THIRD DIVISION

[G.R. No. 250613. April 3, 2024]

ELENITA V. MACALINAO, KENNETH V. MACALINAO and KRISTEL V. MACALINAO, *Petitioners*, *v.* **CERINA, a.k.a. CERENA N. MACALINAO and CINDY N. MACALINAO,** *Respondents*.

D E C I S I O N

CAGUIOA, *J.*:

This is a Petition for Review on *Certiorari*[1] (Petition) under Rule 45 of the Rules of Court which assails the Decision[2] dated August 29, 2019 and Resolution[3] dated November 25, 2019 of the First Division of the Court of Appeals (CA) in CA-G.R. CV No. 112739.

The assailed Decision denied the appeal of herein petitioners Elenita V. Macalinao (Elenita), Kenneth V. Macalinao (Kenneth), and Kristel V. Macalinao (Kristel) (collectively, petitioners), and affirmed the September 12, 2018 Decision[4] of Branch 207, Regional Trial Court of Muntinlupa City (RTC). Similarly, the assailed Resolution denied petitioners' Motion for Reconsideration[5] and affirmed the assailed Decision.

Factual Antecedents

The facts which gave rise to the present controversy involve two marriages and two families who share a husband and father, whose death brought about the question of who may claim the proceeds of his death benefits.

---

1 *Rollo*, pp. 3–19.

2 *Id.* at 22–31. Penned by Acting Presiding Justice Remedios A. Salazar-Fernando, with Associate Justice Samuel H. Gaerlan (now a Member of the Court) and Associate Justice Germano Francisco D. Legaspi concurring.

3 *Id.* at 33–34.

4 *Id.* at 43–52. Penned by Presiding Judge Philip A. Aguinaldo.

5 *Id.* at 35–42.

Supreme Court E-Library

For one, owing to the relevant law's guidance as to how the proceeds of the death benefits in question may be distributed to the beneficiaries, this issue is theoretically knotted as it invites the Court to make the journey into the territory of a longstanding doctrinal debate over a matter that the New Civil Code[6] is decidedly silent on—the share of a surviving spouse in the event that said spouse concurs with one legitimate child, or with legitimate children in the context of an intestate succession. For another, the foregoing debate, once settled by the Court, inevitably bleeds into the reality of the lives of the subject surviving families, in a manner that reveals what perhaps may be a discerned gap in the law.

Faced with the uncommon question of who between the long estranged legal spouse and the subsequent spouse by a bigamous marriage may claim rights to the compensation and benefits for a seafarer's death, the Court finds, pursuant to the relevant POEA rules and their cross-reference to the rules on succession, that only the surviving legitimate spouse may receive the proceeds of the death benefits alongside the deceased spouse's children from both marriages.

A straightforward recollection of the relevant facts which inform the Court's disposition is called for.

Pedrito G. Macalinao (Pedrito) and herein respondent Cerena Negapatan Macalinao (Cerena) married on June 5, 1981, and they were blessed with one child, herein respondent Cindy Macalinao (Cindy). However, only four years after they were married, Pedrito and Cerena separated in fact.[7]

On April 3, 1990, with his marriage to Cerena subsisting, Pedrito entered into a marriage with Elenita, after which they lived together as husband and wife for 25 years, until Pedrito's death on June 26, 2015.[8]

---

6 Republic Act No. 386, dated June 18, 1949.

7 *Rollo*, p. 8, Petition.

8 *Id.*

Supreme Court E-Library

Before his death, Pedrito worked as a seafarer employed by Excel Marine Co. Ltd./Fair Shipping Corporation (Excel Marine). Since he died onboard the vessel of Excel Marine and was a member of the Association of Marine Officers and Seafarers Union of the Philippines (AMOSUP), his death benefits were determined to be in the amount of USD93,057.88 or PHP4,506,309.52.[9]

In August 2016, Cerena and Cindy (collectively, respondents) filed a petition for the declaration of nullity of the marriage of Pedrito and Elenita. The RTC, however, noted that it was not in accord with A.M. No. 02-11-10-SC Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages. The following month, the RTC held a clarificatory hearing where it was established that respondents' true intention in filing the petition was to undertake a settlement of the estate of Pedrito.[10] Based on the said clarification, the RTC ordered the petition to be amended, and respondents subsequently filed an Amended Petition for the Settlement of Estate of the deceased Pedrito, with the issue of the declaration of nullity of the marriage of Pedrito and Elenita considered a secondary issue therein.[11] The Office of the Solicitor General (OSG) entered its appearance.[12]

In its Order dated March 27, 2017, the RTC dropped Excel Marine as respondent on the condition that it would issue, as it did, a manager's check in the name of the Heirs of Pedrito Macalinao with the face value equivalent to the computed benefits of Pedrito.[13] Excel Marine later deposited the amount of PHP 4,506,309.52 to the Land Bank of the Philippines (later to the Office of the Clerk of Court of RTC, Muntinlupa City) as the full and complete settlement of its obligation in the instant case.[14]

During the pre-trial, the following facts, among others, were agreed upon by the parties as undisputed:

---

[9] *Id.* at 6.

[10] *Id.* at 50, RTC Decision.

[11] *Id.*

[12] *Id.*

[13] *Id.* at 43.

[14] *Id.* at 44.

Supreme Court E-Library

(i) Pedrito married Cerena on June 5, 1981;

(ii) Pedrito and Cerena had one child, Cindy;

(iii) On April 3, 1990, Pedrito married Elenita;

(iv) Pedrito and Elenita had two children, Kenneth and Kristel;

(v) At the time of the second marriage between Pedrito and Elenita, the marriage between Pedrito and Cerena was still existing;

(vi) There was no filing of any petition for declaration of nullity of the marriage between Pedrito and Cerena; they were only separated in fact for over 24 years prior to Pedrito's death;

(vii) Cerena, for her part, contracted a second marriage with one Rene Paredes (Rene) on February 7, 1992;

(viii) Elenita received the cadaver of Pedrito when it was repatriated to the Philippines from Japan;

(ix) Elenita also received the allotment as spouse of Pedrito based on the latter's employment contract;

(x) The only property left by Pedrito upon his death are the subject death benefits.[15]

Due to the parties' failure to amicably settle, the RTC determined that the sole issue for its disposition was whether the subject death benefits form part of the estate of Pedrito and, in case they do, the manner by which the total amount may be divided among the claiming parties.[16]

RTC Decision

In resolving the petition, the RTC ruled in its September 12, 2018 Decision, thus:

---

[15] *Id.* at 43–44.

[16] *Id.* at 44.

Supreme Court E-Library

WHEREFORE, the court grants the instant petition and declares the marriage between . . . Elenita V. Macalinao and deceased Pedrito Macalinao null and void for being bigamous in accordance with Article 35 (4) of the Family Code, and upholds the marriage between Pedrito Macalinao and Cerena Macalinao as valid and subsisting.

FURTHERMORE, . . . Kenneth Macalinao and Kristel Macalinao are hereby declared as illegitimate children of Pedrito Macalinao having been born out of a void marriage.

Upon finality of this decision, the Office of the City Civil Registrar of Muntinlupa is directed to register this decision in its Book of Marriages and to annotate that the marriage between . . . Elenita Macalinao and deceased Pedrito Macalinao is null and void [*ab initio*]. Consequently, . . . Kenneth Macalinao and Kristel Macalinao are illegitimate children.

IMPORTANTLY, the amount of [PHP]4,506,309.52 deposited under the name "Heirs of Pedrito G. Macalinao" by Excel Marine Co., Ltd., and Fair Shipping to the Office of the Clerk of Court, Regional Trial Court, Muntinlupa City be released upon the presentation of appropriate identification cards/papers, [and be] distributed in the manner provided by the Articles of the New Civil Code on Succession and the Family Code, as noted already.

Let copies of this decision be furnished the (1) Office of the Solicitor General, (2) the Office of the City Prosecutor, Muntinlupa City, (3) the Office of the Civil Registrar of Muntinlupa City where the marriage of Pedrito and Elenita was recorded as well as . . . where births of Kenneth and Kristel Macalinao were recorded, and (4) the Philippine Statistics Authority.

SO ORDERED.[17]

In resolving the controversy brought before it, the RTC, on the predicate issue of whether the death benefits formed part of Pedrito's estate, ruled that the proceeds from Pedrito's death did form part of his estate, *viz.*:

Inheritance is defined as the universality of all the properties, rights and obligations constituting the patrimony of the decedent which are not extinguished by his death and which are available for distribution among his heirs after settlement or liquidation, **as such Pedrito's death**

---

[17] *Id.* at 51–52.

Supreme Court E-Library

benefits, regardless as to how [they are] denominated, form part of his estate which accrue to his heirs at the time of his demise.[18] (Emphasis supplied)

It added that such benefits were given pursuant to: (i) Section 20.B(1) of the Philippine Overseas Employment Administration Memorandum Circular No. 10, series of 2010[19] (POEA Memorandum Circular), which provides that in cases of work-related death of a seafarer during the term of the contract, the employer shall pay his or her beneficiaries the Philippine currency equivalent of USD 50,000.00;[20] as well as (ii) Section 29 of the Collective Bargaining Agreement between All Japan Seamen's Union of the Philippines and the AMOSUP, which represented Pedrito, on the one hand, and Excel Marine, on the other.[21]

The RTC rejected petitioners' claim that what was involved was the proceeds from an insurance policy, since it found that what was involved was actually a contractual death benefit, which fell within the estate of Pedrito.[22] The RTC also dismissed petitioners' submission that the death benefits are deemed excluded from the computation of estate taxes due and are, therefore, exempt from the estate, to wit:

> A proper reading of the TRAIN law is to consider the exclusion in the computation only for taxation purposes and not to exclude these from the estate of Pedrito. Moreover, this assumes importance in the instant case because of the parties' admission that this is the only property and the entire patrimony of Pedrito.[23]

More, on petitioners' averment that Elenita should receive the death benefits since she was the one who was nominated as

---

[18] *Id.* at 45.

[19] Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships, dated October 26, 2010.

[20] *Id.*

[21] *Id.* at 45–46.

[22] *Id.*

[23] *Id.*

Supreme Court E-Library

the beneficiary by Pedrito in the latter's employment contract, the RTC held that said nomination must yield to the rules on succession under the New Civil Code,[24] especially since the POEA Memorandum Circular defines "beneficiaries" as those to whom the death compensation and other benefits are due insofar as it is consistent with the rules on succession.[25]

Furthermore, as to the question of whether the estate of Pedrito may already be settled in this case without the institution of a special proceeding which requires, among others, the publication of the petition so that the intestate court may acquire jurisdiction, the Court held that the instant case is one where the institution of a special proceeding is deemed impractical, since the only estate contemplated is the amount deposited with the RTC consisting of the subject death benefits, and the status and the shares of the parties may be resolved without such special proceeding.[26]

Finally, on the issue of how such death benefits must be divided, the RTC held that Cerena, as the legitimate wife, is his compulsory heir, and that Elenita is not entitled to the death benefits since her marriage between Pedrito is bigamous and void.[27] It also held that the status of the children from both marriages is also clear: (i) Cindy is a legitimate child by virtue of the marriage between Pedrito and Cerena; and (ii) Kenneth and Kristel are illegitimate children by virtue of the bigamous marriage between Pedrito and Elenita.[28] It therefore distributed the death proceeds in accordance with Articles 888[29] and 892[30] of the New Civil Code as follows:

---

[24] *Id.* at 47.

[25] *Id.*

[26] *Id.* at 50–51, citing the case of *Portugal v. Portugal-Beltran*, 504 Phil. 456 (2005).

[27] *Id.* at 47.

[28] *Id.* at 48.

[29] Art. 888. The legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother.

The latter may freely dispose of the remaining half, subject to the rights of illegitimate children and of the surviving spouse as hereinafter provided.

[30] Art. 892. If only one legitimate child or descendant of the deceased survives, the widow or widower shall be entitled to one-fourth of the hereditary estate.

Supreme Court E-Library

(i) Cerena, as the legitimate wife, is entitled to one half of the death benefits, as her share in the conjugal property; (ii) the remaining one-half shall be divided among Cerena, Cindy, Kenneth and Kristel.[31]

Undaunted, petitioners appealed to the CA, where they reiterated that: (i) the death benefits of Pedrito should not form part of his estate;[32] (ii) Cerena is not entitled to partake in the death benefits of Pedrito since she herself abandoned Pedrito and was already married to Rene when Pedrito died;[33] and that (iii) the death benefits should be given to Elenita.[34] They added that Elenita's designation as Pedrito's beneficiary for the death benefits was valid, and that there was no particular property which Pedrito and Cerena jointly obtained when they were living together, so that there should be no conjugal property with respect to their marriage to speak of.[35]

CA Decision

In the assailed Decision dated August 29, 2019, the CA denied petitioners' appeal and affirmed the RTC Decision, to wit:

WHEREFORE, premises considered, the appeal is **DENIED** and the appealed decision dated September 12, 2018 of the RTC, Branch 207, Muntinlupa City in Civil Case No. 16-125 is hereby **AFFIRMED**.

SO ORDERED.[36]

In case of a legal separation, the surviving spouse may inherit if it was the deceased who had given cause for the same.

If there are two or more legitimate children or descendants, the surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children or descendants.

In both cases, the legitime of the surviving spouse shall be taken from the portion that can be freely disposed of by the testator.

[31] *Id.*

[32] *Rollo*, pp. 69–71, Appellant's Brief.

[33] *Id.* at 72.

[34] *Id.* at 73.

[35] *Id.* at 74.

[36] *Id.* at 31, CA Decision.

Supreme Court E-Library

In finding no merit in the appeal, the CA ruled that while the bone of contention between the parties pertained to the determination of the rightful beneficiaries of the death benefits, it found that such was merely an incidental issue to the question of which of the two marriages is valid.[37]

On the matter of whether the settlement of Pedrito's estate may be had in this case, the CA, citing *Portugal v. Portugal-Beltran*,[38] ruled:

> While the settlement of the estate of a deceased person requires a special proceeding for that purpose, it appears that the only estate or property that Pedrito left is the money from his employment with respondent Excel Marine Co. Ltd./Fair Shipping Corp. on account of his death. To require the heirs to institute a petition for its settlement is not only impractical and burdensome but also trifling with the processes and time of the court.[39]

Further, on the question of which of the two marriages is valid, the CA noted that while Pedrito's marriage with Cerena in 1981 was governed by the New Civil Code, and his marriage with Elenita was governed by the Family Code, both Article 83[40] of the New Civil

---

[37] *Id.* at 27.

