

IN RE ESTATE OF THE DECEASED CHINAMAN BERNARDO RAFANAN LAO SAYCO, ALIAS SAYA. LAY CHUYTING, APPELLANT.

G.R. No. 4824. February 13, 1912

Ponente: TORRES, J.

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TORRES, J.:

This is an appeal by the Chinaman Lao Chiama, administrator of the estate of the decedent Bernardo Rafanan Lao Sayco, alias Saya, and guardian of the minor Lay Chuyting, from the judgment rendered in these special proceedings by the Honorable Judge, Ramon Avancena.

Counsel for the municipal president of the pueblo of Mambajao, complying with a resolution of the council of the said pueblo, set forth in an undated petition filed with the Court of First Instance of Misamis:

That, on January 23, 1906, the municipal council of Mambajao appeared in the said proceedings and prayed that, since Bernardo Rafanan died in that pueblo without leaving any known legitimate successor, the real and personal property left by the said decedent within the district of the aforementioned municipality be awarded to the latter, pursuant to the provisions of section 571 (sic) of Act No. 190, which property was specified in the inventory presented by the testamentary executor, Lao Chiama, and that no ruling had been made on the said petition; that, on October 19 of the same year, the administrator, Lao Chiama, filed a written petition wherein he alleged that there were no longer any debts to pay and therefore requested that, upon the approval of his final account, his administration be closed, and, as the guardian of the Chinaman Lay Chuyting, requested that the property referred to be delivered to the latter as the son and sole heir of the decedent Rafanan; that the municipal council of Mambajao, which believed that it was entitled to the said property, opposed its delivery to the alleged heir, whose character as such was denied by the petitioner, who therefore prayed that he be admitted as a party to the proceedings and that a day be set for the hearing of the case, in order that the alleged heir, Lay Chuyting, might prove his right, and should he fail so to do, then that the right of the municipal council of Mambajao be recognized, with such other findings, in addition, as law and justice might demand.

Lao Chiama, administrator of the property of the decedent Rafanan and guardian of the minor Lay Chuyting, opposed in writing the petition of the municipality of Mambajao, on the ground that the said decedent left a legal heir, the minor Lay Chuyting, residing in China, who was a son of the deceased Lao Ta, the latter a brother of the decedent Bernardo Rafanan Lao Sayco, and that, therefore, Lay Chuyting was the latter's nephew, and not his son, as previously erroneously stated in the course of these proceedings. Petitioner stated that he desired to take the depositions of witnesses in the city of Cebu, in order to establish the facts set forth by him and asked that the hearing of the case be set for the month of June, 1907.

A hearing in these proceedings was had on February 20, 1908, after notice had been served on all who might have any interest in the intestate succession concerned, and after the publication of the decrees for three weeks prior to the date set. In view of the depositions of witnesses presented at the trial, the court, on March 5, 1908, rendered judgment ordering that the property left by the decedent, Bernardo Rafanan Lao Sayco, known by the name of

Saya, be assigned to the municipality of Mambajao, Province of Misamis, to be administered by its municipal council and placed at the disposal of the schools in the same manner as other property intended for the same use. It was further ordered that the administrator of the intestate estate, after paying the actual expenses and debts chargeable thereto, deliver the remainder to the municipality of Mambajao, and afterwards report to the Court of First Instance his compliance with and fulfillment of the order. From this judgment the said administrator and guardian of the minor Lay Chuyting appealed, for which purpose a certified copy of the record was forwarded to the clerk of this court.

This case concerns the reversion to the State of certain property which was left at death by the Chinaman Bernardo Rafanan Lao Sayco, alias Saya, who died in the pueblo of Mambajao, Province of Misamis, apparently without having executed any will during his lifetime and without leaving any known heirs in said locality.

Section 750 of the Code of Civil Procedure, applicable to the case, reads as follows:

"When a person dies intestate, seized of real or personal property in the Philippine Islands, leaving no heir or person by law entitled to the same, the president and municipal council of the municipality where the deceased last resided, if he was an inhabitant of these Islands, or of the municipality in which he had estate, if he resided out of the Islands, may, on behalf of the municipality, file a petition with the Court of First Instance of the province for an inquisition in the premises; the court shall thereupon appoint a time and place of hearing and deciding on such petition, and cause a notice thereof to be published in some newspaper of general circulation in the province of which the deceased was last an inhabitant, if within the Philippine Islands, and if not in some newspaper of general circulation in the province in which he had estate. The notice shall recite the substance of the facts and request set forth in the petition, the time and place at which persons claiming the estate may appear and be heard before the court, and shall be published at least six weeks successive the last of which publications shall be at least six weeks before the time appointed by the court to make inquisition."

From the record of these proceedings it does not appear that there was made, at the request of counsel for the president and the municipal council of Mambajao, the inquisition provided by law, specified in the preinserted section, for the record is not accompanied by any certified copy of the inventory of the real and personal property that belonged to the said decedent, with a statement of the places where the realty is located. Neither is it shown to have been ascertained whether the deceased Chinaman executed any will during his lifetime, or whether he left in Mambajao or in any other place in these Islands any relative entitled to inherit from him, information in regard to which points might be furnished by those who were his friends or with whom he had friendly dealings during his lifetime. Moreover, the notice summoning the persons who believed they were entitled to his property should have been published for at least six consecutive weeks, and not for three as was directed in the order of December 16, 1907.

In order that the property which belonged to the decedent Bernardo Rafanan Lao Sayco, situated in these Islands, may be decreed to have reverted to the State, pursuant to the provisions of section 751 of the Code of Civil Procedure, it is indispensable that the requirements contained in the above-quoted section of the said code should have been complied with by making the inquisition with regard to the matters specified, at the instance of the interested municipality. Furthermore, the person who lays claim to the property left by the decedent at death, as the latter's successor or heir, must prove his identity and rights.

Counsel for the municipality of Mambajao merely prayed for an order of reversion and for the adjudication in behalf of the municipality of the property aforementioned; he did not comply with the provisions of the law by furnishing the required proofs in regard to the matters hereinabove indicated, which must be the subject of an investigation.

For the reasons aforesaid, it is proper, in our opinion, to reverse the judgment appealed from, and we dismiss

these proceedings, without prejudice to any rights that may pertain to the parties with respect to the property in question. No express finding is made of the costs.

Arellano, C. J., Johnson, Carson, Moreland, and Trent, JJ., concur.

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