IN THE SUPREME COURT OF GUAM

IN THE MATTER OF THE ESTATE OF LAGRIMAS ECLAVEA ESTEBAN, Deceased

by

CARMELITA B. TENORIO,
Petitioner-Appellant

and

MARTHA G. LEON GUERRERO, MARGARITA ESTEBAN CAMACHO, and JOVITA E. QUENGA,
Contestants-Appellees.

Supreme Court Case No.: CVA13-031
Superior Court Case No.: PR0043-12

OPINION

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Appeal from the Superior Court of Guam
Argued and submitted on May 14, 2014
Hagåtña, Guam

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BEFORE: ROBERT J. TORRES, Chief Justice; F. PHILIP CARBULLIDO, Associate Justice; KATHERINE A. MARAMAN, Associate Justice.

CARBULLIDO, J.:

[1] This appeal concerns the distribution of proceeds from a sale of estate property. While serving as executrix of the Estate of Lagrimas Eclavea Esteban, Petitioner-Appellant Carmelita B. Tenorio sought partial distribution, through Lagrimas's will, of a one-sixth share of the proceeds from a land sale. This sale involved land which was returned to the estate of Lagrimas's parents by the Guam Ancestral Lands Commission. Other devisees of Lagrimas's will objected to this distribution. The Superior Court denied Tenorio's petition for partial distribution. For the reasons set forth below, we affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

[2] Lagrimas Eclavea Esteban was one of six children of Maria Eclavea Esteban and Pedro Palomo Esteban. Her parents had an ownership interest in land that had been condemned by the U.S. government. Maria Eclavea Esteban died on October 13, 1961, and Pedro Palomo Esteban died on October 17, 1967; each died intestate.

[3] On February 23, 2001, Lagrimas executed her last will and testament. In this will, Lagrimas named her niece, Tenorio, as her executrix and "g[a]ve any and all interest in real property that I own at the time of my death described in PARCEL I" to her five nieces (including Tenorio) and one nephew. Record on Appeal ("RA"), tab 16, Ex. B (Am. Pet. for Partial Distribution, Feb. 28, 2013). Parcel I was further described as "Lot No. 5038, Harmon Cliffline, Municipality of Guam, which said property is currently under the heirs of Pedro Palomo Esteban." *Id.* She also attached to her will a Grant of Contingent Future Interest to Lot 5038

that the Guam Department of Land Management had granted to the heirs of Pedro Palomo Esteban.

[4] Additionally, her will stated, "I give all my personal property to my niece, Carmelita Blaz Tenorio." *Id.* Finally, the residuary clause in the will stated "I give the remainder of my property, whether real, personal or mixed, wherever situated, together with any property over which I have power of appointment or in which I have an interest to my niece, Carmelita Blaz Tenorio." *Id.*

[5] On August 30, 2007, Lagrimas's parents' estate ("the Esteban Estate") filed a motion to re-open probate in order to distribute real property—including Lots 5038 and 5038-1, among others—that had reverted to the estate by way of the Guam Ancestral Lands Commission. In late 2011, while Lagrimas was still alive, the Esteban Estate sought approval for the sale of Lots 5038 and 5038-1. The Superior Court approved the terms of the sale on February 7, 2012.

[6] Lagrimas passed away on February 20, 2012. Approximately two weeks later, the Esteban Estate granted a Quitclaim Deed of Conveyance to the buyer, Landtech Corporation, for Lots 5038NEW-1 and 5038NEW-R2, each of which was a "[c]onsolidation of Lot Numbers 5038, 5038-1, and portion of Old Bullcart Trail." RA, tab 25, Ex. B (Adm'rs Quitclaim Deed of Conveyance, Mar. 3, 2012). On the same day, a mortgage was made with the buyer to secure a debt for the unpaid balance of the purchase price in the amount of $2,250,000.