[38] *Supra* note 26.

[39] *Id.* at 30.

[40] ARTICLE 83. Any marriage subsequently contracted by any person during the lifetime of the first spouse of such person with any person other than such first spouse shall be illegal and void from its performance, unless:

(1) The first marriage was annulled or dissolved; or

(2) The first spouse had been absent for seven consecutive years at the time of the second marriage without the spouse present having news of the absentee being alive, or if the absentee, though he has been absent for less than seven years, is generally considered as dead and believed to be so by the spouse present at the time of contracting such subsequent marriage, or if the absentee is presumed dead according to Articles 390 and 391. The marriage so contracted shall be valid in any of the three cases until declared null and void by a competent court.

Supreme Court E-Library

Code and Article 40[41] of the Family Code nevertheless explicitly provide that there must first be a final declaration of nullity of the previous marriage before one can contract a subsequent marriage, otherwise the second marriage is void *ab initio*.[42]

The CA additionally ruled that the fact of the celebration of the second marriage (i.e., between Pedrito and Elenita) during the subsistence of the first marriage (i.e., between Pedrito and Cerena) was admitted by all the parties.[43] The CA affirmed the RTC and held that given the undisputed facts of this case, Cerena remains to be the legal spouse of Pedrito, and Cindy his only legitimate child, with both Kenneth and Kristel as illegitimate children born of the second, bigamous marriage to Elenita.[44]

Further, the CA also found that the fact that Elenita was unaware of Pedrito's prior marriage with Cerena when she married Pedrito did not make her own marriage valid, since said validity was not dependent on the perception of the parties.[45] It ruled that since Elenita's marriage with Pedrito is void, she cannot inherit from Pedrito under the law since she is not considered an heir of Pedrito.[46] With respect to the status of the children, the CA agreed with the RTC's finding that Cindy is a legitimate child and Kenneth and Kristel are illegitimate children, and must inherit in accordance therewith.[47]

Undeterred, petitioners filed the instant Petition which submits that: (i) the judicial settlement of Pedrito's estate was erroneous;[48] (ii) the death benefits should have been given to

---

41 ARTICLE 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

42 *Rollo*, p. 28, CA Decision.

43 *Id.*

44 *Id.*

45 *Id.*

46 *Id.* at 29.

47 *Id.* at 29–30.

48 *Id.* at 6, Petition.

petitioners;[49] and (iii) the giving of the said benefits to Cerena will allow her and her illicit union with Rene to ultimately benefit from Pedrito's death.[50]

Issue

Whether the CA committed reversible error in the assailed Decision and Resolution.

The Court's Ruling

The Petition is partly meritorious, albeit for reasons different from those it brought forth.

The assailed Decision and Resolution are affirmed with the crucial modifications on the matter of how the death benefits by reason of Pedrito's death should be treated, and how they must be distributed to the beneficiaries as contemplated by both the POEA Memorandum Circular *vis-à-vis* the New Civil Code rules on succession.

To finally put an end to the instant controversy, the Court must first, necessarily, reframe the initial lens from which the principal issue is construed, and definitively answer the two questions on which the disposition pivots:

(i) Do the proceeds of the death benefits form part of Pedrito's estate?

(ii) How and among whom should the proceeds of the death benefits be distributed?

The Court now resolves that: (i) the proceeds of the death benefits are directly payable to the beneficiaries not as a form of inheritance, but as proceeds from a death benefit; (ii) the only qualified beneficiaries to claim the same are Cerena as the legitimate surviving spouse, Cindy as Pedrito's legitimate child from the first marriage, and Kenneth and Kristel, as Pedrito's illegitimate children from the bigamous marriage, and the death benefits shall be distributed among them in accordance with

---

[49] *Id.* at 7–8.

[50] *Id.* at 8.

Supreme Court E-Library

Articles 999 and 983 of the New Civil Code in relation to its Articles 892 and 895, as modified by Article 176 of the Family Code.

The key reasons that account for the above decision and the judicial process of gathering the otherwise disparate threads of legal bases shall be discussed by the Court in *seriatim*.

The death benefits do not form part of Pedrito's hereditary estate

Foremost, even before the Court ventures into the territory of distribution of the subject death benefits, it must first qualify what said death benefits are with respect to their nature and, consequently, their distribution.

As such, the Court here rectifies the lower courts' finding that the proceeds of the death benefits form part of Pedrito's estate, and so holds that the subject death benefits *do not* form part of Pedrito's estate that must be settled among his legal heirs. Instead, it is but a contractual death benefit borne of the employment contract between Excel Marine and Pedrito, the proceeds of which are directly payable to Pedrito's beneficiaries, who are, in turn, determined in accordance with rules of compulsory and intestate succession.

To recall, Articles 776 and 781 of the New Civil Code provide what the inheritance of the decedent consists of, thus:

> ARTICLE 776. The inheritance includes all the property, rights and obligations of a person which are **not extinguished by his [or her] death**.
>
> . . . .
>
> ARTICLE 781. The inheritance of a person includes not only **the property and the transmissible rights and obligations existing at the time of his [or her] death**, but also **those which have accrued thereto since the opening of the succession**. (Emphasis supplied)

Inasmuch as the benefits due the decedent's beneficiaries ***arise only upon*** the decedent's demise, they cannot be considered as

property, rights and obligations of the decedent already existing "at the time of his [or her] death" prior to his or her demise.

In turn, the POEA Memorandum Circular, which provisions are primarily controlling for purposes of the instant case, specifies death benefits as follows:

SECTION 20. *Compensation and Benefits*. —

....

B. Compensation and Benefits for Death

1. In case of work-related death of the seafarer, during the term of his [or her] contract, **the employer shall pay his [or her] beneficiaries** the Philippine currency equivalent to the amount of Fifty Thousand US dollars (US$50,000) and an additional amount of Seven Thousand US dollars (US$7,000) to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing during the time of payment.

. . . .

3. It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits which the seafarer is entitled to under Philippine laws from the Social Security System, Overseas Workers Welfare Administration, Employee's Compensation Commission, Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag-IBIG Fund). (Emphasis supplied)

With respect to the beneficiaries who may claim the death benefits, the POEA Memorandum Circular defines them as:

3. Beneficiary(ies) — refers to the person(s) to whom the death compensation and other benefits due under the employment contract are payable **in accordance with rules of succession under the Civil Code of the Philippines, as amended**.[51] (Emphasis supplied)

---

[51] POEA Memorandum Circular No. 010-10, Definition of terms, item 3.

Supreme Court E-Library

In other words, the death benefits that the heirs of a deceased seafarer are entitled to shall be paid in accordance with the rules of succession, in that they may only be paid to those who are considered as the seafarer's legal heirs in the proportion as provided under said rules. This reference to the rules of succession, however, does not extend to say that the death benefits are part and parcel of the seafarer's hereditary estate or inheritance.

Illustratively, in a partly similar seafarer's case of *Heirs of Cayabyab v. Bright Maritime Corp.*,[52] involving a claim for death benefits, the Court elucidated on the requisites for a successful death compensation claim, to wit:

> Death benefits and other remunerations may be claimed when the seafarer dies of a (a) work-related death; and (b) the death occurred during the term of the contract. In applying the above rule, these two elements must concur. Similarly, the Court has held in several cases that in order for the beneficiaries of a seafarer to be entitled to death compensation from the employer, claimants have the burden to prove by substantial evidence said two elements. Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify the conclusion. Substantial evidence is more than a mere *scintilla*. The evidence must be real and substantial, and not merely apparent.[53]

Given the foregoing clarification, while the subject death benefits do not form part of Pedrito's estate, they nevertheless flow and are paid to his qualified beneficiaries as "death proceeds or compensation," with the reference to the rules on succession only for purposes of determining who the qualified beneficiaries may be, and their entitled apportionments thereto.

Consequently, contrary to the findings of both the RTC and the CA, the proceeding before the RTC was not a settlement proceeding as there was no estate to settle let alone speak of. Instead, the proceeding was simply an action for a claim over a contractual death benefit, the parameters for distribution of which

---

[52] G.R. No. 253338, September 7, 2022 (Unsigned Resolution).

[53] *Id.*

Supreme Court E-Library

are prescribed by the POEA rules to be consistent with the rules on succession.

Relatedly still, it was therefore correctly averred by petitioners that death benefits are not embraced by the estate for purposes of estate tax determination, thus:

> The rate of estate tax to be paid upon the transfer of the net estate of decedent to his [or her] heir or beneficiary is fixed at 6% of the value of net estate.
>
> • Deductions allowed to the estate of a Citizen or Resident —
>
> o Standard deduction equivalent to ₱5,000,000;
>
> o Claims against the estate;
>
> o Claims of the deceased against insolvent persons where the value of the decedent's interest therein is included in the value of the gross estate;
>
> o Unpaid mortgages upon, or any indebtedness in respect to property of the decedent;
>
> o Property previously taxed;
>
> o Transfers for public use;
>
> o The Family home equivalent to current fair market value of the decedent's family home not exceeding ₱10,000,000; and
>
> o **Amount received by heirs under RA 4917**.[54] (Emphasis supplied)

Given that proceeds from death benefits are among those which are received by the heirs by virtue of Republic Act No. 4917,[55] which in turn provides under Section 1[56] thereof that

---

[54] Primer on Republic Act No. 10963 or the Tax Reform for Acceleration and Inclusion (TRAIN) Law, March 2018.

[55] Titled "An Act Providing That Retirement Benefits of Employees of Private Firms Shall Not Be Subject To Attachment, Levy, Execution, or Any Tax Whatsoever," dated June 17, 1967.

[56] Sec. 1. Any provision of law to the contrary notwithstanding, the retirement benefits received by officials and employees of private firms, whether

Supreme Court E-Library

amounts received by the heirs by virtue of the employee's separation due to death, sickness or other physical disability or for any cause beyond the control of the employee are exempt from attachment, levy, execution and taxes, the subject death benefits are therefore exempt from taxes. Thus, that death compensations and other benefits do not form part of a decedent's estate for purposes of computing the estate tax is consistent with the idea that they belong with other survivorship benefits that do not form part of the decedent's properties, but are nonetheless payable to the decedent's legal heirs not as inheritance but as forms of benefits.

Only Cerena and all three of Pedrito's children may receive the subject death benefits; Elenita is not a legal beneficiary

Having settled the true and correct nature of death benefits, the second important question, i.e., who among the parties may receive them begs the predicate query pertaining to the status of the marriage between Elenita and Pedrito.

First, the Court finds that Elenita may not be considered a beneficiary of the benefits arising from Pedrito's death since she is not the latter's legal spouse.

It is beyond dispute that the marriage between Pedrito and Cerena was celebrated in 1981 and, while it was subsisting and

---

individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer shall be exempt from all taxes and shall not be liable to attachment, garnishment, levy or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employee concerned to the private benefit plan or that arising from liability imposed in a criminal action: *Provided*, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty years of age at the time of his [or her] retirement: *Provided, further*, That the benefits granted under this Act shall be availed of by an official or employee only once: *Provided, finally*, That in case of separation of an official or employee from the service of the employer due to death, sickness or other physical disability or for any cause beyond the control of the said official or employee, any amount received by him [or her,] or by his [or her] heirs from the employer as a consequence of such separation shall likewise be exempt as hereinabove provided.

Supreme Court E-Library

into its ninth year, Pedrito entered into a second marriage with Elenita in 1990. Petitioners Elenita, Kenneth, and Kristel not only failed to deny the bigamous nature of Elenita's marriage with Pedrito but even admitted the same, with their only defense that of Elenita's supposed lack of knowledge of the subsistence of Pedrito's marriage with Cerena when she married Pedrito.

Other than the legally insufficient defense of lack of knowledge, petitioners neglected to aver any argument which would counter the undisputed fact that the marriage between Pedrito and Elenita was clearly bigamous.

As a consequence, the black letter law which squarely applies to the marriage between Pedrito and Elenita is Article 35(4) in relation to Article 40 of the Family Code, which provides that a court's declaration of nullity of a first marriage is required before one can validly enter into a second marriage without which declaration the first marriage subsists, and the second marriage is invalid and void, *viz.*:

> ARTICLE 35. The following marriages shall be void from the beginning:
>
> . . . .
>
> (4) Those bigamous or polygamous marriages not falling under Article 41.
>
> . . . .
>
> ARTICLE 40. The absolute nullity of a previous marriage may be invoked for purposes of remarriage on the basis solely of a final judgment declaring such previous marriage void.

More, in the case of *Sermonia v. Court of Appeals*,[57] the Court further explains the illicit nature of a bigamous marriage by defining such as an illegal marriage committed by contracting a second or subsequent marriage before the first marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.[58] In addition, while Article 55(7) of the Family Code provides that a spouse's contracting of a bigamous marriage

---

[57] 303 Phil. 165 (1994).

[58] *Id.* at 168.

Supreme Court E-Library

may be a ground for legal separation, there is no evidence adduced in this case which would show that this, or any other measure for the declaration of nullity of the marriage between Pedrito and Cerena, was ever had.

Given the foregoing legal moorings, the marriage between Pedrito and Elenita is clearly bigamous and void *ab initio*. Consequently, Elenita may not be considered the legal heir of Pedrito since her union with him was not one which existed within a valid marriage, and her children with him, Kenneth and Kristel, were correctly determined by the lower courts as illegitimate.

For another, the fact that Cerena herself entered into a bigamous marriage with Rene does not validate the bigamous marriage between Pedrito and Elenita. In law and in fact, the bigamous marriage entered into by one spouse with another is completely distinct from and irrelevant to the bigamous marriage which the other spouse may have also entered into. The bigamous nature of the marriage of Pedrito and Elenita cannot be cured by any successful imputation of fault or bad faith on the part of Cerena in herself contracting a bigamous marriage.

From this unrebutted central fact of bigamy flow the inevitable legal consequences. Specifically, Elenita cannot be considered the legal spouse of Pedrito, and is, therefore, legally precluded from being his beneficiary. As to Kenneth and Kristel, Elenita's children by Pedrito, the lower courts correctly found that Kenneth and Kristel are illegitimate children of Pedrito, and, as such, they are legal heirs and may be the latter's beneficiaries.

On this note, the Court corrects the RTC's ruling and qualifies that the declaration of nullity of the marriage between Elenita and Pedrito on the ground of bigamy must be limited only for the purpose of determining the proper beneficiaries of the subject death benefits, and not pursuant to A.M. No. 02-11-10-SC, Re: Rule on Declaration of Absolute Nullity of Void Marriages and Annulment of Voidable Marriages, which the RTC itself acknowledged would be improper in this instance.[59]

---

[59] *Rollo*, p. 50, RTC Decision.

