

**INTESTATE ESTATE OF EUSEBIA MACASA, DECEASED. EUSEBIO MACASA AND CANUTO MACASA, PETITIONERS AND APPELLANTS, VS. THE HEIRS OF APOLONIO GARCIA, OPPONENTS AND APPELLEES.**

*G. R. No. 24995. December 08, 1926*

Ponente: MALCOLM, J.

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**MALCOLM, J.:**

This is a contest for the estate left by Eusebia Macasa between the brothers and the sister of the deceased, on the one hand, and the children and descendants of the deceased husband of Eusebia Macasa, Apolonio Garcia, by his first marriage with Catalina Aquablanca, on the other hand.

The case was submitted for decision on the following:

"STIPULATION OF FACTS

"As a preliminary matter, the following questions of law were submitted to the court for decision: "1. Is the property left by Eusebia Macasa, upon her death, reservable?

"2. Have the children of the deceased Apolonio Garcia the right to inherit the property left by Eusebia Macasa?

"The decision of these two questions so intimately connected with each other, is made to depend upon the following facts, which the parties litigant stipulate to be true, to wit:

"I. Apolonio Garcia was married twice; the first time in 1891 to Catalina Aquablanca, with whom he had children, who oppose the appointment of an administrator, and who are named Pedro, Daniel, Felisa, and the deceased Braulio, who left a son named Alfredo. Catalina Aquablanca having died, Apolonio Garcia contracted a second marriage with Eusebia Macasa, who died without leaving any descendant or ascendant, her nearest relatives being her brothers, the applicants for letters of administration, and named Canuto, Lazaro, Ventura, Eusebio, and Rafaela.

"II. That the children of Apolonio Garcia and Catalina Aquablanca above-mentioned, survived Apolonio Garcia and Eusebia Macasa.

"III. That the property which the applicants want to be administered is wholly or partially property acquired during the marriage of Apolonio and Catalina.

"IV. That on August 11, 1906, the heirs of Apolonio Garcia made a partition between themselves in a public document, ratified before a notary, of the property left by the said Apolonio and in said document; wherein the deceased Eusebia Macasa intervened, there was adjudicated to the latter, in fee simple, a portion of a certain house, with its furniture, two lots planted with cocoanut and other trees within the residential district of San Enrique (lots 634 and 647 of La Carlota), about 84 hectares of palay land within the sitio of Guintorilan (lot 409 of La Carlota), with the exception of a small portion of 2½ hectares adjudicated to Braulio Garcia; and the southwestern part of certain land in the sitio of Campo, San Enrique, mortgaged by Atanasio Bustamante.

"V. That after Eusebia Macasa had become a widow she never contracted a second marriage nor had any

natural child, acknowledged by herself or recognized as such by any court.

"Bacolod, August 31, 1923. (Sgd.) HILADO & HILADO— By JOSE HILADO, Attorneys for the applicants.— (Sgd.) A. P. SEVA, Attorney for the oppositors"

The order of the trial court declared Pedro Garcia, Daniel Garcia, Felisa Garcia, and Alfredo Garcia as the rightful heirs to the property in question share and share alike. To this pronouncement, the brothers and the sister of Eusebia Macasa and the administrator of the estate filed their exception and presented a motion for reconsideration. This motion was later vacated so as to substitute therefor a motion for a new trial intended to prove who are the heirs of Eusebia Macasa and what properties were left by her at the time of her death. This motion was denied.

The winning parties in the lower court speak of the property in dispute in their motion of opposition as "bienes reservables." The first question submitted for decision under the agreed statement of facts was if the properties left at the death of Eusebia Macasa "son reservables" The trial judge discussed the points somewhat but thought it unnecessary to make any categorical finding Appellants now suggest these points as the key to the case.

In our opinion, it is a complete misuse of the term to speak of this property as reservable. When Apolonio Garcia died, his widow had accruing to her her usufructuary rights in the estate. That is true. But in addition, by partition by the heirs of Apolonio Garcia in a public document in 1906 "se adjudicaron \* \* \* en propiedad" certain properties to Eusebia Macasa. These property rights have ripened into indefeasible titles, if we are permitted to take into consideration documents offered with the motion for a new trial, showing Eusebia Macasa to have acquired Torrens titles to the same in 1917 without any reservable rights being noted, (See *De los Reyes vs. Paterno* [1916], 34 Phil., 420.)

Before it can be held that the properties referred to are reservable, it must first be decided that either article 968, 969, or 980 of the Civil Code is applicable. That they do not apply is self-evident. The necessary requisites of the law fail to concur. All other considerations to one side, the undeniable facts are that the widow, Eusebia Macasa, never contracted a second marriage, and never had an acknowledged natural child. The provisions of article 970 of the Civil Code could also, if necessary, be taken into account.

If we were to answer the two questions propounded to the lower court by the parties, we would say "No" to each. The property left by Eusebia Macasa at her death was not reservable. The children of the deceased Apolonio Garcia do not have the right to inherit the estate of Eusebia Macasa.

In the light of the foregoing, the order of the lower court of December 29, 1924, must be ordered vacated and the proceedings must be remanded to the court of origin with instructions to proceed in accordance with law to adjudicate the estate of the deceased Eusebia Macasa to her rightful heirs as herein-before indicated, to bring all of the property of the estate into the proceedings, and to take such further action as is essential to settle the estate. Without special finding as to costs in this instance, it is so ordered.

Johnson, Street, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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