



By Order of the Court, Judge Joseph N. Camacho

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**FOR PUBLICATION**



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

**THE ESTATE OF** ) **CIVIL ACTION NO. 76-0128**  
)  
**VICENTE REBUENOG,<sup>1</sup>** ) **ORDER DENYING MOTION TO**  
) **REOPEN FORTY-YEAR-OLD PROBATE**  
**Deceased.** ) **AS THERE ARE OTHER MORE**  
) **SUITABLE AND APPROPRIATE LEGAL**  
) **MECHANISMS TO FORCE A**  
) **PARTITION OF AN UNDIVIDED**  
) **PROPERTY INTEREST AMONG**  
) **LANDOWNERS**  
)  
)

**I. INTRODUCTION**

This matter came before the Court on February 8, 2018 in Courtroom 220A on Petitioner Ignacia T. Saures’ Motion to Reopen Case. Attorney Rosemond B. Santos appeared for and with Petitioner Saures. Attorney Charity Hodson appeared for and with Jose R. Lifoifoi, heir of Adela Lifoifoi. Juan Rebuenog and Jose Rebuenog, heirs of Pedro Rebuenog also appeared to voice their objection to Petitioner’s Motion to Reopen Case.

Based on a review of the filings, oral arguments, and applicable law, the Court makes the following order.

**II. BACKGROUND**

On August 18, 1978, a Judgment of Distribution was entered in this matter, finding Ignacia T. Pua (now Ignacia T. Saures) is an heir of Vicente Rebuenog and entitled to a one-fifth share of

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<sup>1</sup> The prior filings in this case are captioned as “In the Matter of Pedro S. Rebuenog for the Heirs of Vicente Rebuenog, Father.” The Probate Court is now captioning this case as “The Estate of Vicente Rebuenog” as an effort to comply with the 2017 revisions to the Northern Mariana Islands Supreme Court Style Manual.

1 the Estate of Vicente Rebuénog. The August 18, 1978 Judgment of Distribution further found that  
2 Adela Lifoifoi, Pedro Rebuénog,<sup>2</sup> Teodoro Selepeo, and Antonia Kani are natural children of  
3 Vicente Rebuénog, each entitled to a one-fifth share in the estate of Vicente Rebuénog. The  
4 August 18, 1978 Judgment of Distribution, among other distributions, distributed Lot No. 1769,  
5 Garapan, Saipan, containing an area of 1/3 hectares, more or less, in equal and undivided shares to  
6 Ignacia T. Saures, Adela Lifoifoi, Pedro Rebuénog, Teodoro Selepeo, and Antonia Kani. Although  
7 each of the heirs received an equal 1/5 share of the estate, Petitioner represents to the court that “no  
8 efforts were made to divide and equally partition Lot No. 1769...among the five (5) heirs.” Mot. to  
9 Reopen at 2. The distribution and partition of the estate amongst the heirs following the closing of  
10 the probate case is a “decades-long disagreement.” Mot. to Reopen at 4.

11 On October 19, 2017, Petitioner Saures moved this Court to reopen this matter for the  
12 purpose of amending the Judgment of Distribution to direct an equal partitioning of Lot No. 1769  
13 among the five heirs. Jose R. Lifoifoi, heir of Adela Lifoifoi filed his Opposition to Motion to  
14 Reopen Case on January 31, 2018. The Court heard arguments on the Motion to Reopen Case on  
15 February 8, 2018. In addition to hearing arguments from Petitioner and Jose R. Lifoifoi, the Court  
16 also heard objections to the Motion to Reopen Case from Juan Rebuénog and Jose Rebuénog. The  
17 parties filed their proposed orders on March 9, 2018.

18 The proposed order from Jose R. Lifoifoi included as an attachment a Declaration of Heirs  
19 in Support of Opposition to Reopen, signed by Fermin S. Lifoifoi, Rosalia L. Marquez, Anthony  
20 R. Camacho, Juan F. Rebuénog, Fabiana Kani, Enrique Rebuénog, Vicente F. Rebuénog, Celina  
21 Kani, Rosana Spizzirri, Jose P. Kani, and Carmen Rebuénog joining Jose R. Lifoifoi’s opposition.

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<sup>2</sup> Pedro Rebuénog was deceased at the time of the August 18, 1978 judgment.

