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For Publication

**IN THE SUPERIOR COURT FOR THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

IN RE THE ESTATE OF:

**ANTONIA MANGLONA IGLECIAS,
Deceased.**

IN RE THE ESTATE OF:

**CRESENCIO PANGELINAN MANGLONA
Deceased.**

CIVIL ACTION NO. 05-0141 D

CIVIL ACTION NO. 05-0142 D

**FINDINGS OF FACT AND
CONCLUSIONS
OF LAW AFTER HEARING ON VELMA
IGLECIAS’S HEIRSHIP CLAIM**

In re Antonia Manglona Iglecias, Civ. Action No. 05-141 D, concerns the right of the claimant, Velma Lee Iglecias (“Velma”), to inherit from the estate of Antonia Manglona Iglecias (hereafter referred to as “Tan Antonia”) through a specific bequest made during an alleged partida,¹ or, by virtue of Velma’s status as a child allegedly adopted through the Chamorro custom of “poksai.”² Tan Antonia and her husband Anselmo Iglecias (hereafter referred to as “Tun Anselmo”) were the parents of Velma’s birth mother, also named Antonia Iglecias (“Antonia”) as well as the caretakers of Velma throughout many years of her early childhood.

In re Cresencio Pangelinan Manglona, Civ. Action No. 05-142 D, consolidated with the former case, also concerns Velma’s right to inherit as a “pineksai.” Cresencio Pangelinan

¹ A “partida” is a Chamorro custom that occurs when the father calls his family together and outlines the division of property among his children. *In re Estate of Barcinas*, 4 N.M.I. 149, 152 n.4 (1994).

² “Poksai” is a Chamorro custom involving the raising or nurturing of a child (called a “pineksai”) by an adult or adults other than the child’s biological parents. *In re Estate of Ayuyu*, 1996 MP 19, ¶5, 5 N.M.I. 31, 32.

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Manglona, the father of Tan Antonia, died intestate before 1960. *In re Antonia Manglona Iglecias*, Civ. Action No. 05-141 D, Letters of Administration, at 1.

In an August 30, 2005 evidentiary hearing before this Court, attorneys Lillian A. Tenorio, Esq., and Robert T. Torres, Esq., appeared on behalf of Velma. Attorney Reynaldo Yana, Esq., appeared on behalf of the administratrix of both estates, Carmen Iglecias Lizama. Mr. Yana testified that his client took no position on the matter. Transcript of Proceedings of the Evidentiary Hearing, filed October 11, 2005 (hereafter, "Transcript"), p. 11, ll.11, 14, 15.

The Court, after reviewing all of the evidence in this case, and in consideration of the testimony of the witnesses called, documentary evidence submitted, and the briefs and arguments of counsel, now enters these Findings of Fact and Conclusions of Law, which shall serve as final judgment in this matter.

FINDINGS OF FACT

1. Velma was born to Antonia Iglecias, daughter of Tan Antonia, in April 1976.
2. After her birth in April 1976, Velma was brought to the home of her grandparents Tun Anselmo and Tan Antonia, where she lived until 1989 or 1990. Eighteen years old and unwed, Antonia was living at her parents' home in Chalan Kanoa, Saipan at the time. (Tr. at p. 22, ll. 23-25; p. 25, ll. 18-25; p. 26, ll. 1-15).
3. Soon after Velma's birth, Antonia began working and left Velma in the care of Tan Antonia. Two years later, Antonia left Saipan to live in Guam. She left Velma with her parents and told them she would return for the baby when she had settled in Guam. (Tr. at p. 26, ll. 17-25; p. 27, ll. 1-25; p. 28, ll. 1-16).
4. Tun Anselmo and Tan Antonia supported and cared for Velma while Antonia was in Guam. (Tr. at p. 28, ll. 20-25; p. 29, ll. 1-5; p. 31, ll. 11-25; p. 32, ll. 1-14; p. 55, ll. 8-25).

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5. After about two years, Antonia returned to Saipan to retrieve bring Velma. However, upon Tun Anselmo’s insistence, Antonia agreed that Velma would remain in the Chalan Kanoa household. Antonia returned to Guam without Velma. (Tr. at p. 29, ll. 1-29; p. 30, ll. 1-25; p. 31, ll. 1-10).

