

**In the Matter of the Estate of  
Martin Pangelinan Villagomez**

**Civil Action No. 85-561  
Commonwealth Trial Court**

**Decided October 8, 1986**

**1. Deeds and Conveyances -  
Homesteads**

Agricultural homestead issued to person on July 9, 1976 pursuant to the homesteading program then in effect, i.e. prior to the NMI Constitution, is not subject to the new laws, rules and regulations subsequently enacted or promulgated under the Constitution with regard to homesteads.

**2. Statutes - Retroactivity**

In the absence of any provision in statute indicating it was to apply retroactively, the general rule is that statutes and laws have prospective application.

**3. Deeds and Conveyances -  
Homesteads**

A homesteader under the pre-NMI Constitution homestead program, upon receiving title to homestead property, may transfer the same by sale and where homestead permit was granted prior to the effective date of the Constitution, but homestead matured after that date, the Constitutional transfer restriction does not apply to the lot.



decedents' is that situated on Lot 002 F 41, San Jose, Saipan, which appears to be exempt property, but which is also used as security for two of the loans sought to be satisfied. This property has an appraised value of \$45,000.00.

Another property is Lot 002 H 68, situated at Susupe, Saipan having an appraised value of \$4,000.00.

Still another property is Lot 002 T 24 at San Jose, Tinian, with an appraised value of \$13,000.00.

Finally, a fourth parcel, Lot 251 T 01, is an agricultural homestead plot having an area of 25,506 square meters and appraised at \$70,000.00.

Since Lot 002 F 41 appears to be exempt, unless subsequently foreclosed, the court will not authorize the sale of this property. Also, since Lot 002 H 68 and Lot 002 T 24, if sold, will not together bring an amount anywhere near to satisfy the various outstanding claims, these parcels also will not be put up for sale.

The only lot that appears susceptible to sale for satisfaction of the various claims appear to be agricultural lot 251 T 01, appraised at \$70,000. An apparent problem noted at the hearing, however, relates to the fact that this specific property is acquired under the agricultural homesteading program and appears not amenable to transfer by sale.

A close review of the constitutional restriction on the transfer of homestead property for a period of ten (10) years after acquisition from the Marianas Public Land Corporation (MPLC) shows that lot 251 T 01 is not affected by

such restriction. See Constitution of the Northern Mariana Islands, Article XI, Section 5(a) and the Analysis thereof.

The Constitution became effective January 9, 1978. Article XI established and created the Marianas Public Land Corporation. Section 5 thereof sets out the fundamental policies to be followed by MPLC. Among those policies are the restrictions on the transfer (by sale) of property acquired through the homestead program, "if a homestead program is continued by the legislature." See Analysis of the Constitution, pp. 152-155, analyzing Section 5(a) of Article XI.

[1] The land in question, Lot 051 T 01, was an agricultural homestead issued to the decedent Martin P. Villagomez on July 9, 1976, by then Resident Commissioner Erwin D. Canham, under then existing agricultural homesteading program rules and regulations.

This particular agricultural homestead was issued pursuant to the homesteading program then in effect, i.e. prior to the Constitution. It is not a homestead issued pursuant to the new laws, rules and regulations subsequently enacted or promulgated under the Constitution.

[2] Section 5(a) of the fundamental policies to be followed by MPLC and the restrictions thereunder appear to apply to homesteads under the homestead programs continued by the Legislature. See Analysis of the Constitution with respect to Article XI, Section 5(a). Nowhere in Article XI of the Constitution could one find language, express or implied, that the 10-year no transfer restriction apply retroactively to

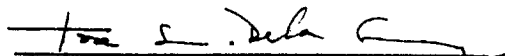
property homesteaded under the pre-Constitution homesteading program. In the absence of any such provision or intention, the general rule is that statutes and laws have prospective application.

Here, the homesteader Martin P. Villagomez was entitled to receive a deed from the Government after the homestead matured. See Cruz vs. Johnston, 6 T.T.R. 354 (Marianas, 1973). At the time it matured (1966), however, it so happened that title to all Commonwealth lands had by then vested in MPLC which, in effect, had the ministerial obligation of performing the task of transferring title to the homesteader. This it did, but not pursuant to any new homestead program continued by the legislature.

[3] The court, therefore, concludes that the 10-year no transfer restriction under Section 5(a) of Article XI of the Constitution do not apply to Lot 251 T 01. Further, it is clear that, under the pre-Constitution homestead program, a homesteader upon receiving title to homestead property may transfer the same by sale. Ilisari vs. Taroliman, 7 T.T.R. 71, 75 (Marianas, 1974), affirmed 7 T.T.R. 391, 394 (Marianas, 1976).

An order permitting the sale of Lot 251 T 01 shall issue with certain conditions imposed.

Dated at Saipan, CM, this 7th day of October, 1986.

  
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Jose S. Dela Cruz, Associate Judge