

FOR PUBLICATION

APPEAL NO. 02-007-GA

**IN THE SUPREME COURT OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS**

IN THE MATTER OF

ANDRES G. MACARANAS, Deceased

CIVIL ACTION NO. 01-0136D

OPINION

Cite as: In re Macaranas, 2003 MP 11

Argued on February 20, 2003

Decided June 23, 2003

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BEFORE: DEMAPAN, Chief Justice; BELLAS and BORJA, Justices *Pro Tempore*

DEMAPAN, Chief Justice:

¶1 Appellants Catherine (“Catherine”), Emily (“Emily”), Walter (“Walter”), and Andrew (“Andrew”) Macaranas (collectively “Grandchildren”) appeal the trial court’s determination that under the Northern Mariana Islands Probate Law, 8 CMC §§ 2101, *et seq.* (“Probate Law”), they are not entitled to inherit from the estate of Andres G. Macaranas (“Andres”) as customary adopted children. We have jurisdiction pursuant to Article IV, Section 3 of the Constitution of the Commonwealth of the Northern Mariana Islands and 1 CMC § 3102(a). We reverse.

Procedural and Factual History

¶2 The facts in this case are undisputed. The Grandchildren were raised as natural and legitimate children under the Chamorro custom of “poksai”¹ by their natural mother’s parents, Andres and Petra (“Petra”) Macaranas.

¶3 On January 15, 1998, Andres died intestate and without having performed a *partida*² (Petra had died several years earlier). The Grandchildren were excluded from the distribution of Andres’s estate in probate, and brought suit against the estate, claiming that they were entitled to a portion of Andres’s estate as customary adopted children.³

¹ “Poksai” is a traditional Chamorro adoption whereby the customary adopted child is treated “as though the child were a natural and legitimate child” of the adoptive parent. *In re Estate of Cabrera*, 2 N.M.I. 195, 198 n.1 (1991).

² 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).

³ Customary adopted children inherit as a decedent’s “issue” under the Commonwealth intestacy statutes. *See* 8 CMC §§ 2107, 2902, 2918; *see also In re Estate of Rofag*, 2 N.M.I. 18, 26 (1991).

¶4 The trial court concluded that the grandchildren were “pineksai”⁴ who had been raised as natural and legitimate children. Excerpts of Record (E.R.) at 21. The trial court also concluded that although the Probate Law provides that customary adopted children inherit under the Probate Law, the Grandchildren failed to prove that poksai is a customary adoption for probate purposes. Appellants timely appeal.

Issue Presented and Standard of Review

¶5 Did the trial court err in holding that the Grandchildren were not entitled to inherit as customary adopted children? This issue presents a matter of law and is reviewed *de novo*. *In re Estate of Cabrera*, 2 N.M.I. 195, 203 (1991).

Analysis

¶6 The issue in this case is whether pineksai who are raised as natural and legitimate children are customary adopted children for purposes of inheriting under the intestacy statutes, 8 CMC §§ 2901, et seq. We find that they are, and that it was error for the trial court to hold otherwise.

¶7 Under the Probate Law, children who are adopted “pursuant to custom” inherit from their adoptive parent’s estate as would the parent’s natural child (or “issue”). Section 2918(a) of Title 8 of the Commonwealth Code explicitly makes clear that customary adopted children are the “children” of their adoptive parent for purposes of intestate succession: “[i]f, for the purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person: (a) An adopted person (including an adoption pursuant to custom) is the child of

⁴ “‘Pineksai’ means a person who is being raised or has been raised under ‘poksai.’” *In re Estate of Cabrera*, 2 N.M.I. 195, 201 n.2 (1991).

an adopting parent . . .” 8 CMC § 2918(a); *see also* 8 CMC § 2902, 8 CMC § 2107, *In re Estate of Rofag*, 2 N.M.I. 18, 26 (1991).