[7] Two years after Lagrimas's death, Tenorio was appointed executrix of Lagrimas's Estate. Tenorio later filed a petition for partial distribution of the proceeds from the sale of Lot 5038 and 5038-1 in the amount of $80,000.00—which was Lagrimas's one-sixth share of the Esteban Estate proceeds that had been distributed. Three of Lagrimas's other devisees—Martha G. Leon Guerrero, Margarita Esteban Camacho, and Jovita E. Quenga ("Objectors")—filed an objection

to Tenorio's proposed partial distribution and argued that the $80,000.00 should be apportioned according to the specific bequest in Lagrimas's will.

[8] Tenorio argued that Lagrimas intended to pass Lots 5038 and 5040 by specific gift only if she owned them at the time of her death. RA, tab 24 at 1 (Opening Br. Re: Partial Distribution, May 3, 2013) ("[H]er will explicitly required that she own the property that she was giving away at the time of her death for the specific bequest of property to be completed."). The Objectors countered that Lagrimas intended to pass "any and all interest" in the Lots, including contingent future interests. RA, tab 25 at 3-4 (Objection to Proposed Final Distribution, May 17, 2013). Accordingly, they argued that the proceeds from Lot 5038 should not be distributed to Tenorio, but should be distributed according to the specific gift clauses in Lagrimas's will to her six named heirs (including Tenorio).

[9] The Superior Court denied Tenorio's petition for partial distribution. In its Decision and Order, the Superior Court found that "Petitioner in her Pleading or papers cites no statute, authority or rule allowing this Court to grant her request ordering the partial distribution of $80,000.00 to the Petitioner." RA, tab 29 at 3 (Dec. & Order, Oct. 1, 2013). The Superior Court went on to explain that Lagrimas received her interest in Lot 5038 through her parents' estate when it received a Grant Deed on or about October 13, 2003. The court then noted that the Esteban Estate's sale of Lot 5038 was not completed, liquidated, and turned into personal property until a Quitclaim Deed was granted on March 9, 2012—after Lagrimas died. Accordingly, Lagrimas's interest in Lot 5038 passed to her specific devisees prior to the completed sale, and the devisees were entitled to the proceeds of that interest. The court also stated, "While it appears that Petitioner might well be entitled to a distribution of the monies

derived from the sale of Lot No. 5038-1, it is unclear what portion of the $80,000.00 amount is associated to either of the Lot Nos. identified in the papers."[1] *Id.*

[10] Tenorio filed a timely notice of appeal of the Superior Court's denial of her petition for partial distribution.

II. JURISDICTION

[11] We have jurisdiction over this appeal pursuant to 48 U.S.C.A. § 1424-1(a)(2) (Westlaw through Pub. L. 113-163 (2014)) and 7 GCA § 3107 (2005). More specifically, we have jurisdiction over this appeal from the Superior Court's Decision and Order pursuant to 15 GCA § 3433, which provides for appellate jurisdiction over, *inter alia*, "an order of the Superior Court . . . distributing [or refusing to distribute] property." 15 GCA § 3433 (2005).

III. STANDARD OF REVIEW

[12] We review questions of law *de novo*. *See, e.g.*, *People v. Singeo*, 2012 Guam 27 ¶ 8. When a lower court has construed a will without considering extrinsic evidence, the court's interpretation is a question of law, and we construe the will *de novo*. *See Torres v. Estate of Cruz ex rel. Guzman*, 2011 Guam 4 ¶ 17.

IV. ANALYSIS

[13] Tenorio makes two arguments that she is entitled to partial distribution. First, she claims that Lagrimas intended to give all property that she did not possess in fee simple at the time of her death to Tenorio. Appellant's Br. at 8 (Dec. 31, 2013). Accordingly, because the sale of Lot

[1] On review of the record, there is not sufficient evidence to divide the sale price between Lots 5038 and 5038-1 as the Land Purchase Agreement for the lots did not allocate the purchase price between the two. *See* RA, tab 25, Ex. B (Land Purchase Agreement, Oct. 12, 2011). This issue was not decided by the trial court, and we will not speculate about what that allocation should be or the interest, if any, the parties may have to the proceeds from the sale of Lot 5038-1. Instead, we are merely called on to determine whether $80,000.00 from the sale of the lots should pass to Tenorio—there will be further proceedings at probate to determine the status of any proceeds derived from Lot 5038-1.

