

**IGNACIO FRIAS CHUA, DOMINADOR CHUA AND REMEDIOS CHUA,
PETITIONERS, VS. THE COURT OF FIRST INSTANCE OF NEGROS
OCCIDENTAL, BRANCH V AND SUSANA DE LA TORRE, IN HER
CAPACITY AS ADMI...***G.R. No. L-29901. August 31, 1977*

Ponente: MARTIN, J.

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Petition for review of the decision of the respondent Court which dismissed the complaint of petitioners in Civil Case No. 7839-A, entitled "Ignacio Frias Chua, et al. vs. Susana de la Torre, Administratrix of the Intestate Estate of Consolacion de la Torre."

It appears that in the first marriage of Jose Frias Chua with Patricia S. Militar alias Sy Quio, he sired three children, namely: Ignacio, Lorenzo and Manuel, all surnamed Frias Chua. When Patricia S. Militar died, Jose Frias Chua contracted a second marriage with Consolacion de la Torre with whom he had a child by the name of Juanito Frias Chua. Manuel Frias Chua died without leaving any issue. Then in 1929, Jose Frias Chua died intestate leaving his widow Consolacion de la Torre and his son Juanito Frias Chua of the second marriage and sons Ignacio Frias Chua and Lorenzo Frias Chua of his first marriage. In Intestate Proceeding No. 4816, the lower court issued an order dated January 15, 1931[1] adjudicating, among others, the one-half (1/2) portion of Lot No. 399 and the sum of P8,000.00 in favor of Jose Frias Chua's widow, Consolacion de la Torre, the other half of Lot No. 399 in favor of Juanito Frias Chua, his son in the second marriage; P3,000.00 in favor of Lorenzo Frias Chua; and P1,550.00 in favor of Ignacio Frias Chua, his sons of the first marriage. By virtue of said adjudication, Transfer Certificate of Title No. TR-980 (14483)[2] dated April 28, 1932 was issued by the Register of Deeds in the names of Consolacion de la Torre and Juanito Frias Chua as owners pro-indiviso of Lot No. 399.

On February 27, 1952, Juanito Frias Chua of the second marriage died intestate without any issue. After his death, his mother Consolacion de la Torre succeeded to his pro-indiviso share of Lot No. 399. In a week's time or on March 6, 1952, Consolacion de la Torre executed a declaration of heirship adjudicating in her favor the pro-indiviso share of her son Juanito as a result of which Transfer Certificate of Title No. 31796 covering the whole Lot No. 399 was issued in her name. Then on March 5, 1966, Consolacion de la Torre died intestate leaving no direct heir either in the descending or ascending line except her brother and sisters.

In the "Intestate Estate of Consolacion de la Torre", docketed as Sp. Proc. No. 7839-A, the petitioners herein, Ignacio Frias Chua, of the first marriage and Dominador and Remedios Chua, the supposed legitimate children of the deceased Lorenzo Frias Chua, also of the first marriage filed the complaint a quo[3] (subsequently segregated as a distinct suit and docketed as Civil Case No. 7839-A) on May 11, 1966 before the respondent Court of First Instance of Negros Occidental, Branch V, praying that the one-half (½) portion of Lot No. 399 which formerly belonged to Juanito Frias Chua but which passed to Consolacion de la Torre upon the latter's death, be declared as a reservable property for the reason that the lot in question was subject to reserva troncal pursuant to Article 891

of the New Civil Code. Private respondent as administratrix of the estate of Consolacion de la Torre and the heirs of the latter traversed individually the complaint of petitioners.[4]

On July 29, 1968, the respondent Court rendered a decision dismissing the complaint of petitioners. Hence this instant petition.

The pertinent provision on reserva troncal under the New Civil Code provides:

"ART. 891. The ascendant who inherits from his descendant any property which the latter may have acquired by gratuitous title from another ascendant, or a brother or sister, is obliged to reserve such property as he may have acquired by operation of law for the benefit of relatives who are within the third degree and belong to the line from which said property came."

Pursuant to the foregoing provision, in order that a property may be impressed with a reservable character the following requisites must exist, to wit: (1) that the property was acquired by a descendant from an ascendant or from a brother or sister by gratuitous title; (2) that said descendant died without an issue; (3) that the property is inherited by another ascendant by operation of law; and (4) that there are relatives within the third degree belonging to the line from which said property came.[5] In the case before Us, all of the foregoing requisites are present. Thus, as borne out by the records, Juanito Frias Chua of the second marriage died intestate in 1952; he died without leaving any issue; his pro-indiviso of 1/2 share of Lot No. 399 was acquired by his mother, Consolacion de la Torre by operation of law. When Consolacion de la Torre died, Juanito Frias Chua who died intestate had relatives within the third degree. These relatives are Ignacio Frias Chua and Dominador Chua and Remedios Chua, the supposed legitimate children of the deceased Lorenzo Frias Chua, who are the petitioners herein.

The crux of the problem in instant petition is focused on the first requisite of reserva troncal - whether the property in question was acquired by Juanito Frias Chua from his father, Jose Frias Chua, gratuitously or not. In resolving this point, the respondent Court said:

"It appears from Exh. "3", which is part of Exh. "D", that the property in question was not acquired by Consolacion de la Torre and Juanito Frias Chua gratuitously but for a consideration, namely, that the legatees were to pay the interest and costs and other fees resulting from Civil Case No. 5300 of this Court. As such it is undeniable that the lot in question is not subject to a reserva troncal, under Art. 891 of the New Civil Code, and as such the plaintiff's complaint must fail."