6. Velma stated that her grandparents called her “hagan-niha.” (Tr. at p. 52, ll. 6-7).

7. Around April 1985, Tun Anselmo and Tan Antonia applied to receive benefits from the Northern Marianas Social Security office (“NM Social Security”) by claiming that Velma was their customarily adopted child. This benefit program was established and made available to retirees under CNMI law. (Tr. at p. 32, ll. 15-25; p. 33, ll. 1-7; p. 46, ll. 11-25; p. 47, ll. 1-5; p. 65, ll. 3-25; pp. 66-67; p. 68, ll. 7-25; pp. 69-73; p. 75, l. 25, ll. 1-6).

8. Antonia was aware that her parents had applied for dependent benefits on behalf of Velma. Tun Anselmo told Antonia that it would be in Velma’s best interest, as the benefit was something that he could give her at the time. (Tr. at p. 32, ll. 15-25; p. 33, ll. 1-7; p. 46, ll. 11-25; p. 47, ll. 1-5).

9. Julita Villagomez, the only Chamorro-speaking NM Social Security employee, interviewed Tun Anselmo, Tan Antonia, and one of Tan Antonia’s daughters (Matilde I. Celis) for the purpose of determining whether Velma was eligible for benefits as a customarily adopted child. After the interview and the questionnaires were completed, the employee wrote a summary report on the findings and recommended that Velma’s grandparents be eligible for social security benefits. (Tr. at p. 65, ll. 3-14, 25; pp. 66-74; *see also* Claimant’s Exs. 2, 3, and 4).

10. Based on Ms. Villagomez’s interviews, report and recommendation, NM Social Security approved Tun Anselmo and Tan Antonia’s claim for Velma as their customarily adopted child and issued benefits to the couple. (Tr. at p. 74, ll. 8- 25).

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11. Around 1989, Tun Anselmo decided that Velma should go to school in Japan. However, Velma wanted to go to school in Guam, and, with Tun Anselmo's blessing, moved to Guam. In Guam, Velma lived with her birth mother Antonia, who by that time had given birth to a son. (Tr. at p. 33, ll. 9-25; p. 34, ll. 1-18; p. 52, ll. 15-25; p. 53, ll.1-23).

12. Tun Anselmo kept in contact with Velma via telephone and visits. In addition, Tun Anselmo gave Antonia and Velma substantial support, which helped pay for Velma's school tuition, airline tickets, and living expenses. (Tr. at p. 34, ll. 19-25; p. 35-37; p. 38, ll. 1-3; p. 54, ll. 7-25).

13. On Thanksgiving Day in 1990, Tun Anselmo called a family meeting about the disposition of family property. Velma was still in Guam attending school, (Camacho Dep. at p. 17, ll. 12-25; p. 18, ll. 1, 3-6, 8-24; p. 19, ll. 2-8, 24-25; p. 20, ll. 1-7, 9-20, 23-25).

14. Andresina I. Benavente and Matilde I. Celis (natural daughters of Tun Anselmo), Anselmo Junior (natural son), Antonio S. Camacho and Guillermo M. Benavente (sons-in-law), Tan Antonia, and Judge Alexander Castro attended the meeting. After Tun Anselmo spoke about how the family property would be distributed, no one raised any question or objection. (Camacho Dep. at p. 21, ll. 17-21, 24-25; p. 22, ll. 2-7, 11-14, 17, 19; p. 23, ll. 19-25; p. 24, ll. 1-2, 16-25; p. 25, ll. 3-4, 6-8, 10-11, 14-25; p. 26, ll. 6-25; p. 27, ll. 1-11).

15. The meeting was later memorialized in a document entitled "Iglecias Family Meeting" that was signed by Andresina, Matilde, Anselmo Junior, Antonio, and Guillermo. Tun Anselmo did not sign the document. (Camacho Dep. at p. 29, ll. 1-8, 10-16; p. 30, ll. 3, 8-16, 19-25; p. 31, ll. 2-4, 7-13, 15-17, 19-25; p. 32; *see also* Camacho Dep. Claimant's Exhibit 1.)