5038 was approved before Lagrimas died, Tenorio claims that Lagrimas's intention and her will required that the proceeds from the sale of the lot be distributed to Tenorio via the will's personal property section. *Id.* at 13-17. Second, she argues that Lagrimas's failure to use the term "grant" in the clause at issue precludes, as a matter of law, any gift of a future interest in the lots. *Id.* at 17-19.[2]

[14] The Objectors counter that Lagrimas intended to pass "any and all interest" she owned in the lot at the time of her death and did not intend only to pass on an interest if she possessed the property in fee simple as Tenorio argues. Appellee's Br. at 6-12 (Jan. 29, 2014). In light of Lagrimas's intention, they contend that the proceeds of the sale should pass according to the specific bequests rather than the residuary clause. *Id.*

A. What Standard Applies to Tenorio's Petition

[15] Before examining the provisions of Lagrimas's will and the substance of the parties' arguments, we must clarify the standard that governs Tenorio's petition for partial distribution. The Superior Court stated that "[n]o assertions or arguments are made by Petitioner regarding why her general partial personal distribution is necessary to the estate or in its best interest. Absent this the Court is unable to grant Petitioner's request." RA, tab 29 at 4 (Dec. & Order) (citation omitted). Title 15 GCA § 3001 provides the basis for preliminary or partial distributions as well as delivery to an estate's personal representative. 15 GCA § 3001 (2005). Specifically, 15 GCA § 3001(a)(2) provides that "the personal representative may petition the Superior Court for an order authorizing the delivery of such portion of the estate as the Superior

[2] At various points in her briefs, Tenorio makes arguments that Lots 5040 and 5042 should pass to her via the residuary clause and the personal property clause, respectively. *See* Appellant's Br. at 16-19. However, these properties were not included in Tenorio's petition for partial distribution, *see generally* RA, tab 16 (Am. Pet. for Partial Distribution), and the Superior Court only considered the lots which were sold. *See* RA, tab 29 (Dec. & Order). Accordingly, we will not discuss Lots 5040 and 5042 or Tenorio's arguments pertaining to these lots because they are not properly before this court on appeal.

Court shall deem safe and proper and for the best interests of the estate . . . ." 15 GCA § 3001(a)(2) (2005). Such deliveries are made to the personal representative only and are granted only when "it is necessary, in order that the estate or any part thereof may be distributed according to the will, or it is in the best interests of the estate." *Id.* Title 15 GCA § 3001(a)(1) governs distributions of the sort Tenorio sought below, and it contains no such requirements. 15 GCA § 3001(a)(1). Even if Tenorio were seeking delivery under 15 GCA § 3001(a)(2) rather than distribution under 15 GCA § 3001(a)(1), section 3001(a)(2) could still not apply to Lagrimas's will, because (a)(2) only applies "[i]f the decedent was a nonresident of the territory of Guam." 15 GCA § 3001(a)(2). Lagrimas resided on Guam, executed her will on Guam, *see* RA, tab 16, Ex. B (Am. Pet. for Partial Distribution), and died a resident of Guam. *See* RA, tab 3, Ex. A (Pet. for Letters Testamentary with Will Annexed, Mar. 21, 2012). Therefore, section 3001(a)(1) governed Tenorio's petition for distribution, and she was not required to show that the distribution was necessary or in the best interest of the estate.

