

**DIONISIA PADURA, ET AL., PETITIONERS-APPELLEES, VERSUS
MELANIA BALDOVINO, ET AL., OPPOSITORS-APPELLANTS***G. R. No. L-11960. December 27, 1958*

Ponente: REYES, J.B.L., J.

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Appeal on a pure question of law from an order of the Court of First Instance of Laguna in its Special Proceedings No. 4551.

The facts are simple and undisputed. Agustin Padura contracted two marriages during his lifetime. With his first wife, Gervacia Landig, he had one child whom they named Manuel Padura, and with his second, Benita Garing; he had two children named Fortunato Padura and Candelaria Padura.

Agustin Padura died on April 26, 1908, leaving a last will and testament, duly probated in Special Proceedings No. 664 of the Court of First Instance of Laguna, wherein he bequeathed his properties among his children, Manuel, Candelaria and Fortunato, and his surviving spouse, Benita Garing. Under the probate proceedings, Fortunato was adjudicated four parcels of land covered under Decree No. 25960 issued in Land Registration Case No. 86 G. L. R. O. No. 10818, object of this appeal.

Fortunato Padura died unmarried on May 28, 1908, without having executed a will; and not having any issue, the said parcels of land were inherited exclusively by her mother, Benita Garing. She applied for and later was issued a Torrens Certificate of Title in her name, but subject to the condition that the properties were reservable in favor of relatives within the third degree belonging to the line from which said property came, in accordance with the applicable provision of law, under a decree of the court dated August 25, 1916, in Land Registration Case No. G. L. R. O. No. 10818.

On August 26, 1934, Candelaria Padura died leaving as her only heirs, her four legitimate children, the appellants herein, Cristeta, Melania, Anicia and Pablo, all surnamed Baldovino, Six years later, on October 6, 1940, Manuel Padura also died. Surviving him are his legitimate children, Dionisia, Felisa, Flora, Gornelio, Francisco, Juana, and Severino, all surnamed Padura, the appellees herein.

Upon the death of Benita Garing (the reservista), on October 15, 1952, appellants and appellees took possession of the reservable properties. In a resolution, dated August 1, 1953, of the Court of First Instance of Laguna in Special Proceedings No. 4551, the legitimate children of the deceased Manuel Padura and Candelaria Baldovino were declared to be the rightful reservees, and as such, entitled to the reservable properties (the original reservees Candelaria Padura and Manuel Padura, having predeceased the reservista). The instant petition, dated October 22, 1956, filed by appellants Baldovino seeks to have these properties partitioned, such that one-half of the same be adjudicated to them, and the other half to the appellees, allegedly on the basis that they inherit by right of representation from their respective parents, the original reservees. To this petition, appellees filed their opposition, maintaining that they should all (the eleven reservees) be deemed as inheriting in their own right, under which, they claim, each should have an equal share.

Based on the foregoing finding of facts, the lower court rendered judgment declaring all the reservees (without distinction) "co-owners, pro-indiviso, equal shares of the parcels of land" subject matter of the suit.

The issue in this appeal may be formulated as follows: In a case of *reserva troncal*, where the only *reservatarios* (reservees) surviving the *reservista*, and belonging to the line of origin, are nephews of the descendant (*prepositus*), but some are nephews of the half blood and the others are nephews of the whole blood, should the reserved properties be apportioned among them equally, or should the nephews of the whole blood take a share twice as large as that of the nephews of the half blood?

The appellants contend that notwithstanding the reservable character of the property under Art. 891 of the new Civil Code (Art. 811 of the Code of 1889) the *reservatarios* nephews of the whole blood are entitled to a share twice as large as that of the others, in conformity with Arts. 1006, 1008 of the Civil Code of the Philippines (Arts. 949 and 951 of the Code of 1889) on intestate succession.

