

**SEGUNDA MARIA NIEVA WITH HER HUSBAND ANGEL ALCALA,
PLAINTIFFS AND APPELLANTS, VS. MANUELA ALCALA AND JOSE
DEOCAMPO, DEFENDANTS AND APPELLEES.**

G. R. No. 13386. October 27, 1920

Ponente: JOHNSON, J.

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JOHNSON, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Tayabas," absolving the defendants from all liability under the plaintiff's complaint, without any finding as to costs.

Juliana Nieva, the alleged natural mother of the plaintiff Segunda Maria Nieva, married Francisco Deocampo. Of said marriage Alfeo Deocampo was born.

Juliana Nieva died intestate on April 19, 1889, and her said son, Alfeo Deocampo, inherited from her, ab intestate, the parcels of land described in Paragraphs V and X of the complaint.

Alfeo Deocampo died intestate and without issue on July 7, 1890. Thereupon the two parcels of land above-mentioned passed to his father, Francisco Deocampo, by intestate succession. Thereafter Francisco Deocampo married the herein defendant Manuela Alcala, of which marriage was born Jose Deocampo, the other defendant herein.

Francisco Deocampo died on August 15, 1914, whereupon his widow and son, the defendants herein, took possession of the parcels of land in question, under the claim that the said son, the defendant Jose Deocampo (a minor) had inherited the same, ab intestate, from his deceased father.

On September 30, 1915, the plaintiff herein, claiming to be an acknowledged natural daughter of the said Juliana Nieva, instituted the present action for the purpose of recovering from the defendants the parcels of land in question, particularly described in Paragraphs V and X of the complaint, invoking the provisions of article 811 of the Civil Code.

The lower court held that, even granting, without deciding, that the plaintiff was an acknowledged natural daughter of Juliana Nieva, she was not entitled to the property here in question because, in its opinion, an illegitimate relative has no right to the reserva troncal under the provisions of article 811 of the Civil Code.

The first question presented by this appeal is, whether or not the plaintiff is an acknowledged natural daughter of the deceased Juliana Nieva. It appears from the record that the said Juliana, Nieva, while unmarried, gave birth to the plaintiff on March 29, 1882, and that the plaintiff was duly baptized as her natural daughter, of unknown father (Exhibit C, baptismal certificate); that the said Juliana Nieva nourished and reared her said child, the plaintiff herein; that the plaintiff lived with her said mother until the latter was married to Francisco Deocampo; that the said mother treated the plaintiff, and exhibited her publicly, as a legitimate daughter. (See testimony of Antero Gala, pp. 5-6; Prudencio de la Cuesta, pp. 16-17; and Mamerto Palabrica, pp. 26-27, sten. notes.)

The foregoing facts, which are not controverted, are analogous to the facts in the case of *Llorente vs. Rodriguez* (3 Phil., 697, 699). Under the decision of this court in that case we are of the opinion and so decide, without rediscussing here the law and legal principles involved, that the plaintiff Segunda Maria Nieva is an acknowledged natural daughter of Juliana Nieva. (See also *In re estate of Enriquez and Reyes*, 29 Phil., 167.)

The other and more important question presented by this appeal is, whether or not an illegitimate relative within the third degree is entitled to the *reserva troncal* provided for by article 811 of the Civil Code. That article reads as follows:

"Any ascendant who inherits from his descendant any property acquired by the latter gratuitously from some other ascendant, or from a brother or sister, is obliged to reserve such of the property as he may have acquired by operation of law for the benefit of relatives within the third degree belonging to the line from which such property came."

The property here in question was inherited, by operation of law, by Francisco Deocampo from his son Alfeo Deocampo, who, in turn, had inherited it, in the same manner, from his mother Juliana Nieva, the natural mother of the plaintiff. The plaintiff is the natural sister of Alfeo Deocampo, and she belongs to the same line from which the property in question came. Was Francisco Deocampo obliged by law to reserve said property for the benefit of the plaintiff, an illegitimate relative within the third degree of Alfeo Deocampo? If he was, then, upon his death, the plaintiff, and not his son the defendant Jose Deocampo, was entitled to the said property; if he was not, the plaintiff's action must fail.

There can be no question whatever but that, under said article 811 of the Civil Code, the plaintiff would be entitled to the property in question if she were a legitimate daughter of Juliana Nieva. (*Edroso vs. Sablan*, 25 Phil., 295.) But in said article 811 the legislator uses the generic terms "ascendant," "descendant," and "relatives," without specifying whether or not they have to be legitimate. Does the legislator, then, refer to legitimate as well as to illegitimate relatives? Counsel for the appellant, in a lengthy and carefully prepared brief, attempts to maintain the affirmative.

This question, so far as our investigation shows, has not been decided before by any court or tribunal. However, eminent commentators on the Spanish Civil Code, who have devoted their lives to the study and solution of the intricate and difficult problems that may arise under the provisions of that Code, have dealt with the very question now before us, and are unanimous in the opinion that the provisions of article 811 of the Civil Code apply only to legitimate relatives. One of such commentators, undoubtedly the best known of them all, is Manresa. We believe we can do no better than to adopt his reasons and conclusions, in deciding the question before us. In determining the persons who are obliged to reserve under article 811, he says:

"Is every ascendant, whether legitimate or not, obliged to reserve? Should the natural father or grandfather reserve the properties proceeding from the mother or other natural ascendant? Article 811 does not distinguish; it speaks of the ascendant, without attaching the qualification of legitimate, and, on the other hand, the same reason that exists for applying the provision to the natural family exists for applying it to the legitimate family. Nevertheless, the article in referring to the ascendant in an indeterminate manner shows that it imposes the obligation to reserve only upon the legitimate ascendant.