1 **III. DISCUSSION**

2 Petitioner’s Motion to Reopen Probate seeks to partition Lot No. 1769, allegedly because  
3 the heirs have not come to an agreement on how the property should be partitioned. A judgment  
4 was entered in this case on August 18, 1978, nearly forty years ago, distributing the estate and  
5 closing the probate proceeding. *In re Estate of Rebueng*, Civ. No. 76-0128 (Aug. 18, 1978)  
6 (Judgment of Distribution).

7 The Commonwealth Rules of Probate Procedures and the relevant Commonwealth Code  
8 sections do not explicitly allow for closed probates to be reopened. However, the Probate Court  
9 has broad discretion in probate proceedings to entertain any relevant matters that may come before  
10 it in a probate matter, as follows:

- 11 (a) To the full extent permitted by the Northern Mariana Islands Constitution and the  
12 Schedule on Transitional Matters, the Commonwealth Trial Court shall have  
13 jurisdiction over all subject matter relating to estates of decedents, including  
14 construction of wills and determination of heirs and successors of decedents.  
15 (b) The Commonwealth Trial Court shall have full power to make orders, judgments,  
16 and decrees and take all other action necessary and proper to administer justice in the  
17 matters which come before it.

18 8 CMC § 2202. The Commonwealth Rules of Probate Procedures are to be “used in conjunction  
19 with the [Commonwealth] Code and are designed to provide a procedure for the efficient probate  
20 of an estate with notice to all interested persons so that upon closing of the estate a fair and proper  
21 distribution according to law is affected.” NMI R. Pro. 1. Despite this flexibility, “probate  
22 judgments are actually afforded a greater degree of finality than regular judgments.” *In re Estate of*  
23 *Hillblom*, 2011 MP 5 ¶ 14 (citing *Stevens v. Torregano*, 192 Cal. App. 2d 105, 114 (Cal. Ct. App.  
24 1997)) (addressing late claims on a probated estate).

25 Petitioner relies on *In re Estate of Chang Soo Lee* for the proposition that the Probate Court  
26 has the power to reopen probate cases, despite the lack of written provisions in the Commonwealth  
27 Rules of Probate Procedure and the Commonwealth Code allowing for the reopening of probates.

1 Mot. to Reopen at 3-4. In *In re Estate of Chang Soo Lee*, the former administratrix moved to  
2 reopen the probate eight years after final distribution “to include and distribute *recently discovered*  
3 leasehold interests in two real estate properties.” Civ. No. 05-0498-CV (Aug. 20,2015) (Order  
4 Granting Motion to Reopen Case at 1) (hereinafter “*Chang Soo Lee Order*”) (emphasis added). The  
5 reopening motion in *Chang Soo Lee* was unopposed.

6 In *Chang Soo Lee*, the Probate Court found that the power to reopen probates comes from  
7 the Court’s “general powers,” holding that “a court may depart from a previous ruling if it was (1)  
8 clearly erroneous and (2) would work a manifest injustice.” *Chang Soo Lee Order* at 2 (quoting *In*  
9 *re Estate of Roberto*, 2010 MP 7 ¶ 18). The Probate Court looked to the Uniform Probate Code,  
10 which the Commonwealth Rules of Probate Procedure are modeled on, noting that under the  
11 Uniform Probate Code, “a petitioner may reopen the probate *at any time* after discharge of the  
12 administrator or one year after filing of a closing statement.” *Id.* (citing *In re Estate of Reyes*, 2012  
13 MP 13 ¶ 17; UPC § 3-1008).

14 The Court finds the facts in *Chang Soo Lee* to be easily distinguishable from those in the  
15 present case. In *Chang Soo Lee*, the former administratrix was unopposed when she moved to  
16 reopen the estate eight years after its closure because of *recently discovered* assets that had been  
17 omitted from the final distribution. *Chang Soo Lee Order* at 1. Here, the Petitioner seeks to reopen  
18 a probate that has been closed for nearly *forty years* based upon a dispute over distribution that is,  
19 according to her, a “*decades-long* disagreement,” and her motion is opposed by descendants of the  
20 other original heirs. Mot. to Reopen at 4 (emphasis added); Opp. at 1-2.

21 The Petitioner asks the Court to reopen the probate to revisit the original ruling of  
22 undivided shares and “recognize [Petitioner’s] partitioned share of [the] estate, [and] to delineate  
23 the heirs’ respective 1/5 share of said estate.” Mot. to Reopen at 3. Although the Probate Court has  
24 all the necessary and proper power and authority to reopen closed probates in justifiable

1 circumstances, this is not one of those justifiable circumstances. At the time of final distribution  
2 there were no objections to the distribution of the property into undivided interests among the  
3 heirs. Although the Probate Court may reopen probates for numerous justifiable reasons and  
4 circumstances such as, in *Chang Soo Lee*, correcting inadvertent and unintentional omissions of  
5 property from the estate.

