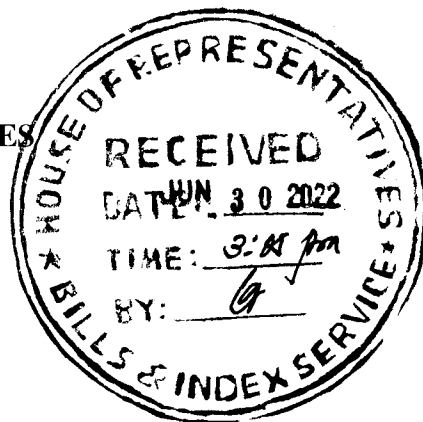


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS

First Regular Session

HOUSE BILL NO. 199



INTRODUCED BY REPRESENTATIVE JURDIN JESUS M. ROMUALDO

EXPLANATORY NOTE

This is a refiled bill from the 18th Congress principally authored by Hon. Xavier Jesus D. Romualdo which remained pending at the Senate.

The University of the Philippines (UPLC) concurred with the proposed abolition of the reserva troncal by repealing Article 891 of the Civil Code of the Philippines. In their position paper it made mentioned the observations of Prof. Ruben F. Balane in his article titled, “The Reserva Troncal: Prospect and Retrospect” published in the Philippine Law Journal, Volume 58, No. 4, December 1983 which in part presented a very good picture of what reserva troncal is all about. The gist is presented here:

“The reserva entails and encumbers property. An encumbrance - especially of the nature of the reserva where the chance of losing the property is very great (since all that is required is the survival of a single reservatario) – is never conducive to the development of property. What normally happens is that the reservista – faced with the prospect of losing the property to the other line, and therefore unable to transmit the property to his own heirs – will allow the property to stagnate, will not introduce permanent improvements thereon, will refuse to invest on it – all in all a thoroughly bad and economically unsalutary situation.

Another consequence of entailment is that **it prevents the free circulation of property** – for how many people will be eager to buy property under a resolutory condition? – and thus is not conducive to commercial growth. What the reserva indeed creates is a category of properties in cold storage, so to speak, shunted from the open market, and waiting to be liberated or, to maintain the metaphor, waiting to be thawed by their owner's death.

The reserva clutters the successional system. The system of legitimes and of intestate succession, already complex as it is, is further complicated by the special rule of the reserva, with its many detailed rules and minute distinctions. The move should be towards greater simplification of the successional rules, particularly in the legitimary portions and in the concurrences of heirs. The

abolition of the reserva troncal will contribute greatly towards rationalizing the unnecessary intricacies of the law of succession, already referred to by students, unaffectionately, as "the jungle of Civil Law" (where surely the reserva troncal is one of the most ferocious tigers).

The reserva troncal operates to penalize marriage and legitimate family relations. Since it has consistently been held to apply only to those legitimately related, no reserva would attach, for instance, to property inherited by an illegitimate parent from his illegitimate child, notwithstanding that such property originated from the other (illegitimate parent). This is one instance where the law seems to foster adulterous relations. The discrimination is, to be sure, unintended, but it is there. **It produces certain ridiculous absurdities by imposing its peculiar burden on the legitime. The effect of the article is to burden the legitime and spare that which is transmitted by testamentary succession, thus reversing the policy of the law of protecting the legitime and allowing encumbrances or conditions to burden the testamentary portion.** Or consider the following situation: the father transmits property by gratuitous title to his son. The son dies intestate, survived by his maternal uncle as his nearest heir. The property would have left the line and yet there would be no reserva because the heir was not "another ascendant." On the other hand, if the mother had survived the son, she would have inherited the property subject to the reserva. Why is the mother placed in a worse situation than the uncle? Or stated differently, why should the legitime be placed under a burden which is not imposed on a collateral relative's intestate portion? There is really no compelling reason why the law should, in the particular situation governed by the reserva, seek to prevent property from transferring lines. With the abolition of the reserva viudal this constantly happens, inasmuch as spouses are compulsory and intestate heirs of each other-so that succession by a person from his spouse is a direct transfer of lines, and no encumbrance is now imposed in such instances. The reserva troncal governs an indirect transfer, through the intermediation of the prepositus, so we now have an encumbrance imposed on an indirect transfer and none on a direct one. Transfer of property from one line to another, whether occurring directly or indirectly need not be frowned upon-these are after all one of the lateral effects (hazards, if one prefers the term) of that inviolable social institution defined so well in Article 52. Finally, and I suppose all students of Succession will agree with this, **the reserva troncal has caused a good deal of confusion and controversy because of its difficulty. The mischief it has caused is incalculable, and surely is not justified by whatever good it has done.** (Emphasis supplied)

Thus, with its nature, the repeal will help release present burdens made by virtue of the principle of reserve troncal.

The support for the passage of this bill by our Honorable Members is highly enjoined.


JURDIN JESUS M. ROMUALDO

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AN ACT

**REPEALING THE RESERVA TRONCAL PROVISION PROVIDED FOR
UNDER ARTICLE 891 OF THE REPUBLIC ACT NO. 386, OTHERWISE
KNOWN AS THE NEW CIVIL CODE OF THE PHILIPPINES**

*Be it enacted by the Senate and the House of Representatives of the Philippines
Congress Assembled:*

SECTION. 1. Article 891 of Republic Act No. 386, otherwise known as the New
Civil Code of the Philippines, is hereby repealed.

SEC. 2. Separability. - If any portion or provision of this Act is subsequently
declared invalid or unconstitutional, other provisions hereof which are not affected thereby
shall remain in full force and effect.

SEC. 3. Repealing Clause. - All other laws, acts, presidential decrees, executive
orders, presidential proclamations, issuances, rules and regulations or parts thereof which
are contrary to or inconsistent with any of the provisions of this Act are hereby repealed,
amended, or modifies accordingly.

SEC. 4. Effectivity. - This Act shall take effect fifteen (15) days after its complete
publication in the Official Gazette or in at least one (1) national newspaper of general
circulation.

Approved,