"Art. 1006. Should brothers and sisters of the full blood survive together with brothers and sisters of the half blood, the former shall be entitled to a share double that of the latter.(949)n

"Art. 1008. Children of brothers and sisters of the half blood shall succeed per capita or per stripes, in accordance with the rules laid down for brothers and sisters of the full blood, (951)"

The case is one of first impression and has divided the Spanish commentators on the subject. After mature reflection, we have concluded that the position of the appellants is correct. The *reserva troncal* is a special rule designed primarily to assure the return of the reservable property to the third degree relatives belonging to the line from which the property originally came, and avoid its being dissipated into and by the relatives of the inheriting ascendant (*reservista*). To this end, the 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 who belong to the line from which said property came. (811)"

It is well known that the *reserva troncal* had no direct precedent in the law of Castile. The President of the Spanish Code Commission, D. Manuel Alonso Martinez, explained the motives for the formulation of the *reserva troncal* in the Civil Code of 1889 in his book "ElCodigo Civil en sus relaciones con las Legislaciones Forales" (Madrid, 1884, Vol. 1, pp. 226-228, 233-235) in the following words:

"La base cuarta, á más de estar en pugna con la legislacion española, es una desviacion del antiguo derecho romano y del moderno derecho europeo, perfectamente conformes ambos con el tradicional sistema de Castilla. En qué se fundó, pues, la Comision para semejante novedad? Que razones pudieron moverla á establecer la sucesion lineal, separándose del cáuce secular?"

"Lo diré en breves frases. Hay un case, no del todo raro, que subleva el sentimiento de cuantos lo imaginan ó lo ven: el hijo mayor de un magnate sucede á su padre en la mitad Integra de pingues mayorazgos, tocando á sus hermanos un lote modestisimo en la division de la herencia paterna; aquel hijo se casa y fallece al poco tiempo dejando un tierno vástago; la viuda, todavia jóven, contrae segundas bodas y tiene la desdicha de perder al hijo del primer matrimonio heredando toda su fortuna con exclusion de la madre y los hermanos de su primer marido. No hay para qué decir que, si hay descendientes del segundo matrimonio, á ellos se trasmite en su dia la hereticia. Por donde resulta el irritante espectáculo de que los vástagos directos del magnate viven en la estrechez y tal vez en la miseria, mientras gozan de su rico patrimonio personas extrañas á su familia y que, por un órden natural, la son profundamente antipáticas. Esta hipótesis se puede realizar y se realice, aunque por lo general en menor escala, entre propietarios, banqueros é industriales. labradores y comerciantes, sin necesidad de vinculaciones ni títulos nobiliarios.

"Pues bien, la mayoría de la Comisión se preocupó vivamente de esto, considerando el principio de familia como superior al del afecto presumible del difunto. A esta impresión obedecía la propuesta del Sr. García Goyena, para que á los ascendientes se les diera su legítima tan sólo en usufructo: en idéntica razón se apoyaba el Sr. Franco para pedir con insistencia se declarase que, si un ascendiente tenía hecha una donación á su descendiente, bien fuese al contraer matrimonio ó bien con cualquiera otro motivo, y muriese el donatario sin sucesión, volvieran los bienes donados al donante, sin perjuicio de la legítima que pudiera corresponderle en su calidad de ascendiente. La Comisión no se atrevió a ir tan allá como estos dos Sres. Vocales; pero, para eludir las consecuencias que á las veces produce el principio de la proximidad del parentesco y que he puesto de relieve poco há, proclamó, no sin vacilar, la doctrina de la sucesión lineal." (pp.226-227)

"Y este fué el temperamento que, por indicación mía, adoptó la Comisión Codificadora, norabando una Sub-comisión que redactara las bases é que había de sujetarse esta especie de reversion de los bienes inmuebles al tronco de donde procedan, lo mismo en la sucesión testamentaria que en la intestada, sin perjuicio del derecho sacratísimo de los padres al disfrute de la herencia de sus hijos malogrados prematuramente.

"Dicha Subcomisión, compuesta de los Sres. Durán y Bás y Franco como defensores del régimen familiar, y de los Sres. Manresa y García Goyena en representación de la legislación castellana, sometieron á la deliberación de la Comisión Codificadora la proposición siguiente:

'El ascendiente que heredare de su descendiente bienes que este hubiese adquirido por título lucrativo de_ otro ascendiente ó de un hermano, se halla obligado á reservar los que hubiese adquirido por ministerio de la ley en favor de los parientes del difunto que se hallaran comprendidos dentro del tercer grado y que lo sean por la parte de donde proceden los bienes.'