¶8 In this case, the trial court ruled that although the Grandchildren were raised as natural and legitimate children according to the custom of poksai, they were not entitled to inherit as customary adopted children because the Grandchildren had not proved by a preponderance of the evidence that “[t]he Chamorro custom of poksai is intended to serve as a customary adoption for purposes of inheriting under the Probate Code.” E.R. at 25. This ruling was supported by inconsistent legal and factual conclusions which are at odds with this Court’s previous rulings.

¶9 The trial court made three conclusions relevant to this appeal. First, the trial court concluded that, “[t]he Chamorro custom of poksai is defined as the raising of a child by a non-biological parent as though the child was a natural and legitimate child. *In re Estate of Cabrera*, 2 N.M.I. 195, 198 n.1 (1991).” E.R. at 21. The court next concluded “[s]ubstantial evidence exists to support the assertion that ANDRES and PETRA raised the GRANDCHILDREN under the custom of poksai . . . [A]NDRES and PETRA raised the GRANDCHILDREN as though they were ‘natural and legitimate’ children.”⁵ E.R. at 21-22. Finally, the court concluded that “[t]he court was not provided with any evidence to support the GRANDCHILDREN’s assertion that the Chamorro custom of poksai is

⁵ In support of its conclusion that the grandchildren were raised under the custom of poksai, the trial court listed the following evidence:

[T]he GRANDCHILDREN lived with ANDRES and PETRA almost from birth. Even now, the GRANDCHILDREN, with the exception of Walter, continue to reside in the grandparent’s house that they were raised (sic). This fact alone gives rise to the conclusion that ANDRES and PETRA raised the GRANDCHILDREN as though they were ‘natural and legitimate’ children. This conclusion is further supported by the fact that ANDRES listed CATHERINE as his ‘daughter’ on his life insurance and by the fact that the GRANDCHILDREN were listed as ‘children’ for purposes of social security E.R. at 21-22.

intended to serve as a customary adoption for purposes of inheriting under the Probate Code.” E.R. at 25.

¶10 We struggle to understand how the court could conclude that the Grandchildren were raised as natural and legitimate children under the custom of poksai, and also conclude that the Grandchildren had not provided sufficient evidence to establish what poksai is. In other words, if the trial court does not know what a poksai is, then it is impossible for the trial court to find that a poksai occurred.

¶11 Further, the three previous cases in which we have touched on issues relating to the legal status of pineksai counsel against the trial court’s conclusion that it is unclear whether a pineksai who has been raised as a natural and legitimate child is a customary adopted child. While none of these previous cases has 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, they lead inexorably to the conclusion that they may.

¶12 *In re Estate of Cabrera*, 2 N.M.I. 195 (1991) is the first case in which this Court addressed the issues of what pineksai are and whether pineksai may inherit from their adoptive parents. In *Cabrera*, this Court was asked to decide whether it was proper for the lower court to effectuate the wishes of Pepe, an intestate Chamorro man, who had performed a partida⁶ prior to his death, when those wishes included distributing his property among “his natural children and his ‘pineksai.’” *Id.* at 207. The appellants

⁶ A partida is the distribution of family land holdings under Chamorro custom. Generally, a partida occurs when the father calls the entire family together and outlines the division of the property among his children. However, the means by which a partida is accomplished are flexible and determined on a case-by-case basis. One of the main reasons for this flexibility is that the intent of the decedent is paramount and must be effectuated where discerned.

In re Estate of Deleon Castro, 4 N.M.I. 102, 110 (1994) (internal citations omitted).

argued that the children raised by poksai were not heirs, and “[c]onsequently, they have no legal basis for receiving any part of the estate.” *Id.* at 209. We held that “[i]t is true that Francisca and Francisco [the pineksai] are not Pepe’s natural children but they are ‘pineksai’ Since Pepe raised them as if they were his natural children, he specifically designated to each of them a share in his property. . . . We have no basis for rejecting Pepe’s personal decision regarding the disposition of his properties.” *Id.* at 209-11.

