

IN THE MATTER OF THE WILL OF THE DECEASED CONCEPCION CEMBRANO VIUDA DE PARDO DE TAVERA. CONSUELO CEMBRANO AND CAROLINA CEMBRANO, LEGATEES AND APPELLEES, VS. CARMEN PARDO DE TAVE...

G.R. No. 45218. May 25, 1939

Ponente: AVANCENA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-45218/>

AVANCENA, C.J.:

Concepcion Cembrano was married to Don Trinidad H. Pardo de Tavera, now deceased, with whom she had three children named Carlos Pardo de Tavera, Alfredo Pardo de Tavera and Carmen Pardo de Tavera. Alfredo, now also deceased, was married to Dona Paz Lopez de Manzano, with whom he had only one child, named Carmen Pardo de Tavera y Lopez Manzano. Carmen Pardo de Tavera is married to August Cesar Gonzalez, with whom she had three children, named Aurora, Concepcion Beatriz and Francisco Augusto.

During her lifetime, Concepcion Cembrano donated inter vivos to her children Carlos, Alfredo and Carmen, on May 23, 1912, certain properties. In the will which she left upon her death, she instituted as her sole universal heirs to one-third of all her properties corresponding to the strict legitime, her children Carlos and Carmen and her grandchild Carmen Pardo de Tavera y Lopez Manzano, in equal parts; to the other third corresponding to the betterment, her child Carmen; on account of the remaining free third, she left by way of legacy to her sisters Carolina Cembrano and Consuelo Cembrano, while living, the sum of fifty pesos (P50) a month for each, to be paid by her child Carmen, to whom she also left other legacies and the remainder of this third, if any. She likewise ordered that the paraphernal properties which she had donated to Carlos, Alfredo and Carmen, on May 23, 1912, be collated to their inheritance in effecting the partition thereof.

Opposed to the probate of this will were Carlos Pardo de Tavera and Paz Lopez Manzano Viuda de Pardo de Tavera, the latter on behalf of her child Carmen Pardo de Tavera y Lopez Manzano. During the pendency of the probate of this will, the parties concerned, with the exception of Carolina Cembrano and Consuelo Cembrano, legatees, entered into an agreement whereby Carlos Pardo de Tavera and Paz Lopez Manzano Viuda de Pardo de Tavera withdrew their opposition to the probate of the will, and all of them renounced the collation of the properties donated so that they may be excluded from the testate and from the consequent partition, and stipulating also that these donated properties remain undivided among the donees under the administration of J. V. Ramirez for a period of five years. This agreement was approved by the Court.

For failure to make full payment of the legatees Carolina Cembrano and Consuelo Cembrano of the legacy of fifty pesos (P50) a month, provided in the will of Concepcion Cembrano, the court, in its resolution of January 18, 1936, ordered among other things that there be paid to said legatees, in advance every month from February, 1936, the allowance of fifty pesos (P50) for each, applying to said payment the income of the properties of the testate and, if necessary, the income of the properties donated as to the portion corresponding to Carmen Pardo de Tavera y Cembrano.

Carmen Pardo de Tavera y Cembrano appealed from this resolution.

The question raised in this appeal is whether, the testatrix having limited the legacy of Consuelo Cembrano and Carolina Cembrano to the free third, the income of the properties donated to the appellant could be applied to its payment.

We find merit in this appeal. The donation transmitted to the donee Carmen Pardo de Tavera y Cembrano the ownership of the properties donated, hence, they no longer formed a part of her properties upon her death. The provision in the will that these properties be collated to her inheritance when the partition is made, has no other purpose than to determine the amount of the legitime, and not to bring in these properties again to the inheritance. The collation has been, moreover, renounced by the parties interested in the agreement reached by them. Unimportant is the circumstance that the legatees, Carolina Cembrano and Consuelo Cembrano, have not intervened in that agreement, because at all events, they are not interested in the renunciation of the collation. The collation can only be of interest to the legitimate heirs insofar as it may impair the strict legitime of any of them, hence, the forced heirs alone have an interest in impugning it.

Inasmuch as Concepcion Cembrano, while living, has disposed of these properties by way of donation, she lost her ownership thereof, and they cannot now be considered as still forming a part of her estate, and should not be made to answer for the payment of legacies made on account only of the free third.

In view of the foregoing, the resolution of the trial court of January 18, 1936 is reversed insofar as it orders that the portion corresponding to Carmen Pardo de Tavera in the income of the properties donated to her, be applied to the payment of the allowance of Consuelo Cembrano and Carolina Cembrano, with the costs to the appellees. So ordered.

Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.