16. The document states as follows:

The land in Chalan Kanoa where his [Tun Anselmo's] house is situated is for Velma Iglecias, the female child he and our mother/mother-in-law raised ("poksai"). The transfer shall take effect upon his and our mother's mother-in-law's death and the child's reaching the age of 18 years. If they both die and the child has not attained

1.
2. the age of 18 years, our brother/brother-in-law, Anselmo M. Iglecias, shall look after
3. and maintain the house for her (the child).

4. 17. Neither Velma nor Antonia attended the family meeting in which Tun Anselmo
5. discussed the distribution of his property. Antonia states that before and during the meeting,
6. members of the family expressed that Tun Anselmo had an intention to give the Chalan Kanoa
7. house to Velma. (Tr. at p. 41.)

8. 18. In 1992, Tun Anselmo requested that Velma return to Saipan, as he had become very
9. ill. Velma returned to Saipan and Antonia followed a month later. When Velma and Antonia
10. returned to Saipan, they stayed in the adjoining house of Antonia's sister. (Tr. at p. 44, ll. 11-13.)
11. Velma spent a significant amount of time with Tun Anselmo and Tan Antonia in their part of the
12. home. (Tr. at p. 38, ll. 4-25; p. 39, ll. 1-9; 58, ll. 1-3).

13. 19. In December 1992, shortly after Velma's return to Saipan, Tun Anselmo died.

14. 20. The night before he died, Antonia and her siblings Anselmo and Carmen attended a
15. meeting with Tun Anselmo and Tan Antonia. Antonia states that Tun Anselmo expressed his
16. discontent that Velma did not live in his household (also known as "the extension of the Chalan
17. Kanoa house") upon her return. He announced his intention to revoke the bequest to Velma of the
18. Chalan Kanoa house. (Tr. at 43.)

19.
20. Ms. Tenorio: "You said that your father indicated—said that he was going to take away the
21. Chalan Kanoa property from Velma?"

22. Antonia: "Yes."

23. Ms. Tenorio: "And did he actually say that he was taking away property from her that
24. night?"

25. Antonia: "Ah, yes"

26. (Tr. at p. 43, l. 25; p. 44, l. 16.)

27. 21. Antonia testified that she didn't think he meant what he said. (Tr. at p. 44, ll. 18-19.)
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22. Antonia and her siblings, particularly Carmen, cared for their mother after their father passed away. (Tr. at p. 39, ll. 19-23)

23. After Tun Anselmo’s death, Tan Antonia continued to live in the same household. Eventually she moved into the adjoining house (considered the main portion of the Chalan Kanoa house) with Velma and Antonia, Antonia’s son, Antonia’s son’s girlfriend, and Antonia’s son’s girlfriend’s baby. Tan Antonia’s daughters and son Thomas and Velma helped to care for Tan Antonia until she died in 2000. (Tr. at p. 39, ll. 19-25; p. 40, l. 1).

24. Following the death of Tan Antonia, Antonia, Velma, Antonia’s son (and his girlfriend and baby) occupied the main portion of the Chalan Kanoa house. (Tr. at p. 48, ll. 13-20).

25. Thomas Iglecias, son of Tan Antonia and Tun Anselmo, is presently occupying the extension part of the Chalan Kanoa house, where Tun Anselmo lived. He moved into the extension after his father died. (Tr. at p. 82, ll. 20-25; p. 83, ll. 20-25; p. 84, ll. 1-13; p. 85, ll. 1-19).

CONCLUSIONS OF LAW

1. Velma’s Opposition to the Petition for Letters of Administration, Listing of Surviving Children, and Heirship Claim in the *Manglona* case does not specify the property interest that Velma claims. At the August 30, 2005 hearing, Velma’s lawyers agreed to brief Velma’s position on the extent of the claimed inheritance. Tr. at p. 92, ll. 21-23. Velma’s Proposed Findings of Fact and Conclusions of Law asserts that the hearing was “an evidentiary hearing on Velma’s heirship claim as a customary adopted child and not on the distribution of the Chalan Kanoa property.” However, much of the hearing concerned Velma’s right to the family home in Chalan Kanoa, these conclusions will focus on the issue of inheritance by virtue of poksai as well as through a partida or specific oral conveyance.

