate and only daughter of the deceased Maximo de Ios Reyes, who, in turn, was a legitimate son of the late Pedro de Ios Reyes, and praying that she be declared an heiress of her deceased grandfather, Pedro de Ios Reyes. On August 29, 1931, the appellant, Rosa de Ios Reyes, filed an opposition to the motion of the appellee and denied that Olimpia de Ios Reyes was the granddaughter of the deceased Pedro de Ios Reyes.

Upon trial, the court below found that the deceased Pedro de Ios Reyes was commonly known in the place where he resided as Pedro de Ios Reyes or Pedro Reyes; that he contracted first marriage with Angela Trinidad; that of this union were born three children, named Marcos, Rosa and Maximo; that Marcos had already died and had no children; that Rosa is the person who is married to Pio Gatchalian; that Maximo married Serapia Anonuevo and of the marriage Olimpia de Ios Reyes or Reyes was born; that some months after Olimpia was born, she was given by her parents to the spouses Pio Gatchalian and Rosa de Ios Reyes; that at the age of 7, her mother Serapia Anonuevo attempted to take her away, from Rosa, and as the latter objected, the former was compelled to commence a habeas corpus proceeding, No. 8738 of the Court of First Instance of Manila; that since then Olimpia continued to live with her mother Serapia; and that Guillerma Leonardo is the second wife of the deceased Pedro de Ios Reyes.

After trial, the court below issued an order as above stated, from which the petitioner Rosa de Ios Reyes appealed

to this court. The question raised by the appellant in her assignments of error is one of facts, and after a careful examination of the evidence in the case, we agree with the trial judge in his findings of fact and the order issued in the case, which is perfectly in accordance with law.

The attempts of Rosa de los Reyes to make it appear that Maximo was not a legitimate son of Pedro de los Reyes and that consequently Olimpia Was not an heiress of Pedro de los Reyes, was not successful. In the habeas corpus proceedings here referred to and instituted by Serapia Anonuevo, the appellant Rosa de los Reyes presented a motion stating under oath that she was the first awnt (tia carnal) of the child Olimpia de los Reyes, the latter being the daughter of her brother Maximo. To permit Rosa now to belie successfully a statement which she has solemnly made in another prior proceedings would be to set a premium on, perjury.

Furthermore, the age of Maximo de los Reyes and the date of his death are also of some importance. If it is true that he was 23 years of age on February 12, 1907, as shown by the death certificate of Maximo Trinidad, Exhibit 3, he must have been born in Mandaluyong, Rizal, in 1884, that is, long after the alleged separation of the spouses Pedro de los Reyes and Angela Trinidad. If, on the other hand, it is true that he was 32 years old in January, 1909, as evidenced by his death certificate, Exhibit C then Maximo must have been born in 1877, or before the separation of the spouses, from which it is logically inferable that he is a legitimate child of the aforesaid marriage. The fact is that Maximo Trinidad was clearly not Maximo de los Reyes, and Rosa de los Reyes could not under any circumstances hold that Maximo Trinidad was the real Maximo; Maximo Trinidad's death certificate, Exhibit 3, and Maximo de los Reyes death certificate, Exhibit C, speak for themselves.

The appealed judgment is affirmed, with costs against Rosa de los Reyes. So ordered.

Villamor, Villa-Real, Abad Santos, Hull, Vickers, and Butte, JJ., concur."

Malcolm, J., dissents.

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