Supreme Court E-Library

Second, Cerena may receive from the death benefits alongside all of Pedrito's children since she is Pedrito's legal spouse, and does not suffer from any of the disqualifications of heirs as provided for in the New Civil Code.

While Elenita's submission may be true, i.e., that Cerena also already entered into a subsequent, bigamous marriage with another, such is not among the grounds that would disqualify her from the status of Pedrito's legal heir and beneficiary under the rules of succession.

Given that the POEA Memorandum Circular simply defines the beneficiaries of such death benefits as those in accordance with the rules on succession, the Court must apply the definition of legal or intestate heirs as the surrogate definition of who Pedrito's beneficiaries are in this case, without regard to any other standard or measure against which the right to claim death benefits may be determined in other instances.

However, by way of observation and necessary momentary departure, and as similarly observed by Associate Justice Maria Filomena D. Singh (Associate Justice Singh) in her Concurring and Dissenting Opinion,[60] the Court here recognizes that in other laws involving death benefits, the test of the surviving spouse's dependency on the deceased spouse lies at the heart of the rationale for the award of death benefits.

For one, the test of dependency is applied under the Social Security System (SSS), as provided under Section 8(k) of Republic Act No. 8282, also known as the "Social Security Act of 1997" to wit:

> (k) *Beneficiaries* — The **dependent** spouse until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children, who shall be the primary beneficiaries of the member: *Provided*, That the dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate, legitimated or legally adopted children: *Provided, further*, That in the absence of the dependent

---

[60] J. Singh, Concurring and Dissenting Opinion, pp. 9–10.

Supreme Court E-Library

legitimate, legitimated or legally adopted children of the member, his/her dependent illegitimate children shall be entitled to one hundred percent (100%) of the benefits. In their absence, the dependent parents who shall be the secondary beneficiaries of the member. In the absence of all of the foregoing, any other person designated by the member as his/her secondary beneficiary. (Emphasis supplied)

In relation to this, the Court calls to mind its ruling in *Social Security System v. Aguas*[61] *(Aguas)*, where it held that a spouse who was already separated in fact from the deceased spouse may no longer be a qualified beneficiary of the death benefits for the latter, to wit:

On the claims of Rosanna, it bears stressing that for her to qualify as a primary beneficiary, she must prove that she was "the legitimate spouse dependent for support from the employee." The claimant-spouse must therefore establish two qualifying factors: (1) that she is the legitimate spouse, and (2) that she is dependent upon the member for support. In this case, Rosanna presented proof to show that she is the legitimate spouse of Pablo, that is, a copy of their marriage certificate which was verified with the civil register by petitioner. But whether or not Rosanna has sufficiently established that she was still dependent on Pablo at the time of his death remains to be resolved. Indeed, a husband and wife are obliged to support each other, but whether one is actually dependent for support upon the other is something that has to be shown; it cannot be presumed from the fact of marriage alone.

In a parallel case involving a claim for benefits under the [Government Service Insurance System (GSIS)] law, the Court defined a *dependent* as "one who derives his or her main support from another. Meaning, relying on, or subject to, someone else for support; not able to exist or sustain oneself, or to perform anything without the will, power, or aid of someone else." It should be noted that the GSIS law likewise defines a *dependent spouse* as "the legitimate spouse dependent for support upon the member or pensioner." In that case, the Court found it obvious that a wife who abandoned the family for more than 17 years until her husband died, and lived with other men, was not dependent on her husband for support, financial or otherwise, during that entire period. Hence, the Court denied her claim for death benefits.

---

[61] 518 Phil. 538 (2006).

Supreme Court E-Library

The obvious conclusion then is that a wife who is already separated *de facto* from her husband cannot be said to be "dependent for support" upon the husband, absent any showing to the contrary. Conversely, if it is proved that the husband and wife were still living together at the time of his death, it would be safe to presume that she was dependent on the husband for support, unless it is shown that she is capable of providing for herself.[62] (Emphasis supplied)

Still, even more apropos is the Court's straightforward iteration of the *Aguas* ruling in the case of *Social Security System v. De los Santos*[63] (*De los Santos*) which similarly involved two spouses who were both claiming entitlement to the death benefits of their common deceased husband. In *De los Santos*, the Court succinctly held that while the marriage between the deceased husband and the first wife subsisted, and the second marriage with the second wife was invalid, the first wife was nevertheless disqualified from benefiting from the death benefit since during the deceased husband's lifetime, the first wife had already left and married another, thus negating her dependency on the deceased husband, *viz.*:

> However, although respondent was the legal spouse of the deceased, We find that she is still **disqualified to be his primary beneficiary under the SS Law. She fails to fulfill the requirement of dependency upon her deceased husband Antonio**.
>
> *Social Security System v. Aguas* is instructive in determining the extent of the required "dependency" under the SS Law. In *Aguas*, the Court ruled that **although a husband and wife are obliged to support each other, whether one is actually dependent for support upon the other cannot be presumed from the fact of marriage alone**.
>
> Further, *Aguas* pointed out that a wife who left her family until her husband died and lived with other men, was **not** dependent upon her husband for support, financial or otherwise, during the entire period.
>
> . . . .
>
> Respondent herself admits that she left the conjugal abode on two (2) separate occasions, to live with two different men. The first was in 1965,

---

[62] *Id.* at 553–554.

[63] 585 Phil. 684 (2008).

Supreme Court E-Library

less than one year after their marriage, when she contracted a second marriage to Domingo Talens. The second time she left Antonio was in 1983 when she went to the US, obtained a divorce, and later married an American citizen.

In fine, these uncontroverted facts remove her from qualifying as a primary beneficiary of her deceased husband.[64]

The similar consideration of dependency on the deceased spouse is also provided for in determining the beneficiaries of the death benefits under Section 2, paragraphs (f), (g), and (h) of Republic Act No. 8291 otherwise known as the "Government Service Insurance System Act of 1997":

(f) *Dependents* — Dependents shall be the following: (a) the **legitimate spouse dependent for support upon the member or pensioner**; (b) the legitimate, legitimated, legally adopted child, including the illegitimate child, who is unmarried, not gainfully employed, not over the age of majority, or is over the age of majority but incapacitated and incapable of self-support due to a mental or physical defect acquired prior to age of majority; and (c) the parents dependent upon the member for support;

(g) *Primary beneficiaries* — The legal dependent spouse until he/she remarries and the dependent children;

(h) *Secondary beneficiaries* — The dependent parents and, subject to the restrictions on dependent children, the legitimate descendants. (Emphasis supplied)

Finally, even Act No. 3428[65] or the Workmen's Compensation Act, as amended by Republic Act No. 4119,[66] requires that the surviving spouse be dependent on the deceased spouse for the former to be able to claim the death benefits:

---

[64] *Id.* at 694–695.

[65] Fully titled "An Act Prescribing the Compensation To Be Received by Employees for Personal Injuries, Death or Illness Contracted in the Performance of Their Duties," dated December 10, 1927.

[66] Titled "An Act to Further Amend Certain Sections of Act Numbered Thirty-Four Hundred and Twenty-Eight, Otherwise Known as the Workmen's Compensation Act, as Amended," dated June 20, 1964.

SEC. 8. *Death benefit*. — If the disease contracted or injury received by the employees as provided in Section two hereof cause his [or her] death within two years from the date of such injury or sickness, the employer shall pay to the persons entitled thereto, or, in cases there shall be none, to the person representing the deceased employee the burial expenses in the amount of two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, compensation equivalent to the following percentages of the average weekly wages of the employee as determined in Section nineteen of this Act:

(a) To the **dependent widow or widower**, in case there are no dependent children, forty-five *per centum*.

(b) To the **dependent widow or widower** in case there are one or two dependent children, fifty *per centum*, and if there are three or more dependent children, sixty *per centum*. The compensation to the widow or widower shall be for the use or benefit of the widow or widower and of the dependent children, and the Bureau may from time to time adjust the compensation between them in the most equitable manner possible. (Emphasis supplied)

A brief survey of similar death benefits demonstrably shows that while the other survivorship beneficiaries under other similar laws, *i.e.*, SSS, GSIS, and Workmen's Compensation, are required to have a level of dependency on the deceased spouse for them to be able to claim the proceeds from the death benefits, the POEA Memorandum Circular does not provide for such a requirement.

The foregoing survey of similar laws notwithstanding, the Court finds no sufficient legal basis to apply that very same test of dependency to the instant case which is governed by the POEA rules, since the POEA Memorandum Circular does not require dependency for purposes of determining whether a death benefit may be paid. It does not provide for any other qualification or disqualification, as the case may be, and instead wholly refers the said determination to the same provisions that outline who may succeed under the New Civil Code. Still more, while it is true that the POEA Employment Contract was crafted as a form of social legislation designed to protect the workers, such an overarching principle cannot be found sufficient to support the

Supreme Court E-Library

presumption that the qualifications imposed on the beneficiaries under the SSS, the GSIS and the Workmen's Compensation Act can also be *read into* the qualifications on beneficiaries under the POEA Employment Contract. For while this analogy across social security benefits may be true at a policy level, such does not support a kind of transferability of additional requirements when none are provided for in the specific provision that squarely applies.

Instead, as cited previously, Section 20.B(3) of the POEA Memorandum Circular merely provides that the death benefits be "payable in accordance with rules of succession under the Civil Code of the Philippines." At this point, Associate Justice Singh submits that every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence,[67] to bolster the interpretation that beneficiaries under the POEA Employment Contract must similarly be those who depend on the deceased employee, whose death gave rise to the death benefits so disputed. On this, contrarily, the Court must take a step back and recall that no such statutory construction is merited in the instant case since the POEA Memorandum Circular is clear, unambiguous, and requires only its application.

Further, while the Court recognizes the merit in considering such a requirement in receipt of all kinds of death benefits, it cannot additionally impose what the pertinent law currently does not, nor may it deliberate and speculate on the possible reasons for such an omission in the conditions for the death benefits in the case of seafarers.

The Court, therefore, considers that this variance, i.e., the requirement of dependency on the part of the surviving spouse in the SSS Law, GSIS Law, and Workmen's Compensation Act, and the lack thereof in the POEA Memorandum Circular, while contentious especially as applied to the facts of the case, may very well be perceived as a gap in the law, is not in its province to bridge, but in the realm of the Legislature's.

---

[67] *Supra* note 60, at 7–8.

Supreme Court E-Library

For the Court to now add a requirement, which effectively makes it more onerous for surviving persons to make a claim for the death benefits, is simply unwarranted given the clarity and unequivocal omission of the same in the POEA Memorandum Circular and the New Civil Code rules on succession as referred to. Ultimately, remedying any perceived unfairness or gap in the non-requirement thereof is well within the province of the Legislature and well beyond the Court's.

Relevantly, as well, Associate Justice Singh cautions that the POEA Employment Contract must be understood within the larger context of social legislation.[68] This point, however, is also precisely supportive of the conclusion that since the POEA Employment Contract is underpinned by the legislative intent to protect labor, it is also reasonable to judicially presume that the very same underlying social legislation intended for all the prescribed provisions therein, including the textually explicit cross-reference to the New Civil Code rules on succession. In other words, the POEA Employment Contract, in relation to the POEA Memorandum Circular, is self-contained and clear, ***and carries within it*** the socially legislated protection of the workers, and therefore merits no interpretation on the part of the Court.

To be sure, had it not been for the fact that Pedrito first obtained a bigamous marriage himself, the facts of this case would not have entirely negated any possible recourse that Pedrito could have taken in his lifetime to ensure that his estranged wife, Cerena, would not be able to inherit from him or otherwise benefit from the benefits that pertain to his lifetime or his death, given the undisputed fact of Cerena's own subsequent bigamous marriage with Rene in 1992. Particularly, under Article 55, Title II of the Family Code of the Philippines, a petition for legal separation, *viz.*:

> ARTICLE 55. A petition for legal separation may be filed on any of the following grounds:
>
> (1) Repeated physical violence or grossly abusive conduct directed against the petitioner, a common child, or a child of the petitioner;

---

[68] *Id.* at 7–8.

Supreme Court E-Library

(2) Physical violence or moral pressure to compel the petitioner to change religious or political affiliation;

(3) Attempt of respondent to corrupt or induce the petitioner, a common child, or a child of the petitioner, to engage in prostitution, or connivance in such corruption or inducement;

(4) Final judgment sentencing the respondent to imprisonment of more than six years, even if pardoned;

(5) Drug addiction or habitual alcoholism of the respondent;

(6) Lesbianism or homosexuality of the respondent;

(7) Contracting by the respondent of a subsequent bigamous marriage, whether in the Philippines or abroad;

(8) Sexual infidelity or perversion;

(9) Attempt by the respondent against the life of the petitioner; or

(10) Abandonment of petitioner by respondent without justifiable cause for more than one year.

For purposes of this Article, the term "*child*" shall include a child by nature or by adoption. (Emphasis supplied)

Had Pedrito not obtained his own bigamous marriage with Elenita first, he could have sought the declaration of legal separation with Cerena which, if granted, would have resulted in the disqualification of Cerena as an heir of Pedrito and, analogously, her disqualification from benefiting from death benefits under the POEA rules, in accordance with Article 63 of the Family Code, thus:

ARTICLE 63. The decree of legal separation shall have the following effects:

(1) The spouses shall be entitled to live separately from each other, but the marriage bonds shall not be severed;

(2) The absolute community or the conjugal partnership shall be dissolved and liquidated but the offending spouse shall have no right to any share of the net profits earned by the absolute community or the conjugal partnership, which shall

be forfeited in accordance with the provisions of Article 43(2);

(3) The custody of the minor children shall be awarded to the innocent spouse, subject to the provisions of Article 213 of this Code; and

(4) The offending spouse shall be disqualified from inheriting from the innocent spouse by intestate succession. Moreover, provisions in favor of the offending spouse made in the will of the innocent spouse shall be revoked by operation of law. (Emphasis supplied)

As well, Pedrito could have also sought the disqualification of Cerena from inheriting from him in accordance with Article 921(4) of the New Civil Code, which includes giving cause for legal separation as one of the grounds for disinheritance, to wit:

ARTICLE 921. The following shall be sufficient causes for disinheriting a spouse:

(1) When the spouse has been convicted of an attempt against the life of the testator, his or her descendants, or ascendants;

(2) When the spouse has accused the testator of a crime for which the law prescribes imprisonment of six years or more, and the accusation has been found to be false;

(3) When the spouse by fraud, violence, intimidation, or undue influence cause the testator to make a will or to change one already made;

(4) When the spouse has given cause for legal separation;

(5) When the spouse has given grounds for the loss of parental authority;

(6) Unjustifiable refusal to support the children or the other spouse. (Emphasis supplied)

However, given the undisputed fact of Pedrito's own bigamous marriage in the instant case, these recourses in the law, otherwise available, were well beyond his reach.

