

**FLORENTINO ADRIANO Y TIBURCIO, PETITIONER AND APPELLEE,
VS. HIPOLITO DE JESUS ET AL., OPPONENTS AND APPELLANTS.***G.R. No. 6169. November 05, 1912*

Ponente: TORRES, J.

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This appeal has been brought before us by counsel for Hipolito de Jesus and Lorenza Sombillo, against the judgment rendered in special proceedings by the Honorable Estanislao Yusay, formerly judge of the Fifth District.

The proceedings in the case referred to were initiated in the Court of First Instance of Bulacan by Florentino Adriano y Tiburcio, in the matter of the probate of the will executed by the deceased Magdalena Carreon on November 5, 1895, before the notary of that province, Sr. Aguedo Velarde, and in the presence of three witnesses. Notwithstanding the opposition made by the spouses, Lorenza Sombillo and Hipolito de Jesus", the judge, on July 30, 1908, overruled, their objections and decreed that the said will be admitted, with the costs against the opponents, and appointed the said Florentino Adriano as the administrator of the estate of the deceased testatrix, holding that there were no legal grounds to order his removal as the special administrator of the said estate appointed by the court. A copy of this judgment appears on pages 15 to 23 of the record of the said proceedings.

Subsequently, on February 27, 1909, counsel for Lorenza Sombillo filed a written motion with that court, and in the same probate proceedings in the matter of the will of the deceased Carreon, praying that his client be held to be an heiress, by force of law, of the said deceased and entitled to two-thirds of the estate left by her at her death, as his client's legal portion, in accordance with article 808 of the Civil Code. Said counsel alleged that Lorenza Sombillo, married to Hipolito de Jesus, was the legitimate daughter of Magdalena Carreon and that the latter was not survived by any other daughter than the petitioner, Lorenza Sombillo.

By order of March 31 of the same year, the motion presented by counsel for Lorenza Sombillo was granted and the beginning of the next term of court was set for the hearing thereon, in order that the parties might bring forward their evidence in those proceedings to prove whether or not Lorenza Sombillo was in fact the legitimate daughter, and consequently the heiress by force of law, of Magdalena Carreon. An exception to this order was taken by the administrator, Adriano.

Evidence having been adduced by both parties, the judge, by order of March 26, 1910, ruled that there were no grounds for declaring Lorenza Sombillo to be the legitimate daughter of Magdalena Carreon, and that the petitioner, therefore, was not entitled to any of the estate left by the said deceased. An appeal from this ruling was taken by counsel for Lorenza Sombillo. A certified copy of such of the proceedings and exhibits as was deemed necessary for the purposes of the appeal having been forwarded, the case was, in accordance with law, brought up before this court.

This suit concerns the filiation of the appellant, Lorenza Sombillo Ignacio, a woman about forty years old, the wife of Hipolito de Jesus. She seeks to be declared the legal heir of the deceased Magdalena Carreon and entitled to two-thirds of the estate left by the latter at her death, on the ground that she is the deceased's legitimate

daughter. In proof of this allegation she exhibited a certified copy of her certificate of baptism, issued on March 11, 1906, which document sets forth that the appellant, born the day before, was baptized in the parish of the pueblo of Paombong, Bulacan, on August 10, 1870, that she was the legitimate daughter, born in lawful wedlock, of Tranquilino Sombillo Ignacio and Magdalena Carreon, and that her godmother was Eugenia Carreon.

In order to obtain a successful issue of the claim made by the appellant, Lorenza Sombillo, it is necessary that there should have been presented at trial some of the several kinds of proof of her filiation as the legitimate daughter of the said spouses, Tranquilino and Magdalena, whose names appear in the aforementioned baptismal certificate, in accordance with the provisions of the following articles of the Civil Code:

"Art. 115. The filiation of legitimate children is proven by the record of the birth, entered in the civil registry, or by an authentic instrument, or a final judgment in the cases referred to in articles 110 to 113 of the preceding chapter.

"Art. 116. In the absence of the documents mentioned in the preceding article, filiation shall be proven by the uninterrupted enjoyment of the status of a legitimate child.