"Let us overlook for the moment the question whether the Code recognizes or does not recognize the existence of the natural family, or whether it admits only the bond established by acknowledgment between the father or mother who acknowledges and the acknowledged children. However it may be, it may be stated as an indisputable truth, that in said Code, the legitimate relationship forms the general rule and the natural relationship the exception; which is the reason why, as may be easily seen, the law in many articles speaks only of children or parents, of ascendants or descendants, and in them reference is of course made to those who

are legitimate; and when it desires to make a provision applicable only to natural relationship, it does not say father or mother, but natural father or natural mother; it does not say child, but natural child; it does not speak of ascendants, brothers or parents in the abstract, but of natural ascendants, natural brothers or natural parents. (See, for example, articles 294, 302, 809, 810, 846, 935 to 938, 944 and 945 and 946 to 955.)

"Articles 809 and 810 themselves speak only of ascendants. Can it in any way be maintained that they refer to legitimate as well as to natural ascendants? They evidently establish the legitime of the legitimate ascendants included as forced heirs in number 2 of article 807. And article 811, and as we will see also article 812, continues to treat of this same legitime. The right of the natural parents and children in the testamentary succession is wholly included in the eighth section and is limited to the parents, other ascendants of such class being excluded in articles 807, No. 3, and 846. Therefore the place which article 811 occupies in the Code is proof that it refers only to legitimate ascendants. And if there were any doubt, it disappears upon considering the text of article 938, which states that the provisions of article 811 applies to intestate succession, which is just established in favor of the legitimate direct ascending line, the text of articles 939 to 945, which treat of intestate succession of natural parents, as well as that of articles 840 to 847, treating of their testamentary succession, which do not allude directly or indirectly to that provision.

"Lastly, the principle which underlies the exception which article 811 creates in the right to succeed neither admits of any other interpretation. Whether the provision is due to the desire that the properties should not pass, by reason of new marriages, out of the family to which they belonged, or is directly derived from the system of the so-called *reserva troncal* and whether the idea of reservation or that of lineal rights (*troncalidad*) predominate the patrimony which is intended to be preserved is that of the legitimate family. Only to legitimate ascendants and descendants do article 968 et seq. of the Code refer, arising as they do from the danger of second or subsequent marriage; only to legitimate parents do the special laws of Navarra, Aragon, Vizcaya and Cataluna concede the right to succeed with respect to lineal properties (*bienes troncales*); only to the legitimate ascendants does article 811 impose the duty to reserve.

"The convenience of amplifying the precept to natural parents and ascendants may be raised just as the question whether it would be preferable to suppress it altogether may be raised; but in the realm of the statute law there is no remedy but to admit that article 811, the interpretation of which should on the other hand be strict was drafted by the legislator with respect only to legitimate ascendants." (Manresa, *Codigo Civil*, vol. 6, 3d ed., pp. 249-250.)

The same jurist, in determining the persons in whose favor the reservation is established, says:

"Persons in whose favor the reservation is established.-This is one of the most delicate points in the interpretation of article 811. According to this article, the reservation is established in favor of the parents who are within the third degree and belong to the line from which the properties came.

"It treats of blood relationship, which is applicable to questions on succession, according to articles 915 to 920. It could not be otherwise, because relationship by affinity is established between each spouse and the family of the other, by marriage, and to admit it, would be to favor the transmission of the properties of the family of one spouse to that of the other, which is just what this article intends to prevent.

"It also treats of legitimate relationship. The person obliged to reserve is a legitimate ascendant who inherits from a descendant property which proceeds from the same legitimate family, and this being true, there can be no question, because the line from which the properties proceed must be the line of that family and only in favor of that line is the reservation established. Furthermore, we have already said, the object is to protect the patrimony of the legitimate family, following the precedents of the foral law. And it could not be otherwise. Article 943 denies to legitimate parents the right to succeed the natural child and viceversa, from which it must be deduced that natural parents neither have the right to inherit from legitimate ones; the law in the article cited establishes a barrier between the two families; properties of the legitimate family shall never pass by operation of law to the natural family." (Ibid. pp. 251-252.)

Scaevola, after a very extended discussion of this same subject, arrives at the same conclusion as Manresa. "La reserva del articulo 811 es privilegio de la familia legitima. (The reservation in article 811 is a privilege of the legitimate family.)" (See Scsevola,Codigo Civil, Vol. 14, pp. 211-224, 301-305.)

Article 943, above referred to by Manresa, provides as follows:

"A natural or legitimated child has no right to succeed ab intestate the legitimate children and relatives of the father or mother who has acknowledged it; nor shall such children or relatives so inherit from the natural or legitimated child."

To hold that the appellant is entitled to the property left by her natural brother, Alfeo Deocampo, by operation of law, would be a flagrant violation of the express provisions of the foregoing article (943).

For all of the foregoing reasons, the judgment of the lower court is hereby affirmed, without any finding as to costs. So ordered.

Mapa, C. J., Araullo, Malcolm, Avanceña and Villamor, JJ., concur.

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