B. The Effect of Lot 5038-1 on Tenorio's Proposed Partial Distribution

[16] In its Decision and Order denying Tenorio's petition, the trial court noted, "While it appears that Petitioner might well be entitled to a distribution of the monies derived from the sale of Lot No. 5038-1, it is unclear what portion of the $80,000.00 amount is associated to either of the Lot Nos. identified in the papers." RA, tab 29 at 5 (Dec. & Order). On review of the record, there was insufficient evidence to divide the sale price between Lots 5038 and 5038-1 as both lots that were sold were a consolidation of each Lot and a portion of the Old Bullcart Trail. *See* RA, tab 25, Ex. B (Adm'rs Quitclaim Deed of Conveyance).[3] This lack of evidence was

[3] The Land Purchase Agreement was for Lot Numbers 5038 and 5038-1, *see* RA, tab 25, Ex. B (Land Purchase Agreement), but the Administrators Quitclaim Deed of Conveyance was for Lot Numbers 5038NEW-1

sufficient to deny the petition for partial distribution, because the court could not discern the source(s) of the $80,000.00 for purposes of deciding how the proceeds should be allocated and pass under Lagrimas's will.

[17] In future probate proceedings, there will need to be sufficient evidence to determine what sale proceeds derive from which lot. Furthermore, the parties will have an opportunity to present evidence and argument regarding Lot 5038-1 and how Lagrimas would have intended proceeds from its sale to pass if she knew of the existence of 5038-1 as a separate plot. If Lagrimas did not know of the separate Lot 5038-1 at the time her will was drafted, the parties may present evidence establishing whether Lot 5038-1 was part of a unified Lot 5038 when her will was drafted. These and all other unresolved factual questions are left to future probate proceedings, but the issues amply demonstrate the impropriety of distributing sale proceeds until these issues are adjudicated.

C. Whether Lagrimas Owned an Interest in Lot 5038 at Her Death Which Could Pass Through Her Specific Bequest

[18] The lack of evidence surrounding Lot 5038-1 and its entanglement with the sale proceeds would have been sufficient to deny distribution, but the trial court also analyzed the facts and law of Tenorio's petition. On appeal, we review Lagrimas's will *de novo* to determine whether the proceeds Tenorio seeks should pass to her under the terms of the will. *See, e.g.*, *Torres*, 2011 Guam 4 ¶ 17. "The paramount rule when construing a will is that a will should be construed according to the intention of the testator and [w]here the testator's intention cannot have its full extent, it must have effect as far as possible." *Id.* ¶ 15 (citing 15 GCA § 603 (2005)).

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and 5038NEW-R2, each of which was a "[c]onsolidation of Lot Numbers 5038, 5038-1 and portion of Old Bullcart Trail." RA, tab 25, Ex. B (Adm'rs Quitclaim Deed of Conveyance).

[19] Lagrimas's will states: "I give any and all interest in real property that I own at the time of my death" in Lots 5038, 5039, and 5040 to "my nieces, Carmelita Blaz Tenorio, Martha G. Leon Guerrero, Margarita Esteban Camacho, Bernadette Blaz Cabrera, and Jovita E. Quenga, and my nephew, Joseph Blaz." RA, tab 16, Ex. B (Am. Pet. for Partial Distribution). Her will also states, "I give all my personal property to my niece, Carmelita Blaz Tenorio," and the residuary clause provides, "I give the remainder of my property, whether real, personal or mixed, wherever situated, together with any property over which I have a power of appointment or in which I may have an interest to my niece, Carmelita Blaz Tenorio." *Id.*

[20] To determine whether Lagrimas had an interest in Lot 5038 that could pass by her specific bequest, rather than by the personal property or residuary clauses, we must address three issues. First, we must determine what Lagrimas intended by "any and all interest" in the language of her will. Next, we must discern what, if any, interest Lagrimas owned in Lot 5038 at the time of her death. Finally, we must decide whether Lagrimas's specific bequest was adeemed by the approval of the sale of Lot 5038 before she died.