Accordingly, the Court is **constrained** to find that Cerena is the legitimate spouse of Pedrito at the time of his death, and her

Supreme Court E-Library

30-year separation *de facto* from the latter, as well as her subsequent marriage to Rene, do not negate her right to the subject death benefits proceeding from Pedrito's death. For while Pedrito and Cerena had already been separated in fact for 30 years when Pedrito died, and while Pedrito had already been living with Elenita for a little over 25 years before he passed, the passage of time did not negate what no court declaration has nulled—that Pedrito's marriage with Cerena remained valid, and that it is only Cerena who may be considered the legal spouse.

The marriage between Pedrito and Cerena did not prescribe, nor was it eroded by the strength of relational commitments later entered into by both with other persons. The validity of Pedrito's first marriage stood until his death, and its legal ramifications similarly persisted. No passage of time can successfully militate against the core legal premise of a marriage—that it remains to be an inviolable social institution upon which a society is built and, for the weight that it shoulders, may not be fickle or dangerous in its impermanence, but steady and enduring until annulled or voided not on a whim but by court order.

As regards Elenita, since she is not the surviving spouse of Pedrito—her marriage to him being null and void—then she is not a legal heir of Pedrito. Accordingly, no right accrues to her in respect of the death benefits as she is not, following the language of the POEA Memorandum Circular, a legal heir "in accordance with rules of succession under the Civil Code of the Philippines, as amended."

Relatedly, and as found by the lower courts, Cindy, Kenneth, and Kristel should also, alongside Cerena, receive from the death benefits so awarded as they are, under Article 887 of the New Civil Code, compulsory heirs of Pedrito, *viz.*:

ARTICLE 887. The following are compulsory heirs:

(1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;

(2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;

Supreme Court E-Library

(3) The widow or widower;

(4) Acknowledged natural children, and natural children by legal fiction;

(5) Other illegitimate children referred to in article 287.

Compulsory heirs mentioned in Nos. 3, 4 and 5 are not excluded by those in Nos. 1 and 2; neither do they exclude one another.

In all cases of illegitimate children, their filiation must be proved.

The father or mother of illegitimate children of the three classes mentioned, shall inherit from them in the manner and to the extent established by this Code.

Relatedly, the pertinent provisions of the New Civil Code on the order of legal or intestate succession should likewise be scrutinized to arrive at the correct apportionment of the proceeds of the subject death benefits.

The apportionment of the proceeds of the death benefits among Cerena, Cindy, Kenneth, and Kristel must be in accordance with Articles 999 and 983 of the New Civil Code in relation to its Articles 892 and 895, as amended by Article 176 of the Family Code

On the last inflection point of this case, the Court takes the opportunity to clarify what the black letter rules on succession have been silent on, but the overarching *animus* of the same rules enjoy a wide recognition of. For while the instant case factually involves a seafarer's death benefit, the pertinent POEA Memorandum Circular singularly points to the direction of questions on legitimes and the fixed and varying shares of compulsory and legal heirs in different configurations, hence this judicial occasion to clarify and provide a coherent view of the relevant rules on succession, and this case's place therein.

In unraveling this final problem, the Court first understands that the rules on succession, both compulsory and intestate, are intimately and inevitably interconnected, with any interpretation

Supreme Court E-Library

of one provision likely to affect another, and for this reason treads this clarification with care. More, the Court also acknowledges that the succeeding discussion, while speaking of mathematical apportionments, also inescapably echoes societal notions of family relations and invisible ties that bind people by love and by blood, which may be, to some extent, empirically indemonstrable.

The Gordian knot before the Court is, therefore, this: the determination of the apportionment of the hereditary estate or inheritance of a decedent—in the event that the concurring primary compulsory heirs are the following: the surviving spouse, one legitimate child, and two illegitimate children—should be, within the context of an intestate succession. In a manner of seeing, the heart of the final question is how much Cerena, as the legal spouse, stands to receive from the proceeds of the death benefits given with whom she concurs.

To navigate this issue with the most informed perspective, a brief discussion of the comparative historicity of the share of the surviving spouse in the 1889 Spanish Civil Code *vis-à-vis* the Philippine New Civil Code is helpful and situates the Court's discussion within the overarching rationale of the rules on succession.

The legal concept of compulsory or forced heirs is said to be "peculiar" to continental law,[69] in that it recognizes the entitlement of certain classes of heirs to a mandatory portion of an estate,[70] and thereby effectively circumscribes the liberty of the testator to dispose of his or her property at will.[71] Distinguished civilist, former Court of Appeals Justice Eduardo P. Caguioa succinctly put the social thesis underlying legitimes and *legitimarios*, *viz.*:

> The purpose of the legitime is obvious. It is in order to give the force of law to the natural duty of a person to provide for those who because

---

[69] RUBEN F. BALANE, CIVIL LAW FLORILEGIUM: ESSAYS ON THE PHILIPPINE VARIANT OF THE CIVIL LAW TRADITION 193 (2012).

[70] *Id.*

[71] EDUARDO P. CAGUIOA, COMMENTS AND CASES ON CIVIL LAW, VOLUME III ARTICLES 774-1105 209 (1970).

of ties of blood and love of family, he [or she] is in duty bound to leave something. Very often because of passion or because of suggestion, desire, ill will or because of a second marriage, a person forgets his [or her] duty. Hence, []the law takes over.[72]

First introduced in the Philippines by way of Article 806 in relation to 807 of Section V of the Spanish Civil Code, the legitimes and compulsory heirs were defined, thus:

SECTION V

Legitime

ARTICLE 806. The legitime is that part of his [or her] property of which the testator cannot dispose because the law has reserved it for certain heirs, called, on that account, forced heirs.

ARTICLE 807. The following are forced heirs:

1. Legitimate children and descendants, with respect to their legitimate parents and ascendants;
2. In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;
3. **The widower or widow, natural children legally acknowledged, and the father or the mother of the latter, in the manner and to the extent established by Articles 834, 835, 836, 837, 840, 841, 842 and 846.** (Emphasis supplied)

As a forced heir, the share of the surviving spouse under the Spanish Civil Code was in the nature of a usufructuary right, the parameters and portions of which were qualified as follows:

SECTION VII

Rights of the Surviving Spouse

ARTICLE 834. A widower or widow who, on the death of his or her spouse, is not divorced, or should be so by the fault of the deceased, **shall be entitled to a portion in usufruct equal to that corresponding by way of legitime to each of the legitimate children** or descendants who have not received any betterment.

---

[72] *Id.* at 210.

Supreme Court E-Library

If only one legitimate child or descendant survives, the widower or widow shall have the usufruct of the third availment for betterment, such child or descendant to have the naked ownership until, on the death of the surviving spouse, the whole title is merged to him [or her].

If the spouses should be separated by a suit for divorce, the result of the suit shall be awaited.

If there should have been a pardon or a reconciliation between the divorced spouses, the survivor shall preserve his or her rights.

ARTICLE 835. The **hereditary portion allotted in usufruct to the widowed spouse must be taken from the third of the estate available for the betterment** of the children.

ARTICLE 836. If the testator leaves no descendants, but does leave ascendants, the **surviving spouse shall be entitled to a third of the estate in usufruct**.

This third shall be taken from the free half, the testator being allowed to dispose of the naked ownership of the same.

ARTICLE 837. If the testator should leave no legitimate ascendants or descendants, **the surviving spouse shall be entitled to one-half of the estate**, also in usufruct.

ARTICLE 838. The **usufructuary rights of the surviving spouse may be satisfied by the settlement upon him [or her] by the heirs of a life annuity or the income from some specific property, or by the payment of money**, as may be determined by agreement between the parties, or, in default of such agreement, by judicial decision.

Until this has been done by the usufructuary interest of the surviving spouse shall constitute a lien upon all the property of the estate. (Emphasis supplied)

A quick contemplation of the relevant Spanish Civil Code provisions illustrates the early inconstancy of the surviving spouse's usufructuary right on the estate, which largely depended on who he or she survived with.

In 1950, perhaps with the finely felt desire to change and draw the governing Spanish Civil Code nearer to the national experience, the New Civil Code was birthed which, while heavily borrowing from the Spanish Civil Code as its origin, nevertheless also put

several important changes in place. For one, even as the New Civil Code retained the legitimes, which the Code Commission explained as borne of the consideration of the country's customs and traditions and to preserve family solidarity,[73] it notably abolished the "*mejoras*" or betterments in favor of children or descendants. For another, the New Civil Code improved the succession position of the surviving spouse, i.e., from having only a usufructuary right over a portion of the estate to naked ownership or full dominion over the same.[74]

Now enhanced, the status of the surviving spouse as a primary compulsory heir is fleshed out in various Articles of the New Civil Code. As noted civilist and former Court of Appeals Associate Justice Desiderio P. Jurado (Justice Jurado) explained:

> ... Primary compulsory heirs are those who are always entitled to their legitime as provided by law regardless of the class of compulsory heirs with which they may concur. **Legitimate children or descendants, the surviving spouse and illegitimate children (whether natural or not) are primary compulsory heirs**. Secondary compulsory heirs, on the other hand, are those who may be excluded by other classes of compulsory heirs. . .
>
> . . . .
>
> ... **The legitime of compulsory heirs may be either fixed or variable**. It is fixed if the aliquot part of the testator's estate to which a certain class of compulsory heirs is entitled is always the same whether they survive alone as a class or they concur with other classes of compulsory heirs. **It is variable if the aliquot part changes depending upon whether they survive alone as a class or they concur with other classes of compulsory heirs**. Examples of the first are the legitimes of legitimate children or descendants and legitimate parents or ascendants. **Examples of the second are the legitimes of the surviving spouse and illegitimate children**.[75] (Emphasis supplied)

---

[73] José Manuel de Torres Perea, *A Different Approach to the Study of "Forced Heirs" or "Legitimas," Based on a Comparative Study of Spanish and Philippine Succession Law*, 67/2 ESTUDIOS DE DEUSTO, 103, 116 (2019).

[74] *Id.* at 111.

[75] DESIDERIO P. JURADO, CIVIL LAW REVIEWER 560 (21st ed., 2009).

Supreme Court E-Library

For purposes of the guideposts with which the Court shall navigate the final issue at bar, a closer look is invited to the following key provisions:

SECTION 5

Legitime

ARTICLE 888. The legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother.

The latter may freely dispose of the remaining half, subject to the rights of illegitimate children and of the surviving spouse as hereinafter provided ...

. . . .

ARTICLE 892. **If only one legitimate child or descendant of the deceased survives, the widow or widower shall be entitled to one-fourth of the hereditary estate**. In case of a legal separation, the surviving spouse may inherit if it was the deceased who had given cause for the same.

If there are two or more legitimate children or descendants, the surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children or descendants.

In both cases, the legitime of the surviving spouse shall be taken from the portion that can be freely disposed of by the testator . . .

ARTICLE 893. If the testator leaves no legitimate descendants, but leaves legitimate ascendants, the **surviving spouse shall have a right to one-fourth of the hereditary estate**.

This fourth shall be taken from the free portion of the estate . . .

ARTICLE 894. If the testator leaves illegitimate children, **the surviving spouse shall be entitled to one-third of the hereditary estate of the deceased** and the illegitimate children to another third. The remaining third shall be at the free disposal of the testator . . .

ARTICLE 895. The legitime of each of the acknowledged natural children and each of the natural children by legal fiction shall consist of one-half of the legitime of each of the legitimate children or descendants.

Supreme Court E-Library

The legitime of an illegitimate child who is neither an acknowledged natural, nor a natural child by legal fiction, shall be equal in every case to four-fifths of the legitime of an acknowledged natural child.

The legitime of the illegitimate children shall be taken from the portion of the estate at the free disposal of the testator, provided that in no case shall the total legitime of such illegitimate children exceed that free portion, and **that the legitime of the surviving spouse must first be fully satisfied**.[76]

. . . .

ARTICLE 897. When the widow or widower survives with legitimate children or descendants, and acknowledged natural children, or natural children by legal fiction, **such surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children** which must be taken from that part of the estate which the testator can freely dispose of...

ARTICLE 898. If the widow or widower survives with legitimate children or descendants, and with illegitimate children other than acknowledged natural, or natural children by legal fiction, the **share of the surviving spouse shall be the same as that provided in the preceding article** ... (Emphasis supplied)

With a tighter focus on the shares of the surviving spouse in the event of an intestate succession, the Court finds pertinence in the following provisions:

SECTION 2

Order of Intestate Succession

. . . .

SUBSECTION 4

Surviving Spouse

ARTICLE 995. In the absence of legitimate descendants and ascendants, and illegitimate children and their descendants, whether

---

[76] As modified by Article 176 of the Family Code:

Illegitimate children shall use the surname and shall be under the parental authority of their mother, and shall be entitled to support in conformity with this Code. **The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child. (Emphasis supplied)**

Supreme Court E-Library

legitimate or illegitimate, the surviving spouse shall inherit the entire estate, without prejudice to the rights of brothers and sisters, nephews and nieces, should there be any, under article 1001...

ARTICLE 996. **If a widow or widower and legitimate children or descendants are left, the surviving spouse has in the succession the same share as that of each of the children.** ...

. . . .

ARTICLE 999. When the widow or widower survives with legitimate children or their descendants and illegitimate children or their descendants, whether legitimate or illegitimate, **such widow or widower shall be entitled to the same share as that of a legitimate child**... (Emphasis supplied)

The foregoing New Civil Code provisions show as readily apparent the difficulty in determining the size of the portion that Cerena, as surviving spouse, must receive as she concurs alongside one legitimate child and two illegitimate children. Such difficulty rises from the fact that no one provision precisely draws this scenario and prescribes the apportionment therefor, and the Court must now draw meaning from the surrounding provisions that tangentially relate to it. The codal silence pertaining to the foregoing scenario has also opened up what is an ongoing doctrinal debate, over which two main schools of thought converse.

