

**MATILDE GUERRA, DOMINGO REYES, VIRGINIA GUERRA, AND
FELIX A. VILLARIN, PLAINTIFFS AND APPELLANTS, VS. EULALIO
TOLENTINO, ROSALIA ARROYO AND PEDRO MANGUBAT,
DEFENDANTS AND APPELLES.**

G. R. No. L-3095. October 25, 1951

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

This is an action for the annulment of certain deeds of donation executed by Eulalio Tolentino in favor of Pedro Mangubat and Rosalia Arroyo on the ground of fraud with an alternative prayer that, in the remote case that the donations are not annulled, the donor and the donees be ordered to register in the office of the register of deeds the right of the plaintiffs. as reservees of the properties subject of donation under Article 968 of the old civil code.

Plaintiffs Matilde Guerra and Virginia Guerra are the legitimate children of Hilarlon Guerra who was a half-brother of Eustaquia Azusada, wife of Eulalio Tolentino. Eustaquia Azusada owned five (5) parcels of land as paraphernal property and other pieces of land as conjugal which she and her husband acquired during their marriage. During her lifetime Eustaquia Azusada made a donation mortis causa in favor of her husband transferring to him all her paraphernal properties as well as her share in the conjugal property. Eustaquia Azusada died on November 6, 1918, leaving no child nor descendants. She died Intestate. After her death her donation was admitted to probate.

On July 20, 1926, Eulalio Tolentino contracted a second marriage with one Aniceta Languban, and sometime In 1945 and 1946, he donated some of the properties to his co-defendants Rosalia Arroyo and Pedro Mangubat. These donations, and the subsequent marriage of Eulalio Tolentino, prompted Matilde Guerra and Virginia Guerra to file the complaint that initiated these proceedings in the Court of First Instance of Laguna.

After issues had been Joined, the lower court dismissed the case holding that the plaintiffs "cannot be considered as within the scope of the reservatario as provided for in Art. 968 of the Civil Code in relation with other articles of the same code pertinent to the issue." From this decision plaintiffs have appealed.

The only issue to be determined is whether the plaintiffs can be considered as reservees of the properties donated by the deceased Eustaquia Azusada to her husband Eulalio Tolentino under article 968 of the old civil code.

This article provides:

"ART. 968. Besides the reservation Imposed by Article 811, the widower or widow who contracts a second marriage shall be obliged to reserve for the children and descendants of the first marriage the ownership of all the property acquired from the deceased spouse by will, by intestate succession, by donation, or by any other lucrative title; but not his or her half of the conjugal property."

The evidence shows that Hatilde Guerra and Virginia Guerra are the legitimate children of Hilarion Guerra, half-brother of Eustaquia Azusada, late wife of Eulalio Tolentino. These spouses did not have any issue nor

descendant. Eustaquia Azusada died on November 6, 1918, and on July 10, 1926, her surviving spouse Eulalio Tolentino contracted a second marriage with Aniceta Languban. These are the only pertinent facts that need to be considered in the determination of this issue. These facts show that in the light of article 968 of the old civil code above quoted, no one can be considered as reservee of the properties donated because the spouses did not leave any child nor descendant. The plaintiffs who are but half-blood nieces of the deceased do not come within the purview of said article.

But it is contended that the plaintiffs even if they are only half-blood nieces come within the purview of said article because they are the legitimate children of a half-brother of the deceased and, therefore, they can be considered as collateral descendants, and that the term "descendants" used in said article should be interpreted as including descendants in the collateral line. And to bolster up his contention, counsel makes reference to article 811 of the same code with respect to reserva troncal which provides that the ascendant who inherits from a descendant property which the latter acquired by lucrative title from another ascendant is obliged to reserve what he has acquired in favor of the relatives who are within the third degree belonging to the line from which such property came. His reasoning is this. In reserva viudal there are more reasons for extending the reservees to the collateral line down to the third degree because (a) in reserva troncal the reservista is a relative of the giver, while in reserva viudal the reservista, has no blood relation to the giver, and (b) in reserva viudal there is greater possibility that the properties may be transmitted to strangers because the reservista has no blood relation to the giver, whereas in reserva troncal, the reservista is a relative and his heirs would naturally be also relatives of the giver.

This argument sounds logical but loses its force when confronted with the philosophy of the article we are considering. This article clearly provides that the reservation therein provided shall only inure to the benefit of the children and descendants of the first marriage. And this marriage refers to the marriage of the deceased Eustaquia Azusada and the defendant Eulalio Tolentino, dissolved in 1918 by reason of the death of the former. The word "descendants" used in said article has its own meaning in the law, as may be gleaned from articles 916 and 917 of the same code. It means descendants of direct descending line. A line as applied to succession may be either direct or collateral. A direct line is one constituted by the series of degrees among persons descending one from the other. A collateral line is that constituted by the series of degrees among persons not descending one from the other but proceeding from a common trunk (Art. 916, Civil Code). Manresa, speaking of the scope of this article 968, says:

"Pero como esta doctrina, no obstante ser la mas legal, no era por eso la mas justa, los autores delCodigo civil entendieron, con sobrada razon, que el fundamento y fin de las reservas exigian su establecimiento en favor de toda la linea recta descendente, y de aqui que el caso se halle hoy resuelto con toda claridad en los arts. 968, 969, 970 y 972 y 973, todos los cuales hablan expresamente de hijos y descendientes legitimos." (7 Manresa, Codigo Civil, 5 ed., pp. 243-244, underscoring supplied).

Sanchez Roman makes this comment:

"El reservatario o reservatarios a cuyo favor se establecen las reservas son indudablemente, despues delCodigo (1), los hijos y descendientes legitimos y comunes del conyugal premuerto y del superstite que por la celebracion de nuevo matrimonio viene obligado a reservar. Las palabras "viudo" y "viuda", "hijos y descendientes del primero", refiriendose al matrimonio disuelto, que se aplican en los arts. 968, 969, 970 y 972, y las de "hijos y descendientes legitimos del primer matrimonio", dejan fuera de toda duda que elCodigo solo otorga el favor de la reserva a la descendencia legitima comin del conyugal difunto y del sobreviviente obligado a reservar." (6 Sanchez Roman, Derecho Civil, 2,a ed. 1878, underscoring supplied).

There can, therefore, be no mistake as to the proper interpretation of the words children and descendants

employed in article 968 of the civil code. They undoubtedly mean those who are considered as such in the light of the meaning given to them by the said code. And the exclusive nature of the provision is reflected by the limitation that the children and descendants referred to must be of the first marriage, meaning the marriage formed by the spouses from whom the property came. They must be common to both spouses. They have a restricted meaning. They exclude all other relatives belonging to the collateral line. All commentators agree on this point of view. Certainly, the plaintiffs herein cannot pretend that they are direct descendants of the marriage formed by the spouses Eustaquia Azusada and Eulalio Tolentino. When the terms of the law are clear there is no room for interpretation.

Wherefore, the decision appealed from is affirmed, with costs against the appellants.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes and Jugo, JJ., concur.

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