1. Lagrimas's intent as expressed in her will

[21] As with any will interpretation we first glean the intent of the testator from the language used in her will. The disputed language in this appeal is "any and all interest in real property that I own at the time of my death." Tenorio focuses her attention on the word "own" and argues that "[t]he terms of [Lagrimas's] will explicitly require[] that she own the property that she was giving away at the time of her death." Appellant's Br. at 8. Thus, Tenorio claims that the specific gifts in Lagrimas's will were conditioned on "1.) Lagrimas owning the property; and, 2.) Lagrimas having possession of the property at the time of her death." *Id.* at 15. Were we to adopt this interpretation of Lagrimas's will, the sale proceeds (putting aside the division issue

discussed above) would pass to Tenorio, because it is clear that Lagrimas did not have possession of Lot 5038 at the time of her death. The Objectors, on the other hand, argue that Lagrimas intended "any and all interest" to pass through her specific gift, including interests less than fee simple in possession. Appellee's Br. at 7-8.

[22] Tenorio's position gives undue weight to the term "own" and no weight whatsoever to the phrase "any and all interest in." There are many forms of ownership interest in real property and it is apparent from the terms of her will that Lagrimas intended any interest, be it fee simple, future contingent, or any other variety, to pass by way of her specific gift. Tenorio would have us hold that the inclusion of the word "own" means that there is only one qualifying interest in real property that could pass under this specific bequest—that of fee simple in possession. This departs too drastically from Lagrimas's intent, and Tenorio's argument fails. One can "own" any interest in real property; however, if "own" is interpreted as Tenorio argues, "any and all" cannot be given its ordinary meaning as required by 15 GCA § 613, because "any and all" would describe only fee simple in possession. *See* 15 GCA § 613 (2005). In addition to the plain text of her will, the interpretation that Lagrimas intended to pass any interest—including those less than fee simple in possession—is bolstered by her attachment of the Grant of Contingent Future Interest to Lot 5038 that the Guam Department of Land Management had granted to the heirs of Pedro Palomo Esteban. *See* RA, tab 16, Ex. B (Am. Pet. for Partial Distribution). In sum, we do not agree with Tenorio that the terms of Lagrimas's will required her to be in possession of Lot 5038 for the terms of the specific bequest to be operative.

2. Lagrimas's interest in Lot 5038

[23] With this issue decided, we must determine what, if any, interest Lagrimas owned in Lot 5038 at the time of her death. We have made clear that "the owner of land condemned by the

government possesses an alienable, contingent future interest to the condemned land." *In re Estates of Aguon*, 2013 Guam 4 ¶ 16. Contingent future interests are transferable by will. *See* 21 GCA § 1230 (2005). The land at issue here was condemned by the United States. *See* RA, tab 16, Ex. B (Am. Pet. for Partial Distribution). As such, Lagrimas's parents owned a contingent future interest in the lot, *see id.*, and that interest was passed to her pursuant to 15 GCA § 1401 and the rules of intestacy when her parents died. *See* RA, tab 29 (Dec. & Order) (properly noting that interests in Lot 5038 passed to Lagrimas and her five siblings according to intestacy). In 2003, when Lot 5038 was returned to the Esteban Estate, Lagrimas's interest was no longer a contingent future interest, because the contingency—the government returning previously-condemned land—had occurred. This present interest (shared with the other intestate heirs of the Esteban Estate) existed until March 9, 2012, when the Esteban Estate transferred title via a Quitclaim Deed to Lots 5038NEW-1 and 5038NEW-R2, the two lots created by the consolidation of Lots 5038 and 5038-1 and a portion of the Old Bullcart Trail. The transfer of title did not occur until two weeks after Lagrimas died; accordingly, at the time of her death, Lagrimas owned the same present interest in Lot 5038 that she had owned since 2003 when the government returned the lot to the Esteban Estate.