Not only is the determination of the exact share of the surviving spouse problematic; the apportionment between the one legitimate child and the two illegitimate children is likewise riddled with complexity. In this regard, Article 895 of the New Civil Code as modified by Article 176 of the Family Code and Article 983 of the New Civil Code have to be factored in to arrive at the correct distribution of the subject death benefits, to wit:

ARTICLE 895. [The legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child].[77]

The legitime of the illegitimate children shall be taken from the portion of the estate at the free disposal of the testator, provided that in

---

[77] As repealed by Article 176 of the Family Code.

no case shall the total legitime of such illegitimate children exceed that free portion, and that the legitime of the surviving spouse must first be fully satisfied.

ARTICLE 983. If illegitimate children survive with legitimate children, the shares of the former shall be in the proportion prescribed by article 895.

There are two approaches which may be taken in the distribution of the subject death benefits among the surviving spouse, one legitimate child, and two illegitimate children.

First is the line of reasoning which surmises that in the scenario where the surviving spouse concurs with one legitimate child and two illegitimate children, the apportionment must be one-third of the hereditary estate for the legitimate child, one-third for the surviving spouse, and one-sixth each for the two illegitimate children, on the basis of Article 999, as cited above. This line of interpretation suggests that the primacy is placed on the provision which prescribes that the surviving spouse must receive a share that is equal to that of the share of one legitimate child.

This school of thought is formulated by Justice Jurado in this wise:

. . . If the decedent is survived by the widow or widower, legitimate children or their descendants, and illegitimate children or their descendants, whether legitimate or illegitimate, three related provisions must be applied. These provisions are found in Arts. 999, 983 and 895. According to the first provision, the estate shall be divided in accordance with the proportions prescribed in Art. 985 but which was repealed by the second sentence of Art. 176 of the Family Code, and according to the third provision, this proportion is 10:5. Since the widow or widower has the same share as that of a legitimate child, the proportions are, therefore, 10 for the legitimate child, 10 for the widow or widower, 5 for the acknowledged natural child, for the natural child by legal fiction, or the acknowledged illegitimate child who is not natural, now all simply classified as illegitimate children. In other words, the distribution of the estate must be made, using the share of the legitimate child as the basis of the computation, in such a way that the share of the widow or widower shall be the same as that of a legitimate child, that of the acknowledged natural child or natural child by legal fiction or the acknowledged

Supreme Court E-Library

illegitimate child who is not natural (now all classified as illegitimate children), 1/2 the share of the legitimate child.[78]

Based on Justice Jurado's formulation, the proportions would be 10 (for Cerena), 10 (for Cindy), 5 (for Kenneth), and 5 (for Kristel) or 10:10:5:5. Thus, 10/30 or 1/3 of the death benefits is Cerena's share, 10/30 or 1/3 Cindy's, and 5/30 or 1/6 each for Kenneth and Kristel. Using the 2:1 proportion under Article 176 of the Family Code, the proportions are 2:2:1:1, i.e., 2/6 or 1/3 to Cerena, 2/6 or 1/3 to Cindy, and 1/6 each to Kenneth and Kristel.

Justice J. B. L. Reyes, also a renowned professor of Civil Law, was also quoted as having expressed the opinion that when the widow survives with only one legitimate child in intestate succession, they share the estate in equal parts.[79] Additionally, former Senator and Civil Law expert Arturo M. Tolentino (Senator Tolentino) also echoed this position, *viz.*:

> One child Surviving. — If there is only one legitimate child surviving with the spouse, since they share equally, one-half of the estate goes to the child and the other half goes to the surviving spouse. Although the law refers to "children or descendants," the rule in statutory construction that the plural can be understood to include the singular is applicable in his [or her] case.[80]

Relatedly, this position also appears to dovetail with the Court's interpretation in the 1965 seminal case of *In re: Santillon v. Miranda*[81] (*Santillon*), where the Court contemplated the distribution of the estate in the intestate succession of a surviving spouse and one legitimate child. There, it held that as between Article 892 of the New Civil Code which provided for the legitime of the surviving spouse and a sole legitimate child *vis-à-vis* Article

---

[78] DESIDERIO P. JURADO, COMMENTS AND JURISPRUDENCE ON SUCCESSION 431–432 (8th ed., 1991).

[79] *See In re: Santillon v. Miranda*, 121 Phil. 1351 (1965), *citing* V. Francisco, CIVIL CODE ANNOTATED, Vol. III, p. 931.

[80] *Id.* at 1355, *citing* III ARTURO M. TOLENTINO, CIVIL CODE OF THE PHILIPPINES 436 (1979).

[81] *Supra* note 79.

996 which contemplates of a surviving spouse concurring with legitimate children or descendants, the latter shall apply, to wit:

> Art. 892 of the New Civil Code falls under the chapter on Testamentary Succession; whereas Art. 996 comes under the chapter on Legal or Intestate Succession. Such being the case, it is obvious that Claro cannot rely on Art. 892 to support his claim to 3/4 of his father's estate. Art. 892 merely fixes *the legitime* of the surviving spouse and Art. 888 thereof, the legitime of children in *testate succession*. While it may indicate the intent of the law with respect to the ideal shares that a child and a spouse should get when they concur with each other, it does not fix the amount of shares that such child and spouse are entitled to *when intestacy occurs*. Because if the latter happens, the pertinent provision on intestate succession shall apply; i.e., Art. 996.
>
> . . . .
>
> Our conclusion (equal shares) seems a logical inference from the circumstance that whereas **Article 834 of the Spanish Civil Code, from which Art. 996 was taken, contained *two* paragraphs governing two contingencies, the first, where the widow or widower survives with legitimate children (general rule), and the second, where the widow or widower survives with only one child (exception), Art. 996 omitted to provide for the second situation, thereby indicating the legislator's desire to promulgate just one general rule applicable to both situations**.[82] (Emphasis supplied)

The Court here observes, however, that the case of *Santillon* may lend itself enlightening only insofar as the concurring heirs are a surviving spouse and a lone legitimate child, which is not among the facts of said case, but may be attended with meaningful limitations when it comes to the present case where the concurring surviving heirs include, in addition to a surviving spouse and a legitimate child, illegitimate children as well.

If the first line of reasoning were to be upheld, with Article 999 of the New Civil Code and the case of *Santillon* as its primary legal moorings, the provisions of the New Civil Code on legitime could necessarily be violated. The legitime reserved by law to the one legitimate child, which is one-half of the hereditary estate

---

[82] *Id.* at 1354 and 1356.

Supreme Court E-Library

pursuant to Articles 888 and 892 of the New Civil Code, would be negated.

Precisely, Justice Jurado warns against the direct application of Article 999 because of the possibility of the impairment of the legitime of the legitimate children, thus:

> However, as we have observed in the discussion under Art. 983, this method of proportionate division is subject to the principle of compulsory succession by virtue of which the legitime of compulsory heirs must never be impaired. Consequently, the distribution cannot be made directly; otherwise, there would be an impairment of the legitime of the legitimate children, especially where there is only one or two surviving. Therefore, in distributing the estate, we must first satisfy the legitime of the survivors. If after satisfying the legitime of the legitimate children, the balance of 1/2 should not be sufficient to cover the legitime of the surviving spouse and the illegitimate children, we shall then apply the rule stated in Art. 895. The legitime of the surviving spouse must first be fully satisfied and what is left shall be divided equally among the illegitimate children.[83]

The second line of reasoning is that the apportionments must be: one-half of the hereditary estate for the legitimate child, one-fourth for the surviving spouse, and one-eighth for each of the two illegitimate children, on the basis that the specific scenario involving only a singular legitimate child is clearly provided for under Article 892 which, as cited above, provides that when the surviving spouse concurs with only one legitimate child, the legitimate child shall get one-half of the hereditary estate and the surviving spouse gets one-fourth of the hereditary estate, with the legitime of the surviving spouse first being fully satisfied and what is left being divided equally between the two illegitimate children.

In intestacy, it will be recalled that Article 983 of the New Civil Code provides that: "If illegitimate children survive with legitimate children, the shares of the former shall be in same proportions prescribed in Article 895." However, the proportions provided for in Article 895 of the New Civil Code have been

---

[83] DESIDERIO P. JURADO, COMMENTS AND JURISPRUDENCE ON SUCCESSION, supra note 78, at 432.

modified by Article 176 of the Family Code, which provides that "[t]he legitime of each illegitimate child shall consist of one-half of the legitime of a legitimate child." In applying such proportions, Article 895 of the New Civil Code stresses that the legitime of the illegitimate children shall be taken from the portion of the estate at the free disposal of the testator provided: (i) that in no case shall the total legitime of such illegitimate children exceed the free portion, and (ii) that the legitime of the surviving spouse must first be fully satisfied.

In the present configuration of compulsory heirs, if the two illegitimate children were to be given their full legitime as prescribed by law of one-half of the legitime of the one legitimate child (which is one-half of the hereditary estate, or one-fourth of the hereditary estate for each illegitimate child), their total legitime would exceed the free portion which is only one-fourth of the hereditary estate.

Given that as mandated by law, the legitime of the surviving spouse (which is one-fourth of the hereditary estate) must first be fully satisfied, the two illegitimate children's legitime can only come from the remaining one-fourth of the hereditary estate free portion.

Thus, the two illegitimate children will share such remaining one-fourth free portion equally, or one-eighth of the hereditary estate each.

The above school of thought is espoused by Justice Jurado, who drew a hypothetical situation which is highly similar to the facts of the instant case, thus:

> 238. X, an employee of the Supreme Court, died intestate in 1976, survived by his widow, W, a legitimate child, A and 2 illegitimate children, B and C. The record shows that he failed to state in his application for membership with the GSIS the beneficiary or beneficiaries of his retirement benefits. Said benefits amount to ₱80,000.00. How shall such benefits be divided?
>
> ANS. The rules of intestate succession shall govern. Hence, the retirement benefits amounting to ₱80,000.00 shall be divided as follows:

Supreme Court E-Library

W ..... ¼ or ₱20,000.00
A ..... ½ or ₱40,000.00
B ..... ⅛ or ₱10,000.00
C ..... ⅛ or ₱10,000.00[84]
(Citation omitted)

Justice Eduardo P. Caguioa echoed this position and enlightened on the matter of the differing apportionment of the surviving spouse in case of concurrence with one legitimate child versus concurrence with legitimate children, thus:

> ... The surviving spouse is a primary compulsory heir and is not excluded by the presence of other primary compulsory heirs. However, although a primary compulsory heir, the surviving spouse does not exclude any other compulsory heir, whether primary or secondary. **The legitime of the surviving spouse is a variable legitime because the amount thereof varies depending with what compulsory heirs the surviving spouse concurs. If the surviving spouse concurs with only one legitimate child, she will get ¼ of the estate. ... []If the surviving spouse concurs with two or more legitimate children then the surviving spouse is entitled to a portion equal to the legitime of each of the legitimate children or descendants**.
>
> . . . .
>
> Should the surviving spouse concur with legitimate descendants and illegitimate descendants, whether acknowledged natural children, natural children by legal fiction or spurious children, the legitime of the surviving spouse shall be that equal to the share of one legitimate child. This legitime of the surviving spouse is taken from the portion of free disposal, i.e., the ½ after deducting the legitime of the legitimate children. **It should be noted that in conjunction with Article 892, paragraph one, if there is but one legitimate child, the share of the surviving spouse is ¼ of the hereditary estate even though she concurs with illegitimate descendants**. It should be noted also that the legitime of the widow should be deducted after the legitime of the legitimate children have been separated and before the legitime of the illegitimate children are determined.[85] (Emphasis supplied)

---

[84] DESIDERIO P. JURADO, CIVIL LAW REVIEWER, *supra* note 75, at 641.

[85] EDUARDO P. CAGUIOA, COMMENTS AND CASES ON CIVIL LAW, VOLUME III, ARTICLES 774-1105, *supra* note 71, at 260 and 269.

More, with respect to the conjunctive treatment of Article 892 (which was mentioned under testamentary succession) *vis-à-vis* intestate succession, Justice Eduardo P. Caguioa opined that the anchor point of the same is the ***primacy*** of compulsory succession or the entitlement to legitimes, *viz.*:

> ... The solution, therefore, will depend on the application of the legal principles underlying the law on succession. **Intestate succession is suppletory succession, suppletory to testate succession. On the other hand, compulsory succession is superior to and independent of testamentary succession. It takes place without the wishes or against the wishes of the testator. Hence, compulsory succession takes place in both testate and intestate succession**. The latter only supplements the will of the testator and operates only on that portion which the testator could have disposed of by will but did not; and cannot touch that portion which is beyond the power of disposition of the testator, i.e., the legitimes. **Consequently, compulsory succession must always be applied, whether the deceased has left a will or not. What the express will of the testator cannot override, neither can the presumed will of the testator**.[86] (Emphasis and underscoring supplied)

The second line of reasoning also coincides with the premium placed on the non-impairment of legitimes, which Justice Eduardo P. Caguioa submitted in this wise:

> ... Now, whether succession is testate or intestate, compulsory succession takes place, meaning to say, that the compulsory heirs must get at least their legitime whether there is a will or not. **If the testator through his [or her] express will cannot deprive the compulsory heirs of their legitime, much less can the latter be deprived of their legitime through the presumed will of the testator which is what occurs in legal or intestate succession. Therefore, in order that the legitimate children will not be deprived of their legitime, compulsory succession should first take place before we divide the estate according to the rules of intestate succession**. In other words, the compulsory heirs must first be given their legitime and the balance shall go by the order of intestate succession.[87] (Emphasis and underscoring supplied)

---

[86] *Id.* at 370.

[87] *Id.* at 376–377.

Supreme Court E-Library

In the same wise, the imperative nature of the preservation of the legitime of compulsory heirs was echoed by Justice Jurado as the ***paramount consideration*** in the distribution of shares, to wit:

> It must be noted, however, that in distributing the estate in accordance with the above proportions, one very fundamental rule must be observed. **The legitime of compulsory heirs must never be impaired. Under our system of compulsory succession, whether testamentary or intestate, it is axiomatic that the legitime of compulsory heirs must be preserved. As a rule, it cannot be impaired by the will of the decedent whether expressed or presumed**.[88] (Emphasis supplied)

In those cases where there is still a balance remaining out of the free portion after the legitime of the legitimate children, the surviving spouse, and the illegitimate children are fully satisfied, Justice Jurado hastens to add that the division of such balance is controversial which calls for the application of either the exclusion theory or the concurrence theory, to wit:[89]

> . . . As we have seen in the discussion under Art. 983, there are two views advanced by commentators on the New Civil Code. According to view (*the exclusion theory*), the balance must be given to the legitimate children in conformity with the general order of succession, while according to the other view (*the concurrence theory*), we must apply the proportions prescribed in Art. 895. . . .
>
> . . . .
>
> It is submitted that the concurrence theory is correct. In the first place, it is in conformity with Art. 983 which declares that "if illegitimate children survive with legitimate children, the shares of the former shall be in the proportions prescribed by Article 895." Under this theory, the proportions prescribed by Art. 895 are observed; under the exclusion theory, they are disregarded. In the second place, it is in conformity with Art. 999 which declares that the "widow or widower shall be entitled to the same share as that of a legitimate child." Under this theory, this mandate of the law is observed; under the exclusion theory, it is violated.[90]

---

[88] DESIDERIO P. JURADO, COMMENTS AND JURISPRUDENCE ON SUCCESSION, *supra* note 78, at 406.