We are not prepared to sustain the respondent Court's conclusion that the lot in question is not subject to a reserva troncal under Art. 891 of the New Civil Code. It is. As explained by Manresa which this Court quoted with approval in *Cabardo v. Villanueva*, 44 Phil. 186, "The transmission is gratuitous or by gratuitous title when the recipient does not give anything in return." It matters not whether the property transmitted be or be not subject to any prior charges; what is essential is that the transmission be made gratuitously, or by an act of mere liberality of the person making it, without imposing any obligation on the part of the recipient; and that the person receiving the property gives or does nothing in return; or, as ably put by an eminent Filipino commentator,[6] "the essential thing is that the person who transmits it does so gratuitously, from pure generosity, without requiring from the transferee any prestation." It is evident from the record that the transmission of the property in question to Juanito Frias Chua of the second marriage upon the death of his father Jose Frias Chua was by means of a hereditary succession and therefore gratuitous. It is true that there is the order (Exh. "D") of the probate Court in Intestate Proceeding No. 4816 which states in express terms:

"2. - Se adjudicada por el presente a favor de Consolacion de la Torre, viuda, mayor de edad, y de su hijo, Juanito Frias Chua, menor de edad, todos residentes de San Enrique, Negros Occidental, I.F., como herederos

del finado Jose Frias Chua Choo, estas propiedades:

14483

La parcela de terreno conocida por Lote No. 399 del Catastro de la Carlota, Negros Occidental, de 191.954 metros cuadrados y cubierto por el Certificado de Titulo No. 11759, en partes equales pro-indiviso; por con la obligacion de pagar a las Standard Oil Co. of New York la deuda de P3,971.20, sus intereses, costas y demas gastos resultantes del asunto civil No. 5300 de este Juscado."

But the obligation of paying the Standard Oil Co. of New York the amount of P3,971.20 is imposed upon Consolacion de la Torre and Juanito Frias Chua not personally by the deceased Jose Frias Chua in his last will and testament but by an order of the court in the Testate Proceeding No. 4816 dated January 15, 1931. As long as the transmission of the property to the heirs is free from any condition imposed by the deceased himself and the property is given out of pure generosity, it is gratuitous. It does not matter if later the court orders one of the heirs, in this case Juanito Frias Chua, to pay the Standard Oil Co. of New York the amount of P3,971.20. This does not change the gratuitous nature of the transmission of the property to him. As far as the deceased Jose Fraias Chua is concerned the transmission of the property to his heirs is gratuitous. This being the case the lot in question is subject to reserva troncal under Art. 891 of the New Civil Code.

It is contended that the distribution of the shares of the estate of Jose Frias Chua to the respondent heirs or legatees was agreed upon by the heirs in their project of partition based on the last will and testament of Jose Frias Chua. But petitioners claim that the supposed Last Will and Testament of Jose Frias Chua was never probated. The fact that the will was not probated was admitted in paragraph 6 of the respondents' answer.[7] There is nothing mentioned in the decision of the trial court in Civil Case No. 7839 A which is the subject of the present appeal nor in the order of January 15, 1931 of the trial court in the Testate Estate Proceeding No. 4816 nor in the private respondents' brief, that the Last Will and Testament of Jose Frias Chua has ever been probated. With the foregoing, it is easy to deduce that if the Last Will and Testament has in fact been probated there would have been no need for the testamentary heirs to prepare a project of partition among themselves. The very will itself could be made the basis for the adjudication of the estate as in fact they did in their project of partition with Juanito Frias Chua getting one-half of Lot 399 by inheritance as a son of the deceased Jose Frias Chua by the latter's second marriage.

According to the records, Juanito Frias Chua died on February 27, 1952 without any issue. After his death his mother Consolacion de la Torre succeeded to his one-half pro-indiviso share of Lot 399. This was, however, subject to the condition that the property was reservable in character under Art. 891 of the Civil Code in favor of relatives within the third degree of Jose Frias Chua from whom the property came. These relatives are the petitioners herein.

It is claimed that the complaint of petitioners to recover the one-half portion of Lot 399 which originally belonged to Juanito Frias Chua has already prescribed when it was filed on May 11, 1966. We do not believe so. It must be remembered that the petitioners herein are claiming as reservees of the property in question and their cause of action as reservees did not arise until the time the reservor, Consolacion de la Torre, died in March 1966. When the petitioners therefore filed their complaint to recover the one-half (1/2) portion Lot 399, they were very much in time to do so.

IN VIEW OF THE FOREGOING, the decision appealed from is hereby set aside. The petitioners Ignacio Frias Chua, Dominador Chua and Remedios Chua are declared owners of 1/2 undivided portion of Lot 399; and the Register of Deeds of Negros Occidental is hereby ordered to cancel Transfer Certificate of Title No. 31796 covering Lot No. 399 issued in the name of Consolacion de la Torre and to issue a new Certificate of Title in the

names of Consolacion de la Torre, 1/2 undivided portion; Ignacio Frias Chua, 1/4 undivided portion; and Dominador Chua and Remedios Chua, 1/4 undivided portion, of said lot. Without pronouncement as to costs.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, Fernandez, and Guerrero, JJ., concur.

[1] Exh. D, pp. 8-14, Folder of Exhibits.

[2] Exh. C, p. 6, Ibid.

[3] pp. 3-7, Record on Appeal.

[4] p. 8-16, Record on Appeal.

[5] Padilla, Civil Code Annotated, Vol. III, p. 300 (1973).

[6] Tolentino, Civil Code of the Philippines, Vol. III, p. 294, citing 6 Manresa 399.

[7] p. 15, R.A.

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