¶13 The specific holding of *Cabrera* is inapposite here, because Andres did not perform a partida prior to his death and because *Cabrera* did not concern current Probate Law. However, there is important language in our previous holding that is very helpful in showing this Court’s understanding of pineksai as customary adopted children:

1. “‘Poksai’ means the raising of a child as though the child were a natural and legitimate child.” *Id.* at 198 n.1.
2. “Pepe and his wife Maria took Bernadita, as a little girl, into their home and raised her, under ‘poksai’ [sic] as though she were their natural child.” *Id.* at 199.
3. “Evidence adduced at the hearing showed that Pepe gave Bernadita a portion of his property in Chalan Piao because he raised her by ‘poksai’, [sic] and wanted her to have a share of his land.” *Id.* at 199.
4. “The trial judge’s decision to effectuate Pepe’s wishes in the distribution of his property among his natural children and his ‘pineksai’ is in line with Chamorro customary law and culture. To decide otherwise would have been contrary to our custom regarding land distribution.” *Id.* at 207.

5. “It is true that Francisca and Francisco are not Pepe’s natural children but are ‘pineksai’ - - just like the appellant, Bernadita. Since Pepe raised them as if they were his natural children, he specifically designated to each of them a share in his property.” *Id.* at 209.

¶14 We next addressed issues relating to “poksai” and “pineksai” in *In re Estate of Deleon Castro*, 4 N.M.I. 102 (1994). This case centered on evidentiary issues unrelated to the case at hand, but in the opinion we cited *In re Estate of Cabrera*, when we again wrote that “[t]he term ‘poksai’ means the raising of a child though the child were a natural and legitimate child.” *In re Estate of Deleon Castro*, 4 N.M.I. 102, 106 n.6 (1994).

¶15 We considered issues relating to “poksai” and “pineksai” for the final time in *In re Estate of Ayuyu*, 1996 MP 19, 5 N.M.I. 31, in which this Court did not state that the “pineksai” was raised as a natural and legitimate child.⁷ In *Ayuyu*, a “pineksai” sued to challenge the trial court’s finding that a partida - which divested her of property she claimed had been promised to her by the adults who raised her – had taken place. While the issues in *Ayuyu* did not involve the inheritance rights of pineksai, and we did not delve deeply into what a poksai or pineksai is, one unstated assumption in the case is that a pineksai may have a property interest in the estate of the adult who raised her.

¶16 *Ayuyu* may turn out to represent this Court’s 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

⁷ In *Ayuyu*, we described poksai and pineksai in the following statement:

In April 1936, Perpetua gave birth to Maria. Six months later, Perpetua transferred the care and custody of Maria to her parents, Juan and Isabel. This arrangement is known in Chamorro as *poksai*, a custom involving the raising or nurturing of a child 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.

other way. But this aspect of *Ayuyu* has no bearing on the case at hand, which involves only pineksai who are raised as natural and legitimate children.

¶17 The sum of our statements regarding poksai and pineksai reveals two important and incontrovertible points: (1) pineksai who are raised as natural and legitimate children are customary adopted children; and (2) the Chamorro custom for such pineksai to receive property from their adoptive parents is embodied in the statutory language of 8 CMC § 2918(a). Thus, while the trial court might have rejected the Grandchildren's claims against Andres's estate because it was unconvinced that the Grandchildren were, in fact, pineksai who were raised as natural and legitimate children, it was error for the trial court to find that the Grandchildren were pineksai raised as natural and legitimate children but then to question whether such pineksai are, in fact, customary adopted children entitled to inherit from their adoptive parents. There was no reason for the Grandchildren to present expert testimony establishing what is already embodied in the plain language of the above-cited statute: once a customary adoption – including a poksai where the pineksai have been raised as natural and legitimate children - has been proven, the customary adopted children are entitled to inherit from the decedent's estate as the decedent's issue.

Conclusion

¶18 For the above reasons, we hereby REVERSE the trial court's order rejecting the Grandchildren's claims against Andres's estate, and remand to the trial court for proceedings consistent with this opinion.

IT IS SO ORDERED on this 23rd day of June 2003.

/s/
MIGUEL S. DEMAPAN, CHIEF JUSTICE

/s/
TIMOTHY H. BELLAS, JUSTICE *PRO TEMPORE*

/s/
JESUS C. BORJA, JUSTICE *PRO TEMPORE*