

A FOREIGNER AND HER DOG: Succession and National Laws

In 2007, Leona Helmsley – an American hotel heiress – died bequeathing \$12 million to her dogs in her Last Will and Testament. A significant amount to be sure considering that some of her descendants received nothing.

If Leona was a foreigner residing in the Philippines at the time of her death and the money was in a local bank, would her dispositions in her last will be allowed by our courts?

To review, here in the Philippines we follow a system of legitimes that we adopted from Spain. Simply stated, a legitime is that portion of one's estate reserved by law for certain heirs who are called compulsory heirs. In other words, we are mandated to give a portion of our estate to our compulsory heirs, whether we like it or not; precisely why they are called compulsory heirs.

And who are our compulsory heirs? These are our descendants, ascendants, and the surviving spouse of the decedent.

Leona Hemsley died leaving behind descendants who were excluded from her last will in favor of her dogs. Could her last will then be invalidated under such grounds had she been residing in the Philippines?

A Supreme Court case provides the answer.

Audrey and Richard are American citizens residing in the Philippines. They have one adopted child. When Audrey died, she left a will giving everything to Richard. When the will was presented for probate here in our courts, the Will's executor – acting under noble intentions – applied the Philippine law's system of legitimes to distribute Audrey's estate between Richard and the adopted child, since both are considered as compulsory heirs under Philippine laws.

However, when the case reached the Supreme Court, it was ruled that only Richard was entitled to the inheritance since he was the only one instituted by Audrey in her will. The Court explained that “whatever public policy or good customs may be involved in our system of legitimes, Congress has not intended to extend the same to the succession of foreign nationals.” While applying our system of legitimes would certainly be beneficial to the adopted child, our laws recognize the right of Audrey to dispose of her estate based on her national law.

More specifically, our Civil Code refers to the applicability of the national laws of foreign decedents as regards four items: (a) the order of succession; (b) the amount of successional rights; (c) the intrinsic validity of the provisions of the will; and (d) the capacity to succeed.

So going back to Leona Hemsley, had she been a resident of the Philippines, it would have been the national law of the United States of America, specifically the state considered as her domicile of origin that would have governed the successional rights of her heirs. There would have been no problem with the disposition in her will giving the bulk of her estate to her dogs to the detriment of her descendants.

Hence, the dog can have its cake and eat it too.

(Based on G.R. No. 139868, June 8, 2006)