"Art. 117. In the absence of the record of birth, authentic document, final sentence, or enjoyment of status legitimate filiation may be proven by any means, provided there is a foundation of proof in writing coming from both parents, either jointly or severally."

As civil registry was never established in these Islands during the former sovereignty, a certified copy of a canonical certificate of baptism constitutes, as a public document, proof of the facts that originated its issue or execution by the parish priest, though it can be impugned and assailed by contrary proof.

The certified copy, Exhibit A, which contains the baptismal certificate of Lorenza Sombillo Ignacio, does not constitute the authentic document specified in the aforesaid articles 115 and 117 wherewith to prove the legitimate filiation of a person. The said sacramental certificate is merely proof of the special act, the only one which the parish priest or the party in charge of the civil registry may attest from personal knowledge as having been performed by himself or in his presence, and no value can be attributed to the mere statements contained in such certificate in their relation to prior and different facts, for the proof of which other separate and specific evidence is indispensable. (Decisions of the supreme court of Spain, of November 25, 1875, and March 28, 1896.)

In another decision of the 13th of July, 1899, the same high tribunal established the following legal doctrine:

"A baptismal certificate, like all documents in general, attests the fact that originated its execution, and the date of the same, to wit, the administration of the sacrament on the day specified, but not to the veracity of the statements made therein respecting the kinsfolk of the person baptized. Though the filiation of legitimate children be proven, as established by article 115 of the Civil Code, by the record of birth entered in the civil registry and which is analogous to the certificates of baptism issued prior to the creation of that civil service, such record is presumptive evidence only, and is susceptible of proof to the contrary, and when, by virtue of that proof, the presumption is overcome, the said article of the Code is not violated."

Of the several means of proof authorized by the Code, Lorenza Sombillo chose to rely upon one conducive to prove that she had uninterruptedly enjoyed the status of a legitimate daughter of the said spouses who appear as her legitimate father and mother in the aforementioned baptismal certificate, Exhibit A.

The uninterrupted possession of the status of a legitimate daughter is equivalent to the enjoyment of the consideration, on the part of the public, of a legitimate daughter of the said spouses, by the use of the father's surname and by the treatment which, as a legitimate daughter, she received from her father and mother and from her parents' family, and also by her parents having constantly attended to her support and education; these facts she did not succeed in proving, as held by the trial court in the judgment appealed from.

The results obtained as a whole, the preponderance and weight of the evidence adduced by both parties, evidently and conclusively demonstrate that Lorenza Sombillo, notwithstanding the text of the sacramental certificate, Exhibit A, and the testimony of her witnesses, is not the legitimate daughter of Magdalena Carreon by her husband Tranquilino Sombillo, but the daughter of Toribia Carreon, an unmarried woman and sister of Magdalena, and an unknown father. The trial court so held in the judgment appealed from, after duly weighing the merits of the case as disclosed by the evidence and in accordance with the law.

The aforementioned canonical certificate is conclusive proof only of the baptism administered, in conformity with the rites of the Catholic Church, by the priest who baptized the child, Lorenza Sombillo, but it does not prove the veracity of the declarations and statements contained in the said certificate that concern the relationship of the person baptized. Such declarations and statements, in order that their truth may be admitted, must indispensably be shown by some of the kinds of proof recognized by law.

The statement contained in the aforementioned certificate, Exhibit A, relative to the parents and to the paternal and maternal grandparents of the baptized child, appears to be negated by similar statements found in the certified copies of the marriage certificate of the same party, Lorenza Sombillo, and the baptismal certificates of her children, Matias and Guillerma, Exhibits 2, 3, and 4. It is stated in the certificate A that the baptized child, Lorenza Sombillo, is the legitimate daughter of Magdalena Carreon and Tranquilino Sombillo, while in the certificates designated as Nos. 2, 3, and 4 it appears that the said Lorenza bears the surname Carreon and not that of Sombillo, and is the natural child of the unmarried woman, Toribia Carreon, and an unknown father. So that if some value might be ascribed to the statements contained in the baptismal certificate of Lorenza Sombillo, they are vitiated by other similar ones repeatedly made in other documents of the same kind, executed in different years.