[89] *Id.* at 438.

[90] *Id.* at 439.

Supreme Court E-Library

Presented with two opposing positions on a matter that calls for applying a numerical apportionment where a squarely applicable provision is not provided by the New Civil Code, **the Court here resolves to affirm the line of interpretation that best affirms the primacy of compulsory succession and the non-impairment of the legitime of the legitimate child**. The Court here finds and affirms that New Civil Code's Articles 892 and 895 (as modified by Article 176 of the Family Code) on compulsory succession (i.e., legitimes) conjunctively apply to the intestate succession scenario of the instant case since compulsory succession lies at the center of the body of the rules of succession, and is preserved and made applicable in both the testamentary and intestate modalities of the same.

To be sure, Article 897 on legitimes at first appears to be squarely on point, *viz.*:

> ARTICLE 897. When the widow or widower survives with legitimate children or descendants, and acknowledged natural children, or natural children by legal fiction, such surviving spouse shall be entitled to a portion equal to the legitime of each of the legitimate children which must be taken from that part of the estate which the testator can freely dispose of.

However, a quick read-over of the above provision reveals its inapplicability in the instant case in that it contemplates of a scenario where more than one legitimate child survives.

Article 999, under intestate succession, also first appears to be pertinent, thus:

> ARTICLE 999. When the widow or widower survives with legitimate children or their descendants and illegitimate children or their descendants, whether legitimate or illegitimate, such widow or widower shall be entitled to the same share as that of a legitimate child.

And yet the error of such a presumption is easily discerned by the fact that, as Justice Eduardo P. Caguioa put it, similar to Article 897, Articles 999 and 996 also contemplate of a scenario where the surviving spouse concurs with more than one legitimate child. Regarding Article 996, he explained, to wit:

Supreme Court E-Library

... The law has apparently overlooked the contingency of the widow or widower surviving with only one legitimate child, since in Article 996 the provision refers to legitimate children, therefore more than one. **But there is no provision where there is only one legitimate child concurring with the surviving spouse as was done in testamentary succession, where there is a specific provision providing for the legitime of the widow or widower when concurring with only one legitimate child**. Should, therefore, the surviving spouse concur with only one legitimate child, what shall be the share of each in intestate succession? **Again, it must be recalled that compulsory succession takes place in every succession and with precedence to legal or intestate succession. Consequently, therefore, you must first apply the rule of compulsory succession and the law provides that the legitime of the surviving spouse concurring with one legitimate child is one-fourth of the estate and since the legitime of the legitimate child is one-half, there, therefore, remains a vacant portion of one-fourth**.[91] (Emphasis supplied)

With Articles 897 and 999 inapplicable, the Court here finds that, consistent with the linguistic canons of statutory construction, ***along with the substantive primacy of legitimes as the backbone concept of the Philippine rules on succession***, the applicable provision in the instant case, with respect to the respective shares of the lone legitimate child and the surviving spouse, is Article 892 of the New Civil Code qualified by its Article 895 with respect to the preference accorded to the share of the surviving spouse over those of the illegitimate children.

The Court here also necessarily reexamines the holding in the case of *Santillon*, and refines the same albeit by partial qualification. As previously cited, *Santillon* contemplated a scenario where the surviving spouse concurred with one legitimate child, and where the Court ruled that the surviving spouse should receive one-half of the hereditary estate and the legitimate child the other one-half, on the basis of Article 996 and the rule of statutory construction which provides that the plural includes the singular, thus:

Art. 892 of the New Civil Code falls under the chapter on Testamentary Succession; whereas Art. 996 comes under the chapter on

---

[91] *Id.* at 393.

Legal or Intestate Succession. Such being the case, it is obvious that Claro cannot rely on Art. 892 to support his claim to 3/4 of his father's estate. Art. 892 merely fixes *the legitime* of the surviving spouse and Art. 888 thereof, *the legitime* of children in *testate succession*. While it may indicate the intent of the law with respect to the ideal shares that a child and a spouse should get when they concur with each other, it does not fix the amount of shares that such child and spouse are entitled to *when intestacy occurs*. Because if the latter happens, the pertinent provision on intestate succession shall apply, i.e., Art. 996.

Some commentators of our New Civil Code seem to support Claro's contention; at least, his objection to fifty-fifty sharing. But others confirm the half and half idea of the Pangasinan court.

This is, remember, intestate proceedings. In the New Civil Code's chapter on legal or intestate succession, the only article applicable is Art. 996. Our colleague, Mr. Justice J.B.L. Reyes, professor of Civil Law, is quoted as having expressed the opinion that under this article, when the widow survives with only one legitimate child, they share the estate in equal parts. Senator Tolentino in his commentaries writes as follows:

> One child Surviving. — If there is only one legitimate child surviving with the spouse, since they share equally, one-half of the estate goes to the child and the other half goes to the surviving spouse. Although the law refers to "children or descendants," the rule in statutory construction that the plural can be understood to include the singular is applicable in this case. (Tolentino, Civil Code of the Philippines, Vol. III, p. 436.)

The theory of those holding otherwise seems to be premised on these propositions: (a) Art. 996 speaks of "children," therefore it does not apply when there is only one "child"; consequently Art. 892 (and Art. 888) should be applied, thru a process of judicial construction and analogy; (b) Art. 996 is unjust or unfair because, whereas in *testate* succession, the widow is assigned one-fourth only (Art. 892), she would get 1/2 *in intestate*.

A. *Children*.— It is a maxim of statutory construction that words in plural include the singular. So Art. 996 could or should be read (and so applied): "If the widow or widower and a legitimate *child* are left, the surviving spouse has the same share as that of the *child*." Indeed, if we refuse to apply the article to this case on the ground that "child" is not

Supreme Court E-Library

included in "children," the consequences would be tremendous, because "children" will not include "child" in the following articles:

> ART. 887. — The following are compulsory heirs: (1) legitimate children and descendants ...
>
> ART. 888. — The legitime of *legitimate* children and descendants consists of one-half of the hereditary estate ...
>
> ART. 896. — Illegitimate *children* who may survive ... are entitled to one-fourth of the hereditary estate ... (See also Art. 901).

In fact, those who say "children" in Art. 996 does not include "child" seem to be inconsistent when they argue from the premise that "in testate succession the only legitimate child *gets one-half* and the widow, one-fourth." The inconsistency is clear, because the only legitimate child *gets one-half* under Art. 888, which speaks of "children," not "child." So if "children" in Art. 888 includes "child," the same meaning should be given to Art. 996.[92]

On this point, the Court revisits the foregoing reasoning by first qualifying that while as a general rule, the reference to plural matters necessarily include their singular counterparts, such general rule of linguistic construction cannot be so sweepingly applied in a case where the provision for construction *precisely draws distinctions between singularity and plurality*.

In other words, where the very number of a subject matter, i.e., the number of surviving heirs, is the exact semantically fundamental distinction, the plurality and singularity cannot be fused or confused in the construction thereof, and distinctions have to be drawn as intended. Consistent with the rule that *index animo sermo est* (speech is the index of the intention), the separate use of either plural or singular references in the provisions, including Article 999 of the New Civil Code must matter as such indicates the intention of said law.

As shown by Article 892 itself, the very number of legitimate child/ren who concur with the surviving spouse is not negligible but is, instead, entirely relevant, in that the number of legitimate child/ren who concur with the surviving spouse spells the

---

[92] *In re: Santillon v. Miranda*, *supra* note 79, at 1354–1356.

difference between the latter's entitlement to either one-fourth of the hereditary estate or the amount corresponding to the share of one of at least two legitimate children.

For another, even Article 834, Section VII of the Spanish Civil Code, the source provision of Articles 892 and 996 of the New Civil Code, as also reflected in Article 999 of the New Civil Code, drew distinctions between the entitled portion of the surviving spouse when he or she survived with legitimate children as opposed to only one legitimate child (under the second paragraph thereof).

As well and in light of the heavy reliance by *Santillon* on the linguistic canon of interpretation pertaining to plurality, the Court cautions that canons, linguistic or otherwise, are not to be applied in a sweeping manner, as even language canons admit of nuances and contradictions. As was the observation of Professor Dante B. Gatmaytan on the matter of indeterminacy of canons, *viz.*:

> ... In *De Castro v. Judicial and Bar Council*, the Supreme Court allowed the President to [appoint] the Chief Justice despite a ban on appointments during an election period. The dissent of Justice Carpio-Morales complained that "all rules of statutory construction revolt against the interpretation arrived at by the *ponencia*." Yet, the majority in the same case likewise invoked rules of interpretation in arriving at its conclusion...
>
> ....
>
> *De Castro* illustrates the dilemma of interpretation. **While purporting to be a set of objective standards, the fact that canons come in "opposite pairs" allows courts to invoke objectivity while justifying completely opposite conclusions**. The canons of construction, therefore, are not divine directives but tools that can aid in interpretation. . . . As an aid to judicial function, **a canon will "always be trumped by express statutory language or by clear evidence of legislative intent to the contrary" from the statutory environment or legislative history**.[93] (Emphasis supplied)

---

[93] DANTE B. GATMAYTAN, LEGAL METHOD ESSENTIALS 4.0 326 (2020).

Supreme Court E-Library

As applied to the case at bar, the Court maintains a general reluctance to pronounce that, at all times, the plural includes the singular, when the related provisions and the New Civil Code itself, read as a whole, draw clear distinctions of apportionments depending on plurality and singularity.

As a final point of semantic construction, a closer look at provisions of the New Civil Code on the proportionate shares of the legal or intestate heirs reveals that the plurality and singularity distinction find special relevance in Articles 983 and 999 of the New Civil Code, which are both new provisions.

Regarding Article 983, Justice Jurado makes this valid observation:

> It must be noted, however, that in distributing the estate in accordance with the above proportions [as provided under Art. 983], one very fundamental rule must be observed. The legitime of compulsory heir[s] must never be impaired. Under our system of compulsory succession, whether testamentary or intestate, it is axiomatic that the legitime of compulsory heirs must be preserved. As a rule, it cannot be impaired by the will of the decedent whether expressed or presumed. Consequently, if the decedent dies intestate, survived only by legitimate and illegitimate children, the distribution of the inheritance in accordance with the proportions prescribed in Art. 895 as repealed by the second sentence of Art. 176 of the Family Code must be made in such a way that the legitime of the survivors will not be impaired. **This limitation is necessary especially if the decedent is survived by only one or two legitimate children and by many illegitimate children**. In such case, if the distribution of the inheritance is made directly in accordance with the proportion of 10:5 [or 2:1] as prescribed in Art. 176 of the Family Code, evidently, there would be an impairment of the legitime of the legitimate child or children. . . .[94] (Emphasis supplied)

Evidently, a direct application of Article 893 without regard to the number of legitimate children may result in the impairment of the legitime of the legitimate children; and the likelihood of such impairment is greatest when there is only one legitimate child inheriting.

---

[94] DESIDERIO P. JURADO, COMMENTS AND JURISPRUDENCE ON SUCCESSION, *supra* note 78, at 406.

Supreme Court E-Library

With respect to Article 999, Senator Tolentino is upfront:

> **Several Legitimate Children.–** This article can be applied when there are several legitimate children, concurring with illegitimate children and the widow or widower. . . .
>
> . . . .
>
> **One Legitimate Child.–** It is impossible to apply the terms of this article when there is only one legitimate child. . . .[95]

According to Senator Tolentino, it is obvious that by applying the terms of the present article when there is only one legitimate child, it will not be possible to satisfy the shares of all the intestate heirs because the total of such shares would be far in excess of the estate.[96] There must be a reduction of the intestate shares in consonance with the law on legitimes; namely, that the legitime of the legitimate child and that of the surviving spouse shall be preferred, and the reduction must be suffered by the illegitimate children.[97]

It is important to note that Article 996, from which the case of *Santillon* is based, indeed contemplates both the singular and plural form of legitimate child/ren because in no instance would the respective legitime of the surviving spouse and the one legitimate child, on one hand, and the surviving spouse and several legitimate children, on the other, be impaired even if Article 996 is directly applied in the distribution of the hereditary estate.

In significant contrast, the direct application of Article 999, without first satisfying the legitime of the legitimate children and the surviving spouse, may result in their impairment. In other words, the correct approach, as discussed above, would be to determine and satisfy first the legitime of the legitimate child/ren, then the legitime of the surviving spouse in relation to the number of legitimate children. The legitime of the illegitimate child/ren will be taken from the remaining free portion of the hereditary

---

[95] III ARTURO M. TOLENTINO, CIVIL CODE OF THE PHILIPPINES 497–498 (1979).

[96] *Id.* at 498.

[97] *Id.*

Supreme Court E-Library

estate. In the event that such remaining free portion is insufficient to satisfy the illegitimate child/ren's legitime as prescribed by law (i.e., now Article 176 of the Family Code), then the same shall pertain to the sole illegitimate child, or the illegitimate children to be divided equally among them, if there be more than one.

However, if such remaining free portion is greater than the legitime of the sole illegitimate child or the combined legitime of the illegitimate children, the excess (after satisfying the legitime of the legitimate children, surviving spouse, and illegitimate children) will be distributed among the legitimate children, surviving spouse and illegitimate children in the proportion of 2:2:1, 2 being the share of each legitimate child and the surviving spouse, respectively, and 1 being the share of each illegitimate child.

Finally, and as Justice Jurado cited in his explanation,[98] the Court harks back to its ruling in the 1977 Administrative Matter, *Re: Mario V. Chanliongco*,[99] (1977 A.M.) which involved a configuration significantly similar to the case at bar. There, the Concurring Opinion of then Supreme Court Associate Justice Ramon C. Aquino compellingly reasoned, *viz.*:

> ... The provisions on legitime are found under the [rubric] of testamentary succession. **That does not mean that the legitime is taken into account only in testamentary succession. The legitime must also be taken into consideration in legal succession**.
>
> There may be instances, like the instant case, where in legal succession the estate is distributed according to the rules on legitime without applying the rules on intestate succession. The reason is that sometimes the estate is not even sufficient to satisfy the legitimes. The legitimes of the primary compulsory heirs, like a child or descendant, should first be satisfied.
>
> In this case the decedent's legal heirs are his legitimate child, his widow and two illegitimate children. His estate is partitioned among those heirs by giving them their respective legitimes.

