

**MARIA CANO, APPLICANT AND APPELLEE, VS. DIRECTOR OF LANDS,
EUSTAQUIA GUERRERO, ET AL., OPPOSITORS AND APPELLANTS,
JOSE FERNANDEZ, ET AL., OPPOSITORS AND APPELLANTS.**

G. R. No. L-10701. January 16, 1959

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

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

In an amended decision dated October 9, 1951, issued in Land Registration Case No. 12, G. L. R. O. Rec. No. 2835, the Court of First Instance of Sorsogon decreed the registration of Lots Nos. 1798 and 1799 of the Juban (Sorsogon) Cadastre, under the following terms and conditions:

"In view of the foregoing, and it appearing that the notices have been duly published and posted as required by law, and that the title of the applicant to the above-mentioned two parcels of land is registrable in law, it is hereby adjudged and decreed, and with reaffirmation of the order of general default, that the two parcels of land described in plan SWO-24152, known as Lots Nos. 1798 and 1799 of the Cadastral Survey of Juban, with their improvements, be registered in the name of Maria Cano, Filipina, 71 years of age, widow and resident of Juban, province of Sorsogon, with the understanding that Lot No. 1799 shall be subject to the right of reservation in favor of Eustaquia Guerrero pursuant to Article 891 of the Civil Code. After this decision shall have become final, for lack of appeal therefrom within the 30-day period from its promulgation, let the corresponding decree issue.

SO ORDERED." (Rec. App. pp. 18-19)

The decision having become final, the decree and the Certificate of Title (No. 0-20) were issued in the name of Maria Cano, subject to, reserva troncal in favor of Eustaquia Guerrero. In October 1955, counsel for the reservee (reservatario) Guerrero filed a motion with the Cadastral Court, alleging the death of the original registered owner and reservista's, Maria Cano, on September 8, 1955, and praying that the original Certificate of Title be ordered cancelled and a new one issued in favor of movant Eustaquia Guerrero; and that the Sheriff be ordered to place her in possession of the property. The motion was opposed by Jose and Teotimo Fernandez, sons of the reservista's. Maria Cano, who contended that the application and operation of the reserva troncal should be ventilated in an ordinary contentious proceeding, and that the Registration Court did not have jurisdiction to grant the motion.

In view of the recorded reserva in favor of the appellee, as expressly noted in the final decree of registration, the lower court granted the petition for the issuance of a new certificate, for the reason that the death of the reservista's vested the ownership of the property in the petitioner as the sole reservatario troncal.

The oppositors, heirs of the reservista's Maria Cano, duly appealed from the order, insisting that the ownership of the reservatario can not be decreed in a mere proceeding under sec. 112 of Act 496, but requires a judicial administration proceedings, wherein the rights of appellee, as the reservatario entitled to the reservable property, are to be declared. In this connection, appellants argue that the reversion in favor of the reservatario requires the

declaration of the existence of the following facts:

- "(1) The property was received by a descendant by gratuitous title from an ascendant or from a brother or sister;
 - (2) Said descendant dies without issue;
 - (3) The property is inherited by another ascendant by operation of law; and
 - (4) The existence of relatives within the third degree belonging to the line from which said property came."
- (Appellants' Brief, p. 8)

We find the appeal untenable. The requisites enumerated by appellants have already been declared to exist by the decree of registration wherein the rights of the appellee as reservatario troncal were expressly recognized:

"From the above-quoted agreed stipulation of facts, it is evident that Lot No. 1799 was acquired by the applicant Maria Cano by inheritance from her deceased daughter, Lourdes Guerrero who, in turn, inherited the same from her father Evaristo Guerrero and, hence, falls squarely under the provisions of Article 891 of the Civil Code; and that each and everyone of the private oppositors are within the third degree of consanguinity of the decedent Evaristo Guerrero, and who belong to the same line from which the property came.

It appears, however, from the agreed stipulation of facts that, with the exception of Eustaquia Guerrero, who is the only living daughter of the decedent Evaristo Guerrero, by his former marriage, all the other oppositors are grand-children of the said Evaristo Guerrero by his former marriages. Eustaquia Guerrero, being the nearest of kin, excludes all the other private oppositors, whose degree of relationship to the decedent is remoter (Article 962, Civil Code; *Director of Lands vs. Aguas*, 62 Phil. 279)." (Rec. App. pp. 16-17)

This decree having become final, all persons (appellees included) are barred thereby from contesting the existence of the constituent elements of the reserva. The only requisites for the passing of the title from the reservista to the appellee are: (1) the death of the reservista; and (2) the fact that the reservatario has survived the reservista. Both facts are admitted, and their existence is nowhere questioned.

The contention that an intestacy proceeding is still necessary rests upon the assumption that the reservatario will succeed in, or inherit, the reservable property from the reservista's. This is not true. The reservatario is not the reservista's successor mortis causa nor is the reservable property part of the reservista's estate; the reservatario receives the property as a conditional heir of the descendant (prepositus), said property merely reverting to the line of origin from which it had temporarily and accidentally strayed during the reservista's lifetime. The authorities are all agreed that there being reservatarios that survive the reservista, the latter must be deemed to have enjoyed no more than a life interest in the reservable property.

It is a consequence of these principles that upon the death of the reservista, the reservatario nearest to the prepositus (the appellee in this case) becomes, automatically and by operation of law, the owner of the reservable property. As already stated, that property is no part of the estate of the reservista, and does not even answer for the debts of the latter. Hence, its acquisition by the reservatario may be entered in the property records without necessity of estate proceedings, since the basic requisites therefor appear of record. It is equally well settled that the reservable property can not be transmitted by a reservista to her or his own successors mortis causa, (like appellants herein) so long as a reservatario within the third degree from the prepositus and belonging to the line whence the property came, is in existence when the reservista dies.

Of course, where the registration decree merely specifies the reservable character of the property, without determining the identity of the reservatario (as in the case of *Director of Lands vs. Aguas*, 63 Phil. 279) or where several reservatarios dispute the property among themselves, further proceedings would be unavoidable. But this is not the case. The rights of the reservataria Eustaquia Guerrero have been expressly recognized, and it is nowhere claimed that there are other reservatarios of equal or nearer degree. It is thus apparent that the heirs of

the reservista, are merely endeavoring to prolong their enjoyment of the reservable property to the detriment of the party lawfully entitled thereto.

We find no error in the order appealed from and therefore, the same is affirmed with costs against appellants in both instances .

So Ordered.

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

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