"No voy á discutir ahora si esta fórmula es más ó menos feliz, y si debe aprobarse tal cual está redactada ó si há menester de enmienda ó adición. Aplazo este examen para cuando trate de la sucesión intestada, á la cual tiene mayor aplicación. Por el momento me limito á reconocer. primero: que con esta base desaparece el peligro de que bienes poseídos secularmente por una familia pasen bruscamente y á título gratuito á manos extrañas por el azar de los enlaces y de muertes prematuras; segundo: que sin negar que sea una novedad esta base del derecho de Castilla, tiene en rigor en su abono la autoridad de los Códigos más niveladores y el ejemplo de las naciones más democráticas de Europa, si no en la extensión en que lo presenta la Comisión Codificadora, á lo menos en el principio generador de la reforma." (pp.233-235)

The stated purpose of the reserva is accomplished once property has devolved to the specified relatives of the line of origin. But from this time on, there is no further occasion for its application. In the relations between one reservatario and another of the same degree, there is no call for applying Art. 891 any longer; wherefore, the respective share of each in the reversionary property should be governed by the ordinary rules of intestate succession. In this spirit the jurisprudence of this Court and that of Spain has resolved that upon the death of the ascendant reservista, the reservable property should pass, not to all the reservatorios as a class, but only to those nearest in degree to the descendant (*prepositus*), excluding those reservatorios of more remote degree (*Florentine vs. Florentine*, 40 Phil. 489-490; T. S. 8 Nov. 1894; *Dir. Gen. de los Registros*, Resol. 20 March 1905). And within the third degree of relationship from the descendant (*prepositus*), the right of representation operates in favor of nephews (*Florentino vs. Florentino*, *supra*).

"Following the order prescribed by law in legitimate succession, when there are relatives of the descendant within the third degree, the right of the nearest relative, called reservatario, over the property which the reservista (person holding it subject to reservation) should return to him, excludes that of the one more remote. The right of representation cannot be alleged when the one claiming same as a reservatario of the reservable property is not among the relatives within the third degree belonging to the line from which such property came, inasmuch as the right granted by the Civil Code in Article 811 is in the highest degree personal and for the exclusive benefit of designated persons who are within the third degree of the person from whom the

reservable property came. Therefore, relatives of the fourth and the succeeding degrees can never be considered as reservatarios, since the law does not recognize them as such.

In spite of what has been said relative to the right of representation on the part of one alleging his right as reservatario who is not within the third degree of relationship, nevertheless there is right of representation on the part of reservatarios who are within the third degree mentioned by law, as in the case of nephews of the deceased person from whom the reservable property came. x x x.” (Florentino vs. Florentino, 40 Phil. 480, 489-490) (Emphasis supplied) (see also Nieva and Alacala vs. Alcala and de Ocampo, 41 Phil. 915)

Proximity of degree and right of representation are basic principles of ordinary intestate succession; so is the rule that whole blood brothers and nephews are entitled to a share double that of brothers and nephews of half-blood. If in determining the rights of the reservatarios inter se, proximity of degree and the right of representation of nephews are made to apply, the rule of double share for immediate collaterals of the whole blood should be likewise operative.

In other words, the reserva troncal merely determines the group of relatives (reservatarios) to whom the property should be returned; but within that group, the individual right to the property should be decided by the applicable rules of ordinary intestate succession, since Art. 891 does not specify otherwise. This conclusion is strengthened by the circumstance that the reserva being an exceptional case, its application should be limited to what is strictly needed to accomplish the purpose of the law. As expressed by Manresa in his Commentaries (Vol. 6, 6th Ed., p. 250):

“creándose un verdadero estado excepcipnal del derecho, no debe ampliarse, sino más bien restringirse, el alcance del precepto, manteniendo la excepción mientras fuere necesaria y estuviese realmente contenida en la disposicion, y aplicando las reglas generales y fundamentals del Código en materia de sucesión, en aquellos extremos no resueltos de un raodo expreso, y que quedan fuera de la propia esfera de accián de la reserva que se crea.”