[24] This present interest was subject to the control of the probate court "for the purpose of administration, sale or other disposition." 15 GCA § 1401(b) (2005). However, contrary to Tenorio's argument, *see* Appellant's Br. at 11-12, this control did not operate to divest Lagrimas's ownership interest in Lot 5038. Tenorio argues that section 1401(b) means that "the heir will only receive property if there is anything to give after all expenses, allowance, sale, or disposition is taken care of." Appellant's Br. at 11. This reading of section 1401(b) would vitiate section 1401(a), which provides, in part, "Upon a person's death, the title to such person's

property, real and personal, passes immediately to the person or persons . . . who succeed to such [decedent's] estate." 15 GCA § 1401(a). Section 1401(b) merely provides that property, title to which has passed immediately to the intestate heir, is retained by the "Superior Court of Guam for the purpose of administration, sale or other disposition." 15 GCA § 1401(b). Thus, when Lagrimas's parents died, their interest in Lot 5038 passed immediately to her under section 1401(a), and section 1401(b) has no effect on her title ownership interest.

[25] Contrary to Tenorio's assertion, *Pangilinan v. Palting*, No. 86-0027A, 1987 WL 109399 (D. Guam App. Div. Jan. 29, 1987), does not hold otherwise. Tenorio argues that "*Palting* stands for the simple proposition that if the final decree of the probate court fails to vest title that you have no interest to convey." Appellant's Br. at 11. Tenorio's reliance on *Palting* is mistaken, because *Palting* involved a will rather than intestacy, and the probate court determined that heirs who had sold their interest in estate property had no interest whatsoever under the terms of the will. 1987 WL 109399, at *2. This court noted this distinction in *Hemlani v. Nelson*, 2000 Guam 20. In *Hemlani*, the court examined *Palting* and stated, "like [*Palting*], title vests immediately in [the] heirs subject to probate of their interests." *Hemlani*, 2000 Guam 20 ¶ 29. However, the court proceeded to distinguish that although the parties in *Palting* "did not take under will or by intestate succession and were not vested, [the] heirs [in the *Hemlani* case] were takers under intestate succession." *Id.*

[26] As in *Hemlani*, Lagrimas took her title interest immediately through intestacy, and the probate court did not have the ability to declare that her title interest was in any way invalid, as the probate court in *Palting* had determined the parties had no interest under the will. Thus, Lagrimas owned an interest at the time of her death that could pass through her specific devise to

the six named heirs and that interest was not contingent on the conclusion of probate as Tenorio argues.

3. The effect of the Esteban Estate land sale

[27] Finally, Tenorio argues that "the theory of [a]demption also supports Tenorio receiving the Estate of the Testator." Appellant's Reply Br. at 4 (Feb. 10, 2014). In support of this argument, Tenorio cites cases for the proposition that where a specific bequest is made and the asset bequeathed is not available at the time of the testator's death, the specific gift is nullified. *Id.* at 4-7. However, none of the cases she cites are convincing as they (a) found no ademption, *see Johnson v. Estate of Wheeler*, 745 A.2d 345, 354 (D.C. 2000); *In re Estate of Thornton*, 481 N.W. 2d 828, 829-31 (Mich. Ct. App. 1992); (b) involved a personal partnership interest, *see Dean v. Tusculum Coll.*, 195 F.2d 796, 796 (D.C. Cir. 1952); (c) involved claims against an estate which had been settled and closed during the life of the testator, *see Rogers v. Rogers*, 45 S.E. 176 (S.C. 1903); or (d) discerned testator intent not to pass the specific gift in its changed form, *see In re Babb's Estate*, 262 P. 1039 (Cal. 1927); *In re Goodfellow's Estate*, 137 P. 12 (Cal. 1913).