---

[98] DESIDERIO P. JURADO, CIVIL LAW REVIEWER, *supra* note 75, at 642–643.

[99] 169 Phil. 357 (1977).

The legitimate child gets one-half of the estate as his legitime which is regarded as his share as a legal heir (Art. 888, Civil Code).

The widow's legitime is one-fourth of the estate. That represents also her share as a legal heir (Art. 892, 1st sentence, Civil Code).

The remaining one-fourth of the estate, which is the free portion, goes to the illegitimate children in equal shares, as their legitime, pursuant to the provision that "the legitime of the illegitimate children shall be taken from the portion of the estate at the free disposal of the testator, provided that in no case shall the total legitime of such illegitimate children exceed that free portion, and that the legitime of the surviving spouse must first be fully satisfied" (Last par., Art. 895, Civil Code).

The rule in *Santillon v. Miranda*, L-19281, June 30, 1965, 14 SCRA 563, that when the surviving spouse concurs with only one legitimate child, the spouse is entitled to one-half of the estate and the child gets the other half, pursuant to article 996 of the Civil Code, **does not apply to this case because here illegitimate children concur with the surviving spouse and the legitimate child**.

In this case, to divide the estate between the surviving spouse and the legitimate child would deprive the illegitimate children of their legitime.

So, the decedent's estate is distributed in the proportion of 1/2 for the legitimate child, 1/4 for the widow and 1/8 each for the two illegitimate children.[100] (Emphasis supplied)

The Court, therefore, takes this opportunity to echo the analysis and disposition of the Court in the foregoing 1977 A.M. and build on the same by refining the reading of the succession rules by holding that Article 892 of the New Civil Code controls the intestate succession of a surviving spouse who concurs with one legitimate child and illegitimate children, subject to Article 895 of the same Code as modified by Article 176 of the Family Code. As distinctly propounded by Justice Eduardo P. Caguioa, issues on succession that do not find ready expressions in the black letter of the law nevertheless find their clearest answers in light of the primacy of compulsory succession and the aim of non-impairment of legitimes.

---

[100] *Id.* at 356–357.

Supreme Court E-Library

Consequently, the Court adopts the second line of reasoning or school of thought and rules that the distribution of the subject death benefits in accordance with the provisions on succession under the New Civil Code and the Family Code, as discussed above, shall be: (1) to Cerena, the surviving legitimate spouse of Pedrito, one-fourth of the total death benefits; (2) to Cindy as the lone legitimate child of Pedrito, one-half of the total death benefits; (3) to Kenneth, as one of the two illegitimate children of Pedrito, one-eighth of the total death benefits; and (4) to Kristel, as the other illegitimate child of Pedrito, one-eighth of the total death benefits.

A Final Note

In all, the courts remain tasked to reach the heart of the matter of each controversy which, in this case, simultaneously revealed both (i) a gap in the law on death benefits where one was not readily apparent, and (ii) the discerned presence of a harmonized reading of the apportionment of a surviving spouse *vis-à-vis* a legitimate child and illegitimate children where one was not expressly codified in the black letter of the law.

For the former, the Court is bound to find that the benefits for the death of a seafarer cannot be awarded to a spouse with whom he has shared 25 years of his life, but whose union is illegal in the eyes of the law; and that said benefits instead belong to the legal spouse and the three children who survive him who, regardless of the marital circumstances they were born into, are unqualifiedly entitled to the benefit provided by law for their unquantifiable loss of a father.

For the latter, the Court takes the opportunity to clarify that the absence of a particular provision does not mean the dearth of related provisions that can light the path to a retrace of the steps back to the historical moorings of the rules, in order to find the way forward to an interpretation that meets the need of the peculiar facts of the case, the requirements of the linguistic canons of statutory construction, and overridingly, the intent of the law as embodied in its text. For while the Court notes that this

interpretation will radiate across other related rules with impacts that may outsize it, the Court holds truer still that in the process of managing from the reality of each nuanced controversy, any honest and intelligent attempt at enlightening the law is worth the while if only to build a more complete and increasingly coherent body of jurisprudence.

ACCORDINGLY, the instant petition is hereby **PARTLY GRANTED**. The Decision dated August 29, 2019, and Resolution dated November 25, 2019 of the First Division of the Court of Appeals in CA-G.R. CV No. 112739 are hereby **AFFIRMED with MODIFICATION**, in that the amount of PHP 4,506,309.52 deposited under the name "Heirs of Pedrito G. Macalinao" by Excel Marine Co., Ltd., and Fair Shipping to the Office of the Clerk of Court, Regional Trial Court, Muntinlupa City be released to Cerena N. Macalinao, Cindy N. Macalinao, Kenneth V. Macalinao and Kristel V. Macalinao upon the presentation of appropriate identification cards/papers and, subject to the proper legal fees, and distributed, as follows:

1. One-fourth (¼) to Cerena N. Macalinao, in the amount of One Million One Hundred Twenty-Six Thousand Five Hundred Seventy-Seven Pesos and Thirty-Eight Centavos (PHP 1,126,577.38);

2. One-half (½) to Cindy N. Macalinao, in the amount of Two Million Two Hundred Fifty-Three Thousand One Hundred Fifty-Four Pesos and Seventy-Six Centavos (PHP 2,253,154.76);

3. One-Eighth (⅛) to Kenneth V. Macalinao, in the amount of Five Hundred Sixty-Three Thousand Two Hundred Eighty-Eight Pesos and Sixty-Nine Centavos (PHP 563,288.69); and

4. One-Eighth (⅛) to Kristel V. Macalinao, in the amount of Five Hundred Sixty-Three Thousand Two Hundred Eighty-Eight Pesos and Sixty-Nine Centavos (PHP 563,288.69).

Supreme Court E-Library

SO ORDERED.

Inting, Rosario,[*] and *Dimaampao, JJ.*, concur.

Singh, J., see concurring and dissenting opinion.

APPEARANCES OF COUNSEL

Marcelino B. Lomoya for petitioners.
Dominica Llera-Agno for respondents.

CONCURRING AND DISSENTING OPINION

SINGH, *J.*:

The present controversy arose from the death of Pedrito G. Macalinao (**Pedrito**), a seafarer employed by Excel Marine Co. Ltd./Fair Shipping Corporation and a member of the Association of Marine Officers and Seafarers Union of the Philippines (**AMOSUP**), on June 26, 2015. His death benefits amounted to USD 93,057.88 or PHP 4,506,309.52.[1]

The narration of facts established that Pedrito and respondent Cerena Negapatan Macalinao (**Cerena**) married on June 5, 1981. Their union brought them one child, respondent Cindy Macalinao (**Cindy**). Unfortunately, after only four years, they separated in fact in 1985.[2]

On April 3, 1990, Pedrito married petitioner Elenita V. Macalinao (**Elenita**) with whom she bore two children: petitioners Kenneth and Kristel Macalinao. Pedrito and Elenita lived together for 25 years until his demise.[3]

Respondents Cerena and Cindy initially filed before the Regional Trial Court (**RTC**) a Petition for the Declaration of Nullity of the

---

[*] Designated additional member per Raffle dated January 4, 2021.

[1] Draft *ponencia*, pp. 2–3.

[2] *Id.* at 2.

[3] *Id.*

Marriage of Pedrito and Elenita, but it was later amended to a Petition for the Settlement of the Estate of the deceased Pedrito after the RTC determined that the respondents' true intention was to settle the latter's estate. The declaration of nullity of marriage was merely considered as a secondary issue.[4]

After trial, the RTC, in the main, granted the Petition and declared that the marriage between Pedrito and Elenita was null and void for being bigamous, and declared that Kenneth and Kristel are illegitimate children of Pedrito for having been born of a void marriage. The RTC also ruled that Pedrito's death benefits formed part of his estate. Consequently, it distributed the death benefits pursuant to Articles 888 and 892 of the New Civil Code **(NCC)**, as follows: (i) Cerena, as the legitimate wife, is entitled to one-half, as her share in the conjugal property; and (ii) the remaining one-half shall be divided among Cerena, Cindy, Kenneth, and Kristel.[5]

On appeal, the Court of Appeals affirmed the RTC Decision.

Thus, the present Petition.

The *ponencia* finds the Petition to be partly meritorious and resolves that: (i) the proceeds of the death benefits are directly payable to the beneficiaries not as a form of inheritance, but as proceeds from a death benefit; and (ii) the only qualified beneficiaries to claim the same are Cerena, as the legitimate surviving spouse, Cindy, as the legitimate child, and Kenneth and Kristel, as illegitimate children, and the proceeds of the death benefits shall be distributed among them in accordance with Articles 999 and 983 of the NCC, in relation to its Articles 892 and 895 (as modified by) Article 176 of the Family Code.[6]

I respectfully register my concurrence as to the finding that the death benefit does not form part of the decedent's estate, and the children of Pedrito should all partake of said benefit. However, I respectfully dissent from the finding that Cerena, the legal spouse, should likewise share in said death benefit.

---

[4] *Id.* at 3.

[5] *Id.* at 4–6.

[6] *Id.* at 9.

Supreme Court E-Library

The principles of social justice underlie Philippine labor laws.[7] They have been enacted pursuant to the constitutional mandate to "afford full protection to labor, local[,] or overseas."[8] Filipino seafarers, who are considered "modern-day heroes,"[9] contribute in large part in keeping the Philippine economy afloat. They undertake long and arduous voyages just to be able to provide for their loved ones.

In this regard, the protection that the State affords is not just for the seafarers, but also extends to those they leave behind. Indeed, it is State policy to protect the rights and promote the welfare of the families of Overseas Filipino Workers, including seafarers.[10]

This protection, however, should be read in the wider context of the whole gamut of social legislation, and not narrowly construed on a stand-alone basis. The rule is that "a statute must be interpreted, not only to be consistent with itself, but also to harmonize with other laws on the same subject matter, as to form a complete, coherent[,] and intelligible system."[11]

I concur in the *ponencia* insofar as it concludes that the death benefits arising from the death of Pedrito under the Contract prescribed by the Philippine Overseas Employment Administration **(POEA)** are not included in his estate. This POEA Contract was executed by virtue of POEA Memorandum Circular No. 10, Series of 2010.[12] I likewise concur that all children of

---

[7] *See Rivera v. Genesis Transport Service, Inc.*, 765 Phil. 544, 557 (2015) [Per J. Leonen, Second Division].

[8] CONST., art. XIII, sec. 3.

[9] *Antolino v. Hanseatic Shipping Phils., Inc.*, 871 Phil. 896, 906 (2020) [Per J. A. Reyes, Jr., Second Division].

[10] Republic Act No. 11641 (2021), sec. 2, Department of Migrant Workers Act.

[11] *Office of Solicitor General v. Court of Appeals*, 735 Phil. 623, 628 (2014) [Per J. Reyes, First Division], citing *Philippine Economic Zone Authority v. Green Asia Construction & Development Corporation*, 675 Phil. 846, 857 (2011) [Per J. Sereno].

[12] Entitled "Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-board Ocean-going Ships."

Supreme Court E-Library

Pedrito, whether marital or nonmarital,[13] are beneficiaries entitled to receive the death benefits under the POEA Contract.

I respectfully dissent, however, from the ruling that Cerena, the long-estranged spouse of Pedrito albeit the legitimate wife, should be deemed a beneficiary entitled to receive a portion of the death benefits. I expound on my position below.

Article 776 of the Civil Code[14] provides for the composition of the inheritance of a decedent:

> Article 776. The inheritance includes all the property, rights and obligations of a person which are **not extinguished by his [or her] death**. (Emphasis supplied)

The provision clearly states that all the property, rights, and obligations which survive the death of the decedent is included in the inheritance.[15] This presupposes, therefore, that the property, rights, and obligations are existing at the time of death.

This reading is supported by Article 781 of the Civil Code, thus:

> Article 781. **The inheritance of a person includes not only the property and the transmissible rights and obligations existing at the time of his death**, but also those which have accrued thereto since the opening of the succession. (Emphasis supplied)

Considering that inheritance only consists of all property, rights, and obligations existing *prior to* or *at the time* of the death of the decedent, the logical conclusion is that anything that arises *after* death does not form part of the inheritance. Indeed, Article 781 of the Civil Code provides that even those things that arise at the opening of succession, i.e., the moment of death of the decedent, form part of the inheritance for as long as they accrue to such property, rights, and obligations that have been included in the estate.

---

[13] *See Aquino v. Aquino*, G.R. No. 208912, December 7, 2021 [Per J. Leonen, *En Banc*].

[14] Republic Act No. 386 (1949).

[15] *Butte v. Manuel Uy & Sons, Inc.*, 114 Phil. 443, 448 (1962) [Per J. J.B.L. Reyes].

Supreme Court E-Library

Section 20(B)(1) of the POEA Contract provides for the grant and payment of death benefits:

> SEC. 20. COMPENSATION AND BENEFITS
>
> . . . .
>
> B. COMPENSATION AND BENEFITS FOR DEATH
>
> 1. In case of work-related death of the seafarer, during the term of his [or her] contract, the employer shall pay his [or her] beneficiaries the Philippine currency equivalent to the amount of [f]ifty [t]housand US dollars [USD 50,000.00] and an additional amount of [s]even [t]housand US dollars [USD 7,000.00] to each child under the age of twenty-one (21) but not exceeding four (4) children, at the exchange rate prevailing at the time of payment.

Evidently, the payment of work-related death benefits cannot form part of the estate of the deceased because they only arise *after* the death of the decedent seafarer. Prior to the seafarer's death, no such right to receive the benefits exists.

The nature of the death benefits takes the form of a conditional obligation. Article 1181 of the Civil Code is instructive:

> Article 1181. In conditional obligations, the acquisition of rights, as well as the extinguishment or loss of those already acquired, shall depend upon the happening of the event which constitutes the condition.

The provision provides for two types of conditions: *suspensive* and *resolutory*. Suspensive conditions are those which "shall take place only if and when the event which constitutes the condition happens or is fulfilled."[16] On the other hand, resolutory conditions are "those on which depend the extinction of the obligation."[17]

In *Heirs of Licuanan v. Singa Ship Management, Inc.*,[18] the Court held that to successfully claim for death benefits under

---

[16] *Sagun v. ANZ Global Services and Operations (Manila), Inc.*, 793 Phil. 633, 642 (2016) [Per J. Perlas-Bernabe, First Division].