The restrictive interpretation is the more imperative in view of the new Civil Code's hostility to successional reservas and reversions, as exemplified by the suppression of the reserve viudal and the reversion legal of the Code of 1889 (Arts. 812 and 968-980).

There is a third point that deserves consideration. Even during the reservista's lifetime, the reservatarios, who are the ultimate acquirers of the property, can already assert the right to prevent the reservista from doing anything that might frustrate their reversionary right: and for this purpose they can compel the annotation of their right in the Registry of Property even while the reservista is alive (Ley Hipotecaria de Ultramar, Arts. 168, 199; Edroso vs. Sablan, 25 Phil. 295). This right is incompatible with the mere expectancy that corresponds to the natural heirs of the reservista. It is likewise clear that the reservable property is no part of the estate of the reservista, who may not dispose of them by will, so long as there are reservatarios existing (Arroyo vs. Gerona, 58 Phil. 237). The latter, therefore, do not inherit from the reservist, but from the descendant prepositus, of whom the reservatarios are the heirs mortis causa, subject to the condition that they must survive the reservista. (Sanchez Roman, Vol. VI, Torao 2, p. 286; Manresa, Commentaries, Vol. 6, 6th Ed., pp. 274, 310) Had the nephews of whole and half-blood succeeded the prepositus directly, those of full-blood would undoubtedly receive a double share compared to those of the half-blood (Arts. 1008 and 1006, *jam cit.*) Why then should the latter receive equal shares simply because the transmission of the property was delayed by the interregnum of the reserva? The decedent (causante) the heirs and their relationship being the same, there is no cogent reason why the hereditary portions should vary.

It should be stated, in justice to the trial court, that its opinion is supported by distinguished commentators of the Civil Code of 1889, among them Sanchez Román (Estudios, Vol. 65 Tomo 2, p. 1008) and Mucius Scaevola (Código Civil, Vol 14, p. 342). The reason given by these authors is that the reservatarios are called by law to take

the reservable property because they belong to the line of origin; and not because of their relationship. But the argument, if logically pursued, would lead to the conclusion that the property should pass to any and all the reservatarios, as a class, and in equal shares, regardless of lines and degrees. In truth, such is the thesis of Scaevola, that later became known as the theory of reserva integral (14 Scaevola, Cod. Civ. p. 332 et seq.). But, as we have seen, the Supreme Courts of Spain and of the Philippines have rejected that view, and consider that the reservable property should be succeeded by the reservatario who is nearest in degree, according to the basic rules of intestacy. The refutation of the trial court's position is found in the following, passage of Manresa's Commentaries (Vol. 6, 7th Ed., p. 346):

“A esto se objeta que el derecho consignado en el artículo 811 es un derecho propio que nace de la mera calidad de pariente; no un derecho que se adquiere por sucesión. Ciertamente, el derecho se concede a los parientes lineales dentro del tercer grado; pero se les concede con motivo de la muerte de un descendiente y en la sucesión de este. Ellos suceden por la procedencia especial de los bienes después de ser éstos disfrutados por el ascendiente; pero suceden a título lucrativo y por causa de muerte y ministerio de la ley, lo cual es difícil poderlo negar. Hasta podrían estimarse esos parientes legitimarios o herederos forzosos, como el mismo autor reconoce en otro lugar de su obra. De modo que este argumento no es convincente.”

All told, our considered opinion is that reason and policy favor keeping to a minimum the alterations introduced by the reserva in the basic rules of succession mortis causa.

WHEREFORE, the appealed order of November 5, 1956 is reversed and set aside, and the reservatarios who are nephews of the whole blood are declared entitled to a share twice as large as that of the nephews of the half-blood. Let the records be remanded to the court below for further proceedings in accordance with this decision.

So Ordered.

Paras, C.J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Endencia, JJ., concur

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