[28] In this jurisdiction and on these facts, ademption is not appropriate. On Guam, where real property is disposed by will but the testator "subsequently enters into an agreement for the sale or transfer of such property, such agreement does not revoke such disposition; but such property passes by the will . . . ." 15 GCA § 409 (2005). California courts consistently have found no ademption where real property is bequeathed by will but sold by the testator before dying. *See, e.g.*, *In re Trainer's Estate*, 326 P.2d 520 (Cal. Ct. App. 1958); *In re Moore's Estate*, 286 P.2d 939 (Cal. Dist. Ct. App. 1955); *In re Estate of Worthy*, 252 Cal. Rptr. 462 (Ct. App. 1988).

[29] One of Tenorio's leading cases, *Estate of Wheeler*, soundly defeats her argument. *Estate of Wheeler* makes clear that ademption is "[u]ltimately . . . a question of the testator's intent, to be discerned from the terms of the will in its entirety." 745 A.2d at 350. We previously have recognized the desire of courts and legislatures to "maximize the ability to fulfill the testator's intent and avoid ademption." *Torres*, 2011 Guam 4 ¶ 32. Here, Lagrimas clearly intended to pass "any and all interest" in Lot 5038 and did not limit this bequest to passing possession of the physical plot of land—as is made clear by her attachment of the contingent future interest to her will. *Estate of Wheeler* also notes that "[t]he description [of the bequest] may be so broad that it fits equally the right as it existed when the will was made, and the right as it exists when the testator dies." 745 A.2d at 350 (quoting 6 W. Bowe & D. Parker, *Page on the Law of Wills*, § 54.12, at 263). Here, Lagrimas's choice of the terms "any and all interest in" are intentionally broad enough to encompass the interest she owned when she died. As we established above, Lagrimas held title to Lot 5038 at the time of her death, and the sale's approval before her death did not adeem her bequest of "any and all interest" in Lot 5038.

[30] Because Lagrimas both intended to pass "any and all interest" in Lot 5038 to her six named devisees (including Tenorio) and owned an interest at the time of her death, the Superior Court was correct that the $80,000.00 should not be distributed entirely to Tenorio.[4]

[4] Though this case does not involve a contingent future interest, we stress that the word "grant" is not required to devise a future interest in property by will. Tenorio cited *Taitano v. Lujan*, 2005 Guam 26, to support this argument. *Taitano* involved a gift deed transfer of fee simple title, *see* 2005 Guam 26 ¶ 50-51, 56, and does not stand for the proposition that to pass a future interest by will the term "grant" must be used. Instead, in the context of the subsequently-acquired title doctrine, the court merely stated that "[b]y using the term 'grant,' a fee simple title was presumed to have been conveyed by the deed of gift." *Id.* ¶ 51. Neither this statement nor any other aspect of the opinion establishes the requirement of the word "grant" that Tenorio claims. Instead, as is always the case in will interpretation, the testator's intent is the polestar, *see* 15 GCA § 603, and 15 GCA § 613 makes clear that "[t]echnical words are not necessary to give effect to any species of disposition by a will." 15 GCA § 613.

V. CONCLUSION

[31] For the reasons stated above, we affirm the trial court. It is apparent from Lagrimas's will that she intended to pass "any and all interest" in Lot 5038 to her six named heirs and that at the time of her death she owned an interest in Lot 5038. Thus, Tenorio is not entitled to the full amount of the proceeds from the sale of Lot 5038, and we **AFFIRM** the trial court's denial of her petition for partial distribution.

Original Signed By: **F. Philip Carbullido**

F. PHILIP CARBULLIDO
Associate Justice

Original Signed By: **Katherine A. Maraman**

KATHERINE A. MARAMAN
Associate Justice

Original Signed By: **Robert J. Torres**

ROBERT J. TORRES
Chief Justice

I do hereby certify that the foregoing is a full true and correct copy of the original on file in the office of the clerk of the Supreme Court of Guam

NOV 10 2014

By: *IMELDA B. DUENAS*
Assistant Clerk of Court
Supreme Court of Guam