6 The Probate Court balances the justifiable circumstances that will or should reopen<sup>3</sup> a  
7 probate matter—such as but not limited to, property that was unintentionally omitted from the  
8 estate or to allow quiet title actions where property of the estate was misidentified and mistakenly  
9 distributed. In the present case, there is no evidence that any assets were inadvertently or  
10 unintentionally omitted from the estate, nor were there any mistakes made in the probating of the  
11 estate.

12 “[P]robate judgments are actually afforded a greater degree of finality than regular  
13 judgments.” *In re Estate of Hillblom*, 2011 MP 5 ¶ 14 (citing *Stevens v. Torregano*, 192 Cal. App.  
14 2d 105, 114 (Cal. Ct. App. 1997)). Thus, Probate Court decisions should have a sense of finality,  
15 so family members and their descendants shall have confidence of the ownership of the land.

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17 <sup>3</sup> The following CNMI cases mention the reopening of probate in dicta but do not substantively address the issue: *In the*  
18 *Matter of the Estate of Camacho*, 2012 MP 8 ¶ 3-4 (Stating in its recitation of procedural history that the petitioner  
19 moved to reopen an estate in order to bring a quiet title lawsuit on behalf of the estate because the Order for Final  
20 Distribution had misidentified some of the decedent’s real property); *Guerrero v. Quitugua*, 6 NMI 67, 70 (Where  
21 appellant appealed a Decree of Final Distribution but her claim was based on ownership of property and not as an heir  
22 to the estate, the Supreme Court noted that the proper procedure to claim ownership of the land was to reopen the three  
23 estates regarding the disputed title under the theory that the judgments were erroneous, which would allow a procedure  
24 to have them set aside or reversed under Restatement (Second) of Judgments § 17 cmt. D (1980)); *In re Estate of*  
*Camacho*, 4 NMI 22, 24 (1993) (Stating in its recitation of procedural history that a party filed a motion to reopen an  
estate three years after it was closed in order to include property in the estate which that party believed belonged to the  
estate and required distribution); *In re Estate of Hillblom*, 2011 MP 5 ¶ 23 (Affirming the Superior Court’s decision to  
deny a motion to reopen a probate case on the basis that res judicata and 8 CMC § 2702 barred claims of heirship after  
the estate had been closed); *In re the Estate of Maria Cepeda Rios*, 2008 MP 5 ¶ 5 (Stating in its recitation of procedural  
history that the parties had stipulated to reopen the case based on a civil suit to quiet title against the estate); *Camacho*  
*v. Camacho*, Civ. No. 05-0545 (NMI Super. Ct. June 19, 2006) (Amended Order Partially Denying D.’s Mot. to  
Dismiss at 6) (Stating in dicta that if it is later discovered that some portion of an estate is not probated, the heirs may  
move to reopen the estate within a reasonable time after the discovery of the omitted portion).

1 Further, and equally important, there are other more suitable and appropriate legal  
2 mechanisms available to the Petitioner to force partition of an undivided property among  
3 landowners that do not require reopening a probate that was closed forty-years ago. Reopening a  
4 closed probate in essence requires the Court to reach back in time and disturb a decision that has  
5 hardened over the years, a court decision that families, businesses and commercial entities have  
6 relied upon. Reopening a closed probate is no small matter. The further back in time the probate  
7 was closed and finalized, the higher the probability of disruption to the families, business and  
8 commercial entities' expectations and reliance on the Court's decision.

9 So that it is absolutely clear, the Probate Court has all the necessary and proper power and  
10 authority to reopen a probate when justice requires. However, the Probate Court weighs  
11 Petitioner's request to reopen a probate against the fact that Petitioner has other less drastic legal  
12 mechanisms available. Since Petitioner has other more suitable and appropriate legal mechanisms  
13 available to force partition of an undivided property among landowners that does not require  
14 reopening a probate that was closed forty-years ago, the Court then declines to reopen the probate  
15 and denies Petitioner's Motion to Reopen.

#### 16 IV. CONCLUSION

17 Therefore, for the reasons stated above, the Court **DENIES** Petitioner's Motion to Reopen.

18  
19 **IT IS SO ORDERED** this 8<sup>th</sup> day of August 2018.

20  
21 /s/  
22 **JOSEPH N. CAMACHO**  
23 Associate Judge  
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