

**FRANCISCA TIOCO DE PAPA, MANUEL TIOCO, NICOLAS TIOCO AND
JANUARIO PAPA, PLAINTIFFS-APPELLEES, VS. DALISAY TONGKO
CAMACHO, PRIMO TONGKO AND GODOFREDO CAMACHO,
DEFENDANTS-APPELLANTS.**

G.R. No. L-28032. September 24, 1986

Ponente: NARVASA, J.

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NARVASA, J.:

This case which involves the application of Article 891 of the Civil Code on reserva troncal, was submitted for judgment in the lower court by all the parties on the following "Stipulation of Facts and Partial Compromise":

- "1. They stipulate that the defendant Dalisay D. Tongko-Camacho and the plaintiffs, Francisca Tioco de Papa, Manuel Tioco and Nicolas Tioco, are legitimate relatives, plaintiffs being said defendant's grandaunt and granduncles.
2. They stipulate that plaintiffs and defendant Dalisay D. Tongko-Camacho have as a common ancestor the late Balbino Tioco (who had a sister by the name of Romana Tioco), father of plaintiffs and great grandfather of defendant. The family relationship of the parties is as shown in the chart attached hereto as Annex 'A' and made an integral part of this stipulation.
3. They stipulate that Romana Tioco during her lifetime gratuitously donated four (4) parcels of land to her niece Toribia Tioco (legitimate sister of plaintiffs), which parcels of land are presently covered by Transfer Certificates of Title Nos. A-64165, 64166 and 64167 of the Registry of Deeds of Manila, copies of which are attached to this stipulation as Annexes 'B', 'B-1', and 'B-2'.
4. They stipulate that Toribia Tioco died intestate in 1915, survived by her husband, Eustacio Dizon, and their two legitimate children, Faustino Dizon and Trinidad Dizon (mother of defendant Dalisay D. Tongko-Camacho) and leaving the afore-mentioned four (4) parcels of land as the inheritance of her said two children in equal pro-indiviso shares.
5. They stipulate that in 1928, Balbino Tioco died intestate, survived by his legitimate children by his wife Marciana Felix (among them plaintiffs) and legitimate grandchildren Faustino Dizon and Trinidad Dizon. In the partition of his estate, three (3) parcels of land now covered by Transfer Certificates of Title Nos. 16545 and 16554 of the Registry of Deeds of Manila, copies of which are attached hereto as Annexes 'C' and 'C-1', were adjudicated as the inheritance of the late Toribia Tioco, but as she had predeceased her father, Balbino Tioco, the said three (3) parcels of land devolved upon her two legitimate children Faustino Dizon and Trinidad Dizon in equal pro-indiviso shares.
6. They stipulate that in 1937, Faustino Dizon died intestate, single and without issue, leaving his one-half (1/2) pro-indiviso share in the seven (7) parcels of land above-mentioned to his father, Eustacio Dizon, as his sole intestate heir, who received the said property subject to a reserva troncal which was subsequently annotated on the Transfer Certificates of Title Annexes 'B', 'B-2', 'C' and 'C-1'.

7. They stipulate that in 1939 Trinidad Dizon-Tongko died intestate, and her rights and interests in the parcels of land above-mentioned were inherited by her only legitimate child, defendant Dalisay D. Tongko-Camacho, subject to the usufructuary right of her surviving husband, defendant Primo Tongko.
8. They stipulate that on June 14, 1965, Eustacio Dizon died intestate, survived his only legitimate descendant, defendant Dalisay D. Tongko-Camacho.
9. The parties agree that defendant Dalisay D. Tongko-Camacho now owns one-half ($\frac{1}{2}$) of all the seven (7) parcels of land above-mentioned as her inheritance from her mother, Trinidad Dizon-Tongko.
10. Defendant Dalisay D. Tongko-Camacho also claims, upon legal advice, the other half of the said seven (7) parcels of land above-mentioned by virtue of the reserva troncal imposed thereon upon the death of Faustino Dizon and under the laws on intestate succession; but the plaintiffs, also upon legal advice, oppose her said claim because they claim three-fourths ($\frac{3}{4}$) of the one-half pro-indiviso interest in said parcel of land, which interest was inherited by Eustacio Dizon from Faustino Dizon, or three-eighths ($\frac{3}{8}$) of the said parcels of land, by virtue of their being also third degree relatives of Faustino Dizon.
11. The parties hereby agree to submit for judicial determination in this case the legal issue of whether defendant Dalisay D. Tongko-Camacho is entitled to the whole of the seven (7) parcels of land in question, or whether the plaintiffs, as third degree relatives of Faustino Dizon are reservatarios (together with said defendant) of the one-half pro-indiviso share therein which was inherited by Eustacio Dizon from his son Faustino Dizon, and entitled to three-fourths ($\frac{3}{4}$) of said one-half pro-indiviso share, or three eighths ($\frac{3}{8}$) of said seven (7) parcels of land, and, therefore, to three-eighths ($\frac{3}{8}$) of the rentals collected and to be collected by defendant Dalisay P. Tongko Camacho from the tenants of said parcels of land, minus the expenses and/or real estate taxes corresponding to plaintiffs' share in the rentals.
12. In view of the fact that the parties are close blood relatives and have acted upon legal advice in pursuing their respective claims, and in order to restore and preserve harmony in their family relations, they hereby waive all their claims against each other for damages (other than legal interest on plaintiffs' share in the rentals which this Honorable Court may deem proper to award), attorney's fees and expenses of litigation which shall be borne by the respective parties."^[1]