[17] *Estipona v. Estate of Aquino*, G.R. No. 207407, September 29, 2021 [Per J. Caguioa, First Division].

[18] 855 Phil. 401, 409 (2019) [Per J. Perlas-Bernabe, Second Division].

Supreme Court E-Library

Section 20(B)(1) of the POEA Contract, it must be established that the seafarer's death is: (**a**) work-related; and (**b**) had occurred during the term of his employment contract.

Succinctly, the payment of death benefits under Section 20(B)(1) of the POEA Contract may only arise upon the happening of a condition—the death of the seafarer arising out of and in the course of employment. Prior to the happening of such condition, no right exists to receive such benefits as to be included in the inheritance of the decedent; the acquisition of such right commences if and only if the seafarer dies at work.

Indeed, the death benefits are proceeds stemming from a conditional obligation. Prior to Pedrito's death, there exists no right to receive such payment, and only upon the happening of the stipulated suspensive condition, i.e., the demise of the decedent, would the right be acquired.

Relatedly, and as held in the *ponencia*, the exclusion of death benefits, which accrue *after* the moment of death, is supported by the provisions of the National Internal Revenue Code[19] as to what constitutes the *gross estate* of the decedent. Section 86(A)(8) thereof provides that amounts received in accordance with Republic Act No. 4917[20] are deducted from the gross estate:

> Sec. 86. Computation of Net Estate. – For the purpose of the tax imposed in this Chapter, the value of the net estate shall be determined:
>
> (A) Deductions Allowed to the Estate of Citizen or a Resident. – In the case of a citizen or resident of the Philippines, by deducting from the value of the gross estate –
>
> . . . .
>
> (8) Amount Received by Heirs under Republic Act No. 4917. – Any amount received by the heirs from the decedent's employee as a consequence of the death of the decedent-employee in accordance with Republic Act No. 4917: *Provided*, That such amount is included in the gross estate of the decedent.

---

[19] Republic Act No. 8424 (1997).

[20] Entitled "An Act Providing that Retirement Benefits of Employees of Private Firms Shall Not be Subject to Attachment, Levy, Execution, or Any Tax Whatsoever." Approved: June 17, 1967.

Supreme Court E-Library

In turn, Section 1 of Republic Act No. 4917 reads as follows:

> Sec. 1. Any provision of law to the contrary notwithstanding, the retirement benefits received by officials and employees of private firms, whether individual or corporate, in accordance with a reasonable private benefit plan maintained by the employer shall be exempt from all taxes and shall not be liable to attachment, garnishment, levy[,] or seizure by or under any legal or equitable process whatsoever except to pay a debt of the official or employee concerned to the private benefit plan or that arising from liability imposed in a criminal action: *Provided*, That the retiring official or employee has been in the service of the same employer for at least ten (10) years and is not less than fifty years of age at the time of his retirement: *Provided, further*, That the benefits granted under this Act shall be availed of by an official or employee only once: *Provided, finally*, **That in case of separation of an official or employee from the service of the employer due to death**, sickness[,] or other physical disability or for any cause beyond the control of the said official or employee, **any amount received by him [or her] or by his [or her] heirs from the employer as a consequence of such separation shall likewise be exempt as hereinabove provided**. (Emphasis supplied)

Death benefits are amounts received by the seafarer's beneficiaries as a consequence of separation from the service due to the death of such seafarer. Clearly, such benefits fall under the last proviso of Section 1 of Republic Act No. 4917, and is therefore excluded from the computation of the decedent's gross estate.

Considering that death benefits are not part of the estate of the deceased, it is incongruous then to hold that the distribution of such benefits should follow the rules on succession. Indeed, if certain properties and rights do not form part of the estate, then the heirs, whether testate or intestate, would not be called to succeed to such properties and rights.

While the *ponencia* argues that the mode of distribution provided for in the definition of a "beneficiary" is contractual in nature, it must be emphasized that the Contract entered into by Pedrito and his employer is one that is mandated by the State.

In *Eastern Shipping Lines, Inc. v. Philippine Overseas and Employment Administration*,[21] the Court held that the POEA's power to prescribe a model or standard contract for seafarers is a valid delegation of legislative power necessary to implement the broad policies laid down by the labor statutes.

In *Joint Ship Manning Group, Inc., et al. v. Social Security System*,[22] the Court recognized that seafarers only have one standard contract that governs their employment and which is prescribed by the POEA, thus:

> [S]eafarers constitute a unique classification of OFWs. Their essential difference against land-based OFWs is that **all seafarers have only one (1) standard contract, which provides the rights and obligations of the foreign ship owner, the seafarer and the manning agencies**. The 2016 POEA Rules define the POEA-SEC as follows:
>
> > Employment Contract/Standard Employment Contract — refers to the POEA-prescribed contract containing the minimum terms and conditions of employment, which shall commence upon actual departure of the seafarer from the Philippine airport or seaport in the point of hire.
>
> The POEA-SEC outlines all the duties and responsibilities of the foreign ship owners, manning agencies, and seafarers within its coverage. **As long as the seafarer is employed or engaged in overseas employment in any capacity on board a ship, the POEA-SEC shall apply to him or her. The latest POEA-SEC is covered by the POEA Memorandum Circular No. 010-10, or the Amended Standard Terms and Conditions Governing the Overseas Employment of Filipino Seafarers On-Board Ocean-Going Ships**.[23] (Emphasis supplied)

The terms and conditions of the Contract executed by the seafarer and his or her employer is not an area into which the Court can permissibly intervene, lest it violate the right against impairment of obligations and contracts,[24] but such stipulations stem from government action, i.e., the issuance of POEA Memorandum Circular No. 10, which is susceptible to review by this Court.

---

[21] 248 Phil. 762 (1988) [Per J. Cruz, First Division].

[22] 876 Phil. 596 (2020) [Per J. Gesmundo, *En Banc*].

[23] *Id.* at 618–619.

[24] CONST., art. III, sec. 10.

Supreme Court E-Library

Notably, POEA Memorandum Circular No. 10, which prescribed all the terms and conditions in the subject POEA Contract, is part and parcel of the whole range of social legislation enacted to promote the welfare of workers. In a number of cases,[25] the Court has applied its provisions in upholding the rights of seafarers.

The maxim *interpretare et concordare legibus est optimus interpretandi*, or "every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence"[26] is instructive. Utilizing this rule of construction, the Court is called upon to interpret laws not as isolated pieces, but as parts of a whole connected with each other as to create a "complete, coherent, and intelligible system."[27]

Death benefits accruing to the beneficiaries of the deceased seafarer are usually taken alongside other social security benefits. Indeed, Section 20(B)(3) of POEA Memorandum Circular No. 10 provides that death benefits are claimed on top of other benefits granted under law from the Social Security System (**SSS**), Overseas Workers Welfare Administration, Employees' Compensation Commission (**ECC**), Philippine Health Insurance Corporation, and the Home Development Mutual Fund.[28]

---

[25] *One Shipping Corporation v. Heirs of Abarrientos*, G.R. No. 255802, October 12, 2022 [Per J. M.V. Lopez, Second Division]; *Mabute v. Bright Maritime Corporation*, 883 Phil. 219 (2020) [Per J. Carandang, Third Division]; *Magsaysay Maritime Corporation v. Heirs of Buenaflor*, 875 Phil. 253 (2020) [Per J. Reyes, J. Jr., First Division].

[26] *Philippine Overseas Employment Administration v. Commission on Audit*, 890 Phil. 498, 517–518 (2020) [Per J. Gaerlan, *En Banc*], citing *Office of the Solicitor General v. Court of Appeals, et al.*, 735 Phil. 622, 630 [Per J. Reyes, First Division].

[27] *Id.*

[28] POEA Memorandum Circular No. 10 (2010), sec. 20(B)(3). "3. It is understood and agreed that the benefits mentioned above shall be separate and distinct from, and will be in addition to whatever benefits the seafarer is entitled to under Philippine laws from the Social Security System, Overseas Workers Welfare Administration, Employees' Compensation Commission, Philippine Health Insurance Corporation and Home Development Mutual Fund (Pag-IBIG Fund)."

Supreme Court E-Library

Section 8(k) of Republic Act No. 8282, or the Social Security Act of 1997, provides for the definition of a *beneficiary*:

> (k) Beneficiaries – **The dependent spouse** until he or she remarries, the dependent legitimate, legitimated or legally adopted, and illegitimate children, who shall be the primary beneficiaries of the member: *Provided*, **That the dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate, legitimated or legally adopted children**: *Provided, further*, That in the absence of the dependent legitimate, legitimated[,] or legally adopted children of the member, his/her dependent illegitimate children shall be entitled to one hundred percent (100%) of the benefits. In their absence, the dependent parents who shall be the secondary beneficiaries of the member. In the absence of all of the foregoing, any other person designated by the member as his/her secondary beneficiary. (Emphasis supplied)

As cited in the *ponencia*, the case of *Social Security System v. Aguas*[29] is instructive. There, the Court held that "a wife who is already separated *de facto* from her husband cannot be said to be 'dependent for support' upon the husband, absent any showing to the contrary."[30]

Then, in *Social Security System v. De los Santos*,[31] the Court ruled that the wife who has left the family abode on two separate occasions to live with two different partners cannot be considered a dependent spouse entitled to death benefits.[32]

Similarly, Section 2(f) of Republic Act No. 8291, or the Government Service Insurance System (**GSIS**) Act of 1997, provides:

> (f) Dependents – **Dependents shall be the following: (a) the legitimate spouse dependent for support upon the member or pensioner**; (b) the legitimate, legitimated, legally adopted child, including the illegitimate child, who is unmarried, not gainfully employed, not over the age of majority, or is over the age of majority but incapacitated and incapable of self-support due to a mental or physical defect acquired prior to age of

---

[29] 518 Phil. 538 (2006) [Per J. Callejo, Sr., First Division].

[30] *Id.* at 554.

[31] 585 Phil. 684 (2008) [Per J. R.T. Reyes, Third Division].

[32] *Id.* at 695.

Supreme Court E-Library

majority; and (c) the parents dependent upon the member for support[.] (Emphasis supplied)

In *Re: Application for Survivor's Benefits of Ms. Maylene G. Manlavi*,[33] the Court held that a spouse who abandoned the family for more than 17 years is not entitled to receive the death and survivorship benefits accruing to the deceased GSIS member.

Section 8 of Republic Act No. 3428 or the Workmen's Compensation Act, as amended by Republic Act No. 4119,[34] provides for who are entitled to receive death benefits:

> Sec. 8. Death benefit. If the disease contracted or injury received by the employees as provided in Section two hereof cause his death within two years from the date of such injury or sickness, the employer shall pay to the persons entitled thereto, or, in cases there shall be none, to the person representing the deceased employee the burial expenses in the amount of two hundred pesos, and shall also pay to or for the following persons, in the order of priority and during the periods hereinafter set forth, compensation equivalent to the following percentages of the average weekly wages of the employee as determined in Section nineteen of this Act:
>
> (a) **To the dependent widow or widower**, in case there are no dependent children, forty-five per centum.
>
> (b) **To the dependent widow or widower** in case there are one or two dependent children, fifty per centum, and if there are three or more dependent children, sixty per centum. The compensation to the widow or widower shall be for the use or benefit of the widow or widower and of the dependent children, and the Bureau may from time to time adjust the compensation between them in the most equitable manner possible. (Emphasis supplied)

These social security laws provide that there must be, at least, a level of *dependency* on the deceased employee by the surviving spouse; for the children it is assumed. The rationale behind this is clear—the State tries to ameliorate the loss, at least in terms of economics, that is brought by the death of the family member

---

[33] 405 Phil. 152 (2001) [Per J. Kapunan, *En Banc*].

[34] Approved on June 20, 1964.

who provides for their needs, especially when such death is brought about by the performance of duties during the course of employment.

To rule that the payment of death benefits under the POEA Contract, which are akin to death benefits granted under the other social justice legislation abovementioned, should be granted under a different and distinct policy for distribution would lead to an absurd result. An estranged spouse not dependent on the support of the deceased seafarer who would not otherwise be entitled to receive SSS, GSIS, and ECC payments, would now be entitled to receive death benefits under the POEA Contract.

In this case, Cerena has been established to be the estranged spouse of Pedrito. Only after four years of their marriage, Cerena and Pedrito separated in fact and have since lived their lives separately. That separation lasted for over 24 years prior to Pedrito's demise, and during the last 24 years of Pedrito's life, he held out Elenita as his common-law wife. Evidently, the facts have established that Cerena has not depended on Pedrito for support from the time they separated. It is for this reason that she is not entitled to receive the death benefits under the POEA Contract.

At any rate, I concur that as regards the children of Pedrito, namely Cindy, Kenneth, and Kristel, they are entitled to receive the death benefits under the POEA Contract.

As found by the RTC, Cindy is a marital child from the legal union between Pedrito and Cerena, while Kenneth and Kristel are the nonmarital children by virtue of the bigamous marriage between Pedrito and Elenita.[35]

To reiterate, the death benefits under the POEA Contract are similar to the death benefits granted under the Social Security law. As to the manner of distribution, guidance may be taken from the latter law. Section 8(k) of Republic Act No. 8282 provides that "the dependent illegitimate children shall be entitled to fifty percent (50%) of the share of the legitimate [. . .] children."[36]

---

[35] *Rollo*, p. 48.

[36] Republic Act No. 8282, sec. 8(k).

Supreme Court E-Library

As applied herein, Cindy is entitled to 50% of the total amount of death benefits under the POEA Contract, and the remaining 50% will be shared by both Kenneth and Kristel in equal parts, or 25% each. This way, only those who are truly dependent on Pedrito would be able to receive their entitlement, as envisioned under the POEA Contract and the law.

Thus, I vote to **PARTIALLY GRANT** the Petition. The Decision, dated August 29, 2019, and the Resolution, dated November 25, 2019, of the Court of Appeals in CA-G.R. CV No. 112739 should be **AFFIRMED** with **MODIFICATION**. The death benefits in the amount of PHP4,506,309.52 should be distributed, as follows:

1. 50% or PHP 2,253,154.76 shall be paid to Cindy N. Macalinao;
2. 25% or PHP 1,126,577.38 shall be paid to Kenneth V. Macalinao; and
3. The other 25% or PHP 1,126,577.38 shall be paid to Kristel V. Macalinao.

The foregoing interpretation does not only carry out the precepts of social justice, but actually enforces the true meaning of "justice," in general, which is to give someone his or her due.