

CHUNG KIAT (ALIAS SUNG KIAT), PETITIONER AND APPELLEE, VS. LIM KIO ET AL., RESPONDENTS AND APPELLANTS.*G.R. No. 3841. July 25, 1908*

Ponente: WILLARD, J.

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This is an appeal in the special proceeding pending in the Court of First Instance of Manila for the settlement of the intestate estate of Jose Carlos Chung Mui, who died in Manila on the 19th of October, 1905. The proceedings for such settlement were commenced by the appellee, who filed a petition asking that he be appointed as administrator. This petition was granted, he was appointed, he afterwards resigned his trust, and another administrator was appointed in his place.

During his life the deceased was married three times, the first time with a woman whom the appellants call Chu Ungco and whom the appellee and his witnesses call Ingma, the second time with Lim Chao, and the third time with Lim Kio, who survived the deceased and who is one of the appellants. By his first wife he had at least two children, who now reside in China; by the second wife he had two children, who are dead, and by the third wife he had no children. These facts are admitted by all parties interested in this appeal.

The question disputed is as to whether or not he had by his first wife another child, Chung Kiat, who is appellee in this case. An issue of fact was raised upon this point in the court below, testimony was received, and the court made its decision, holding that the appellee was the legal son and heir of the deceased. From this order the widow and one of the children by the first wife have appealed.

The appellants make two assignments of error, the first to the effect that the court erred in declaring the appellee the legitimate son of the deceased.

The question raised by this assignment is purely one of fact. The appellants attack the credibility of the witnesses for the appellee and claim that they have testified falsely. It would serve no useful purpose to discuss the evidence in detail; it is sufficient to say that after an examination thereof we are entirely satisfied that it strongly preponderates in favor of the decision of the court below.

The second error assigned relates to the admission of Exhibits A, B, C, D, and E, presented by the appellee.

As to Exhibits D and E, the appellants say in their brief, "and therefore as they are not pertinent and prejudice no one we do not seriously oppose their admission.

* * * As to the Exhibits D and E we do not offer much opposition to them as they are also irrelevant in this case."

Exhibit A is a letter, in Chinese, purporting to have been written by the deceased; Exhibit C, the translation thereof into Spanish, and Exhibit B is the envelope which contained the letter. The objection to this evidence in the court below was based upon the ground that the letter had, not been identified as the letter of the deceased.

It appeared from the testimony of the appellee that by reason of what he called ill treatment on the part of his

father he ran away from his home in Manila and went to Benguet, where he worked upon the Government road. Two witnesses for the appellee testified that at the request of the deceased they went to Benguet to search for the boy, found him, and brought him back. The letter in question purports to be a letter written by the deceased to one of the foremen engaged in the construction of the road and contained a request that the foreman send his son back. Whether the authenticity of the letter was sufficiently proven or not, we do not decide, because, if there were error in its admission, such error can not in any way affect the result.

The case of the appellee did not rest upon the circumstances connected with his escape to Benguet, in fact that evidence was introduced in rebuttal, but it rested on the testimony of witnesses who knew the child when he was born, and of the subsequent treatment of him by his father. Even if all of the evidence relating to the journey to Benguet were stricken out, that which remains would strongly preponderate in favor of the appellee. Under such circumstances, the order can not be reversed, even if there were error in the admission of this letter.

The order appealed from is affirmed, with the costs of this instance against the appellants. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

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