On the basis thereof, the lower Court declared the plaintiffs Francisco Tioco, Manuel Tioco and Nicolas Tioco, as well as the defendant Dalisay Tongko-Camacho, entitled, as reservatarios, to one-half of the seven parcels of land in dispute, in equal proportions, rendering judgment as follows:

"x x x. Resolving, therefore, the legal question submitted by the parties, the court holds that plaintiffs Francisca Tioco, Manuel Tioco and Nicolas Tioco are entitled to three-fourths ($\frac{3}{4}$) of one-half ($\frac{1}{2}$) pro-indiviso shares or three-eighths ($\frac{3}{8}$) of the seven (7) parcels of land involved in this action. Consequently, they are, likewise, entitled to three-eighths ($\frac{3}{8}$) of the rentals collected and to be collected by the defendant Dalisay D. Tioco Camacho from the tenants of the said parcels of land, minus the expenses and/or real estate taxes corresponding to plaintiffs' share in the rentals.

IN VIEW OF THE FOREGOING, and inasmuch as the parties expressly waived all their claims against each other for damages including attorney's fees and expenses of litigation other than the legal interests on plaintiffs' share in the rentals, the court renders judgment adjudging the plaintiffs entitled to three-eighths ($\frac{3}{8}$) of the seven (7) parcels of land described in Transfer Certificate of Title Nos. T-64165, T-64166, T-64167, T-16546 and T-16554 of the Registry of Deeds of Manila. The defendant Dalisay D. Tioco-Camacho is hereby ordered to make an accounting of all rents received by her on the properties involved in this action for the purpose of determining the legal interests which should be paid to the plaintiffs on their shares in the rentals of the property in question.

SO ORDERED."^[2]

Not satisfied, the defendant appealed to this Court.

The issue raised is whether, as contended by the plaintiffs-appellees and ruled by the lower Court, all relatives of the praepositus within the third degree in the appropriate line succeed without distinction to the reservable property upon the death of the reservista, as seems to be implicit in Art. 891 of the Civil Code, which reads:

"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)",

or, as asserted by the defendant-appellant, the rights of said relatives are subject to, and should be determined by, the rules on intestate succession.

That question has already been answered in *Padura vs. Baldovino*[3], where the reservatario was survived by eleven nephews and nieces of the praepositus in the line of origin, four of whole blood and seven of half blood, and the claim was also made that all eleven were entitled to the reversionary property in equal shares. This Court, speaking through Mr. Justice J.B.L. Reyes, declared the principles of intestacy to be controlling, and ruled that the nephews and nieces of whole blood were each entitled to a share double that of each of the nephews and nieces of half blood in accordance with Article 1006 of the Civil Code. Said the Court:

"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?

"xxx xxx xxx.

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).

"xxx xxx xxx.

The stated purpose of the *reserva* is accomplished once the 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 reservatarios as a class but only to those nearest in degree to the descendant (prepositus) excluding those reservatarios of more remote degree (*Florentino vs. Florentino*, 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 Alcala 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):

"x x x creandose un verdadero estado excepcional del derecho, no debe ampliarse, sino mas bien restringirse, el alcance del precepto, manteniendo la excepcion mientras fuere necesaria y estuviese realmente contenida en la disposicion, y aplicando las reglas generales y fundamentales delCodigo en materia de sucesion, en aquellos extremos no resueltos de un modo expreso, y que quedan fuera de la propia esfera de accion 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 reserva viudal and the reversion legal of the Code of 1889 (Art. 812 and 968-980)."

