

## THE PRICE IS RIGHT: Reducing Inofficious Donations

In the last article, we discussed what inofficious donations were and when they could be contested. To briefly recap, “inofficiousness” exists when a donation exceeds the legitime reserved to compulsory heirs. The inofficiousness can then be raised and the excess reduced only after the death of the decedent. Any earlier would be premature.

But let’s say the donation was made in 1995...and the death only occurred in 2014. By that time, it’s possible that the donated property has already been sold, or the cash spent. How then would the compulsory heirs be able to get back that portion of the donation which exceeded their legitimes?

Once again, the Supreme Court illustrates the answer for us.

Leoncio has two sons – Eloy (an illegitimate child) and Victor (a legitimate child). Leoncio donated a 32,837 square meter parcel of land to Eloy. This was the only property he owned.

After Leoncio’s death, he was only survived by his two sons. Victor contested the donation claiming that it was inofficious because it infringed upon his legitime.

The trial court sided with Victor. It ruled that the donation was inofficious since Victor was entitled to at least 10,940 square meters of the land which it awarded to Victor.

The Supreme Court agreed with the trial court that the donation was inofficious. However, it clarified that in reducing inofficious donations, what is important to consider is the *value* of the property at the time the donation was made. It is this *value* that is subject to redistribution among the compulsory heirs, not the property itself. It was therefore a mistake to reduce the donation by awarding a portion of the land to Victor.

Our laws provide that, based on *value*, Victor may get from Eloy: a) equivalent property; b) cash; or c) some other property to be sold at public auction. But Victor cannot insist on getting a piece of the donated land. Being inofficious did not prevent the donation from taking effect. For all intents and purposes, the land had already been validly transferred to Eloy.

Of course, if Eloy is agreeable to giving back a piece of the land instead of paying in cash then there is nothing stopping them from doing that instead.

Consequently, it is of no moment if several years pass before a donation could be rightfully contested for being inofficious upon the death of the donor. The law is there to prevent the compulsory heirs from getting an empty bag after the long wait.

*(Based on G.R. No. 112483, October 8, 1999)*