If the statement of relationship, contained in the certificate of marriage of Lorenza Carreon to Hipolito de Jesus, or the statements found in the certificates of baptism of her two children, Matias and Guillerma, were not true, for those of the latter contradict that of the former, the said Lorenza and her husband could have sought the amendment of the text of any of those certificates during the lifetime of Magdalena Carreon and thus established the truth; but they did not do so and waited until the death of the testatrix, Magdalena Carreon, and then claimed the estate on the ground that Lorenza Carreon was her legitimate daughter, as set forth in the latter's baptismal certificate which, according to well-settled juridical principles, is not sufficient proof of the legitimate filiation alleged.

The will, Exhibit 1, inserted on page 4 of the bill of exceptions and executed by Magdalena Carreon on November 5, 1895, before the notary Aguedo Velarde and in the presence of three witnesses, corroborates the result derived from the evidence adduced at trial, to wit, that the claimant, Lorenza Sombillo, was not the daughter of the testatrix, Magdalena Carreon, for the latter stated in the third clause of her will that she had only been married once and with Tranquilino Sombillo e Ygnacio, then deceased, by whom she had had eleven children, all likewise deceased, and that she had no living descendant. If Lorenza Sombillo were really the legitimate daughter of the said testatrix, she would have been mentioned in the will as one of the daughters who was living at the time of its execution, and the testatrix, Magdalena Carreon, would not have expressly declared that she had eleven children by her husband and that all were dead on the date when she made her will.

As Magdalena Carreon in her will devised three rural properties as a legacy to her four sisters, Toribia, Engracia, Eugenia, and Simona, and to her five nephews and nieces, the children of her other sister, Maria, then deceased, it is not-explained how, without moral or legal reason she omitted . from her said will, and not so much as mentioned therein, Lorenza Sombillo, who claims to be her legitimate daughter. If the testatrix did not name her as an heir, as she did her son-in-law, the widower of one of her deceased daughters, it was because it was

unquestionably true that all her eleven children were then deceased, that none of them were alive on the date she executed her last will and testament, and that Lorenza Sombillo was not, and is not, a daughter of hers, notwithstanding what is set forth in her baptismal certificate, Exhibit A.

With regard to natural children, article 136 of the Civil Code prescribes that the mother is obliged to recognize the natural child: "2. When, the fact of the birth and the identity of the child are duly proven."

The contention of Lorenza Sombillo is that she should be recognized as the legitimate daughter of Magdalena, yet she could have proved that the latter gave birth to her in the house where the latter's husband was living. Lorenza furnished no such proof. Lucio Pahati, on the other hand, a witness for the appellee, testified that he had seen Toribia Carreon in a pregnant state and afterwards give birth to a child who was subsequently called Lorenza. This witness swore that the latter's mother was Toribia Carreon, a sister of the testatrix, Magdalena Carreon.

The document, Exhibit B, drawn up in Tagalog and which is alleged to be the will of the deceased Magdalena Carreon, is not shown to have been probated, nor does it appear to have been admitted as proof of the arguments advanced in the opposition made by Lorenza Sombillo to the probate of the aforementioned previous will of the said deceased; and, therefore, not being an authentic document, it could not be legally admitted as proof of the filiation in question.

The appellant Lorenza Sombillo, being convinced that she lacked the requisites specified in article 115 of the Civil Code, endeavored to prove her filiation by the uninterrupted enjoyment of the status of a legitimate child of the testatrix. In this attempt she was unsuccessful, as so held by the lower court, the judge basing his conclusion on the evidence presented at trial, which conclusively shows the impropriety of the appellant's claim.

For the foregoing reasons, whereby the errors assigned to the judgment appealed from have been refuted, we are of opinion that the said judgment should be and it is hereby affirmed, as it is in accordance with the law and the evidence. The costs of this instance shall be against the appellant. So ordered.

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

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