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Inheritance via Poksai

2. During and prior to the hearing, Velma produced substantial evidence regarding her status as poksai. In particular, Tun Anselmo made the decisions regarding Velma’s education, residence, and discipline, even after she lived with her natural mother in Guam. Further, Tun Anselmo claimed social security benefits for Velma. However, aside from referring to *In re Estate of Macaranas*, 2003 MP 11, ¶ 7, 6 N.M.I. 571 (Tr. at p. 6), Velma produced no evidence that Chamorro custom grants pineksai the full inheritance rights of a customarily adopted or a natural child.

3. Ms. Villagomez, the social security administrator, provided the only testimony regarding the nature of poksai. Ms. Villagomez stated that customary adoption was *similar* to poksai. (Tr. at p. 68, ll. 5-6). As discussed above, Ms. Villagomez recommended that Velma be regarded as customarily adopted for purposes of Social Security administration. (Tr. at p. 71, ll. 19-21). However, this evidence alone is insufficient to prove that Velma was, in fact, customarily adopted by Tan Antonia and Tun Anselmo.

4. Velma relies on the *Macaranas* case for the proposition that children raised via poksai inherit in the same manner as customarily adopted children. The *Macaranas* court, while noting that it had never dealt with “the specific question of whether a pineksai raised as a natural and legitimate child may inherit as a customary adopted child under Commonwealth intestacy statutes,” found that the litigant before it *was* entitled to inherit as a customarily adopted child. *Id.* at ¶ 11.

5. This Court is well aware of the provision in the Commonwealth Code for treating customarily adopted children as the “children” of their adoptive parent for purposes of intestate succession. Section 2918(a) of Title 8 reads: “[F]or the purposes of intestate succession . . . an

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adopted person (including an adoption pursuant to custom) is the child of the adopting parent.”
However, this Court is not convinced that evidence of poksai status suffices to prove a customary adoption.

6. This much was made clear during the evidentiary hearing.

Mr. Torres: [J]ust being poksai doesn’t mean you get all of the estate.
The Court: Right.

* * *

Mr. Torres: [O]nly if the decedent communicates during the lifetime an intent to grant something, right?

7. The natural desire to care for and protect a child (such as Velma) should not be a license for the child-beneficiary to take from the caretaker’s estate. Interpreting *Macaranas* to grant such a license could set forth a dangerous precedent that would ultimately discourage poksai. A would-be caretaker (and his or her natural children) may shy away from caring for a would-be pineksai, for fear that this care would necessarily detract from the inheritance of natural children. *Macaranas* should be narrowly interpreted to consider whether the facts of a given case warrant treatment of the pineksai as a customarily adopted child for inheritance purposes.

8. *In re Estate of Ayuyu*, 1996 MP 19, 5 N.M.I. 31 lends support to such a case-by-case interpretation. As the *Macaranas* Court noted, the *Ayuyu* case was the first step toward recognizing that “there may be different types of poksai, some of which involve raising a pineksai as a natural and legitimate child, and some of which may involve raising a pineksai in some other way.” 2003 MP 11, ¶ 16.

9. *In re Estate of Cabrera*, 2 N.M.I. 195 (1991) provides another example of the need to carefully distinguish between the various mechanisms of inheritance. While Velma sites *Cabrera* as a basis for treating pineksai as natural children for inheritance purposes (*see* Claimant’s Proposed Findings at p. 13), the facts of that case suggest a slightly different manner of inheritance. The

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Cabrera pineksai received land from the decedent’s estate not because of their status as pineksai, but because the decedent “specifically designated to each of them a share in his property.” 2 N.M.I. at 209. In the case of one pineksai, the decedent executed a deed to the land in her name so that she could obtain a house loan. For other pineksai, the decedent designated particular parcels through a *partida*. The pineksai did not inherit property simply because of their status as pineksai.

10. While there is no need for expert testimony to establish what is already embodied in 8 CMC § 2918(a) (the right of customarily adopted children to inherit as natural children),³ there is a need for testimony as to whether one’s claimed status as a pineksai provides for the inheritance rights of a customarily adopted child. Without such testimony, this Court is unable to decide whether Velma is entitled to a share of the estate simply because of her claimed status as a pineksai.