Reversion of the reservable property being governed by the rules on intestate succession, the plaintiffs-appellees must be held without any right thereto because, as aunt and uncles, respectively, of Faustino Dizon (the praepositus), they are excluded from the succession by his niece, the defendant-appellant, although they are related to him within the same degree as the latter. To this effect is *Abellana vs. Ferraris*[4] where Arts. 1001, 1004, 1005 and 1009 of the Civil Code were cited and applied:

"Nevertheless, the trial court was correct when it held that, in case of intestacy, nephews and nieces of the decujus exclude all other collaterals (aunts and uncles, first cousins, etc.) from the succession. This is readily apparent from articles 1001, 1004, 1005, and 1009 of the Civil Code of the Philippines, that provide as follows: "Art. 1001. Should brothers and sisters or their children survive with the widow or widower, the latter shall be entitled to one-half of the inheritance and the brothers and sisters or their children to the other half."

"Art. 1004. Should the only survivors be brothers and sisters of the full blood, they shall inherit in equal shares."

"Art. 1005. Should brothers and sisters survive together with nephews and nieces who are the children of the decedent's brothers and sisters of the full blood, the former shall inherit per capita, and the latter per stirpes."

"Art. 1009. Should there be neither brothers nor sisters, nor children of brothers or sisters, the other collateral

relatives shall succeed to the estate."

Under the last article (1009), the absence of brothers, sisters, nephews and nieces of the decedent is a precondition to the other collaterals (uncles, cousins, etc.) being called to the succession. This was also and more clearly the case under the Spanish Civil Code of 1889, that immediately preceded the Civil Code now in force (R.A. 386). Thus, Articles 952 and 954 of the Code of 1889 prescribed as follows:

"Art. 952. In the absence of brothers or sisters and of nephews or nieces, children of the former, whether of the whole blood or not, the surviving spouse, if not separated by a final decree of divorce shall succeed to the entire estate of the deceased."

"Art. 954. Should there be neither brothers nor sisters, nor children of brothers or sisters, nor a surviving spouse, the other collateral relatives shall succeed to the estate of deceased.

The latter shall succeed without distinction of lines or preference among than by reason of the whole blood."

It will be seen that under the preceding articles, brothers and sisters and nephews and nieces inherited ab intestato ahead of the surviving spouse, while other collaterals succeeded only after the widower or widow. The present Civil Code of the Philippines merely placed the spouse on a par with the nephews and nieces and brothers and sisters of the deceased, but without altering the preferred position of the latter vis a vis the other collaterals."

"xxx xxx xxx.

We, therefore, hold, and so rule, that under our laws of succession, a decedent's uncles and aunts may not succeed ab intestato so long as nephews and nieces of the decedent survive and are willing and qualified to succeed. x x x"

This conclusion is fortified by the observation, also made in Padura, supra, that as to the reservable property, the reservatarios do not inherit from the reservista, but from the descendant prepositus:

"x x x. It is likewise clear that the reservable property is no part of the estate of the reservista, who may not dispose of it by will, as long as there are reservatarios existing (Arroyo vs. Gerona, 58 Phil. 237). The latter, therefore, do not inherit from the reservista, 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, Tomo 2, p. 286; Manresa, Commentaries, Vol. 6, 6th Ed., pp. 274, 310) x x x."

To the same effect is Cano vs. Director of Lands[5], where it was ruled that intestacy proceedings to determine the right of a reservatario are not necessary where the final decree of the land court ordering issuance of title in the name of the reservista over property subject to reserva troncal identifies the reservatario and there are no other claimants to the latter's rights as such:

"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. 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 matter 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. x x x."

Had the reversionary property passed directly from the praepositus, there is no doubt that the plaintiffs-appellees would have been excluded by the defendant-appellant under the rules of intestate succession. There is no reason why a different result should obtain simply because "the transmission of the property was delayed by the interregnum of the reserva"[6]; i.e., the property took a "detour" through an ascendant -- thereby giving rise to the reservation -- before its transmission to the reservatario.

Upon the stipulated facts, and by virtue of the rulings already cited, the defendant-appellant Dalisay Tongko-Camacho is entitled to the entirety of the reversionary property to the exclusion of the plaintiffs-appellees.

WHEREFORE, the appealed judgment of the lower Court is reversed and set aside and the complaint is dismissed, with costs against the plaintiffs-appellants.

SO ORDERED.

Melencio-Herrera, Cruz, Paras, and Feliciano, JJ., concur.

Yap, J., (Chairman), no part.

[1] Record on Appeal, pp. 66-71.

[2] Id., pp. 74-75.

[3] G.R. No. L-11960, Dec. 27, 1958 (unreported); see 104 Phil. 1065.

[4] 122 Phil. 319, again per Reyes, J.B.L., J.

[5] 105 Phil. 1, again per Reyes, J.B.L., J.

[6] Padura v. Baldovino, G.R. No. L-11960, Dec. 27, 1958, supra; footnote 3.

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