



By Order of the Court, Judge Joseph N. Camacho

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FOR PUBLICATION



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

ESTATE OF) CIVIL ACTION NO. 15-0080
ELPIDIA DELA CRUZ NAUTA)
) ORDER DENYING MOTION TO
) TRANSFER PROPERTIES PURSUANT
) TO THE CNMI CONSTITUTION,
) ARTICLE XII, § 2 THAT PROHIBITS A
) NON-NORTHERN MARIANAS
) DESCENT SURVIVING SPOUSE FROM
) INHERITING LAND WHEN DECEDENT
) HAS NORTHERN MARIANAS DESCENT
) CHILDREN WHO CAN OWN LAND
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I. INTRODUCTION

This matter came before the Court on March 1, 2018 in Courtroom 220A on surviving spouse and heir William A. Nauta Sr.’s Declaration of Decedent’s Husband and Petition to Transfer Decedent’s Chalan Piao Estate to Surviving Spouse. Heir Kenneth DLC Nauta (“Kenneth”) was represented by Attorney Brien Sers Nicholas. Administratrix Bernadita Dela Cruz appeared with her counsel, Attorney Rene. C. Holmes. Surviving spouse and heir William A. Nauta Sr. (“William Sr.”) also appeared pro se.

There are three motions currently before the Court: 1. Heir Kenneth DLC Nauta’s Motion for Reconsideration, filed on December 15, 2017; 2. Administratrix’s Motion for Relief from Order, filed on January 3, 2017; Surviving spouse and heir William A. Nauta Sr.’s Petition to Transfer Decedent’s Chalan Piao Estate to Surviving Spouse filed on January 2, 2018. The Court will

1 address each of these motions in separate orders. This order will address William Sr.'s Petition to
2 Transfer Decedent's Chalan Piao Estate to Surviving Spouse.

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

5 II. BACKGROUND

6 Decedent Elpidia Dela Cruz Nauta was a person of Northern Marianas Descent ("NMD").¹
7 Decedent's surviving spouse, William Sr., is a person of non-Northern Marianas Descent ("non-
8 NMD"). Decedent was survived by her three sons, William Jr., Kenneth, and John, who are NMD
9 like their mother.

10 The property at issue are two lots in Chalan Piao, Saipan: Lots 572 and 573 "C" ("Chalan
11 Piao Properties). The Court has twice previously addressed whether William Sr. may inherit an
12 interest in the Chalan Piao Properties. The first of these two orders, issued on December 1, 2017,
13 held that William Sr. was eligible to inherit an interest in the Chalan Piao Property, but that the
14 lease agreement to those properties remained unsigned. *Estate of Nauta*, Civ. No. 15-0080 (NMI
15 Super. Ct. Dec. 1, 2017) (Order Finding Ground Lease Agreement Remains Unsigned as the
16 Special Power of Attorney Limited Agent to Negotiating But Not Accepting on the Behalf of
17 Decedent's Heirs (Chalan Piao Properties)) ("First Chalan Piao Order").

18 The second order regarding the Chalan Piao Properties was the Court's reconsideration of
19 the First Chalan Piao Order, issued on October 5, 2018. *Estate of Nauta*, Civ. No. 15-0080 (NMI
20 Super. Ct. Oct. 5, 2018) (Order Granting Motion to Reconsider Pursuant to CNMI Constitution,
21 Article XII, § 2 That Prohibits Non-Northern Marianas Descent Surviving Spouses from Inheriting
22 Land Decedent has Northern Marianas Descent Children Who Can Own Land (Koblerville and

23
24 ¹ A person of Northern Marianas Descent is a person who "is a citizen of the United States and has at least some degree
of Northern Marianas Chamorro or Northern Marianas Carolinian blood or a combination thereof." NMI Const. art. XII
§ 4. Only persons of Northern Marianas Descent may own real property in the Commonwealth. NMI Const. art. XII § 1.

1 Chalan Piao Properties)) (“Second Chalan Piao Order”).² The Second Chalan Piao Order held that
2 William Sr., as a non-NMD surviving spouse, cannot inherit real property in the Commonwealth,
3 since Decedent is survived by NMD issue who may own land in the Commonwealth. *Id.* at 6-7.

4 William Sr.’s petition, filed January 2, 2018, seeks to have the Chalan Piao Properties
5 transferred to him, the non-NMD surviving spouse. Administratrix filed her opposition on January
6 3, 2018. Kenneth filed his opposition on January 18, 2018.

7 III. DISCUSSION

8 William Sr. moves that the Chalan Piao Properties be transferred to him as the surviving
9 spouse. William Sr. relies on *Estate of Tudela*, 2009 MP 9, for the proposition that a non-NMD
10 surviving spouse may inherit real property in the Commonwealth. Petition at 2-5. In *Tudela*, the
11 non-NMD surviving spouse inherited real property in fee simple; however, decedent in *Tudela* was
12 not survived by issue³ able to own real property in the Commonwealth.

13 In the Second Chalan Piao Order, the Court looked to whether William Sr., as a non-NMD
14 surviving spouse, could inherit real property. Second Chalan Piao Order at 2-7. In doing so, the
15 Court found that William Sr. *cannot* inherit real property from the Decedent, since Decedent is
16 survived by NMD issue who are able to own real property in the Commonwealth. *Id.* In particular,
17 the Commonwealth Constitution states: “[t]he acquisition of permanent and long-term interests in
18 real property in the Commonwealth shall be restricted to persons of Northern Marianas descent.”
19 NMI Const. art. XII § 1. Acquisition “includes sale, lease, gift, *inheritance* or other means.” NMI
20 Const. art. XII § 2 (emphasis added). “A transfer to a *spouse by inheritance* is not an acquisition
21 under this section if the owner dies *without issue* or *with issue not eligible to own land in the*
22 *Northern Mariana Islands.*” *Id.* (emphasis added). Since Decedent is survived by NMD issue who

23 ² The Second Chalan Piao Order also addressed Decedent’s Koblerville real property.

24 ³ Issue is a term of art meaning “lineal descendants of all generations, with the relationship of parent and child at each generation being determined by the definitions of child and parent.” 8 CMC § 2107(q).

1 may own real property in the Commonwealth, William Sr., as the non-NMD surviving spouse, may
2 not inherit an interest in this property. Thus, the Court cannot order any transfer of the Chalan Piao
3 Properties to William Sr.

4 **IV. CONCLUSION**

5 The Commonwealth Constitution, Article XII, Section 2 prohibits a non-NMD surviving
6 spouse from inheriting land when a decedent has NMD issue who can own land.

7 Accordingly, Surviving Spouse and Heir William A. Nauta Sr.'s Petition to Transfer
8 Decedent's Chalan Piao Estate to Surviving Spouse is **DENIED**.

9
10 **IT IS SO ORDERED** this th5 day of October, 2018.

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14 JOSEPH N. CAMACHO
15 Associate Judge
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