Inheritance via Partida

11. Unlike poksai, *partida* is specifically recognized under the Probate Code. Section 2302a of Title 8 states that, “Nothing in this chapter shall prevent the making of a will or *partida* in accordance with the historical traditions of the Northern Mariana Islands, be it Chamorro or Carolinian custom.” Accordingly, this Court has no difficulty in finding that, by virtue of a *partida*, a pineksai or any other person of Northern Marianas descent may be a beneficiary of family land.

12. In *Cabrera*, the litigants relied on a frequently cited study by Alexander Spoehr⁴ to explain the basis of inheritance via the *partida*. The study found that the *partida* made “prior to the father’s death is a traditionally sanctioned act preliminary to the inheritance of *land* by the heirs” (emphasis added). Spoehr at 136. Chamorro custom also dictates that the family land “should be divided at each generation.” *Id.* at 137. The division may include those who are not natural children.

³ The *Macaranas* court noted, “There was no reason for the Grandchildren to present expert testimony establishing . . . once a customary adoption . . . has been proven, the customary adopted children are entitled to inherit from the decedent’s estate as the decedent’s issue.” 2003 MP 11 at ¶17.

⁴ ALEXANDER SPOEHR, SAIPAN: THE ETHNOLOGY OF A WAR-DEVASTATED ISLAND (Chicago Natural History Museum, 1954).

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Id. In accord with this study, the *Cabrera* court upheld a partida in which the decedent distributed his property among “his natural children and his ‘pineksai.’” 2 N.M.I. 197, 207.

13. After reviewing *Cabrera* and numerous other cases, this Court has not uncovered a single case in which a partida was used to convey something other than land. The partida is not the customary method for conveying the family home. As Spoehr notes: “Another revered principle of Chamorro custom is the right of the parent to live in her ‘family home’ until she dies. . . After [the surviving parent’s] death, Chamorros say that the house should be inherited by the child who has lived the longest with the parents in their old age and cared for them most.” *Id.* at 143. *See also Diaz v. Taylor*, No. 97-0879D (N.M.I. Super. Ct. Dec. 23, 1997) (Opinion at p.5): “The daughter or son who stays with the parents and cares for them receives the family home as a reward in most instances.” Velma has not put forth sufficient evidence to show that she meets these qualifications.

14. Further, “the Chamorro method of transferring the family home to a daughter or son is never more than through an oral conveyance,⁵ revocable at any time, for as long as the grantor is alive.” *Diaz* at 5. Thus, even if Tun Anselmo properly conveyed the family home through oral conveyance during a partida, there is evidence to show that this conveyance was revoked the night before he died.

15. Given that Velma was not the child who stayed with Tun Anselmo and Tan Antonia throughout their old age and death, and given that any oral conveyance of the home appears to have

⁵ Because Velma’s and Antonia’s statements regarding Tun Anselmo’s oral conveyances of the family home are hearsay, they must fall under a hearsay exception to be admissible. (The written record of the alleged partida, which was not signed by Tun Anselmo, is also hearsay.) The statements must also fall into a statute of frauds exception to be admissible. In *Guerrero v. Guerrero*, 2 N.M.I. 61 (1991) at 68-69, the NMI Supreme Court held that Com.R.Evid. 803(19) allows for the admission of hearsay testimony to prove title to land. Com.R.Evid. 803(19) requires that the matter be proved by reputation 1) among family members, 2) among associates, or 3) in the community. In the instant case, Com.R.Evid. 803(19) applies, since the alleged partida is a matter of family history, and there is reputation in the family regarding what was allegedly distributed.

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been revoked, this Court cannot find that Velma is entitled to the family home by virtue of Chamorro custom.

CONCLUSION

Based on the foregoing, the Court hereby DENIES Velma's claim for inheritance from the estates Antonia Manglona Iglecias and Cresencio Pangelinan Manglona.

SO ORDERED this 15th day of December 2005.

/s/ _____
Juan T. Lizama
Associate Judge, Superior Court