



UNIVERSITY *of*  
SAN CARLOS

SCIENTIA • VIRTUS • DEVOTIO

Exercise 7 - Group Research  
**LAW ON INHERITANCE, LAST WILLS, AND TESTAMENTS**

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## Answers to the Questions

I.

- a. Did Valeros' 2022 codicil validly revoke his 2016 will? Explain completely. (10 points)

No, Valeros' 2022 codicil did not validly revoke his 2016 will.

In Article 833 of the Civil Code, a revocation will be considered null and void if the testator based it on a false cause or by mistake.

In this case, Valeros executed a codicil where he revoked his 2016 will on the account of the death of his baby boy Noel. It was only presumed that Noel is dead because he was never heard of again and was assumed to have died in battle during the invasion of Russia to Ukraine. Valeros assumed on the fact that Noel had died hence why he revoked his will based on the first sentence of his codicil. However, Noel is alive and in fact, did not die in battle. This would make the Valeros' 2022 codicil null and void according Article 833.

Therefore, Valeros' 2022 codicil did not validly revoke his 2016 will.

- b. What are the requisites and rules in the execution of a holographic will under the Civil Code? Explain completely. (10 points)

In Article 810, the holographic will must be written, dated, and signed by the hand of the testator himself, can be made in the Philippines or abroad, and does not require any witnesses. There are no other requirements needed for the execution of a holographic will other than what is mentioned in this Article. For example, the medium which the holographic will can be written on may be white bond paper, yellow paper, wood, etc.

In Article 811, there must be at least one witness who knows the handwriting and signature of the testator and can attest that the will and signature truly belong to the testator. If the will is ever contested, there must be at least 3 such witnesses. The testimony of an expert that can be used to prove the validity of the authenticity or originality of the holographic will has 2 requisites:

- 1) There is an absence of a competent witness who can explicitly declare that it was the testator themselves who wrote and signed the holographic will
  - 2) The court deems it as necessary to resort to expert testimony
- So, there are 2 requirements for the need for expert testimony.

Both Articles 812 and 813 deal with the validity of testamentary dispositions. All dispositions must be written below the testator’s signature, and each disposition must be dated and signed to make them valid (Article 812). In case if there are dispositions that are signed but not dated, the last disposition that has a signature and a date shall validate the dispositions preceding it whatever be the time of prior dispositions (Article 813).

In Article 814, the testator must authenticate any insertion, cancellation, erasure or alteration with their full signature.

- c. Disregarding the facts given above and assuming that Valeros has executed a valid will before his death and that he had no debts, what are the rules in the distribution of Valeros’ estate (i.e. legitime and free portion)? Make sure to cover all possible scenarios (e.g. If Valeros was survived by his spouse and legitimate children; If Valeros was survived by his spouse, legitimate children, and illegitimate children; If Valeros was survived by his legitimate and illegitimate children only; etc.). You can make a table or illustration for this, accompanied by an explanation.

Important rule to remember is the **Rules of division** of the legitime according to the **rule of proximity** in Article 962 where in every inheritance, the relative nearest in degree excludes the more distant ones, saving the right of representation when it properly takes place.

The tables below lists the rules in the distribution of the legitime portion of Valeros’ estate. The legitimes refer to the reserved portion of the deceased person’s hereditary estate who will be inherited by the compulsory heirs regardless of what is written in the deceased person’s will.

Here are the following compulsory heirs:

- 1) Legitimate children and descendants
- 2) Legitimate parents and ascendants
- 3) Widow or widower
- 4) Natural children (acknowledged natural children, and natural children by legal fiction)
- 5) Illegitimate children whose parents had a legal impediment to marry each other at the time of their conception (Art. 287)

The table below refers to only 1 class of compulsory heir.

Survived by	Legitime
1. Legitimate	½ of the hereditary estate of Valeros (Art.

children	888)
2. Legitimate parent/s	<ul style="list-style-type: none"> <li>• ½ of the hereditary estate of Valeros (Art. 889)</li> <li>• Each parent gets ½ of the reserved legitime (Art. 890)</li> <li>• If only 1 parent remains, the surviving parent gets the whole reserved legitime (Art. 890)</li> </ul>
3. Ascendants	<ul style="list-style-type: none"> <li>• Assumed that both parents are dead</li> <li>• Ascendants of equal degree from the maternal and paternal lines shall receive equally divided portions of the legitime (Art. 890)</li> <li>• If not of equal degree, the whole portion of legitime goes entirely to the one nearest in degree of either line (Art. 890)</li> </ul>
4. Spouse	<ul style="list-style-type: none"> <li>• Spouse ½ of the hereditary estate (Art. 900)</li> <li>• Spouse gets ⅓ of the hereditary estate instead when (Art. 900) <ul style="list-style-type: none"> <li>○ Marriage was solemnized in articulo mortis</li> <li>○ Valeros died within 3 months</li> <li>○ They have not been living as husband and wife for more than 5 years,</li> </ul> </li> </ul>
5. Illegitimate children	They get ½ of the hereditary estate (Art. 901)

The table below refers to the legitime of the surviving spouse with other compulsory heirs from Articles 892 - 894. In case of legal separation and the surviving spouse is guilty, he/she is incapacitated from inheriting from the deceased.

Survived by	Legitime
1. Spouse and illegitimate child / descendant	<ul style="list-style-type: none"> <li>• Legitimate child gets ½ (Art. 888)</li> <li>• Spouse gets ¼ of the hereditary estate (Art. 892)</li> <li>• Legitime of the spouse is taken from the free portion (Art. 892)</li> </ul>

2. Spouse and legitimate children / descendants	<ul style="list-style-type: none"> <li>• Each person will get an equal portion of the legitime (Art. 892)</li> <li>• Legitime of the spouse is taken from the free portion (Art. 892)</li> </ul>
3. Spouse and ascendants	<ul style="list-style-type: none"> <li>• Ascendants of equal degree from the maternal and paternal lines shall receive equally divided portions of the legitime (Art. 890)</li> <li>• If not of equal degree, the whole portion of legitime goes entirely to the one nearest in degree of either line (Art. 890)</li> <li>• Spouse gets <math>\frac{1}{4}</math> and it is taken from the free portion (Art. 893)</li> </ul>
4. Spouse and illegitimate children	<ul style="list-style-type: none"> <li>• Illegitimate children get <math>\frac{1}{3}</math> (Art. 894)</li> <li>• Spouse gets <math>\frac{1}{3}</math> (Art. 894)</li> </ul>
5. Spouse and legitimate children / descendants and natural children	<ul style="list-style-type: none"> <li>• Spouse gets a portion equal to the legitime of each legitimate child and it is taken from the free portion (Art. 897)</li> <li>• Legitimate children / descendants get <math>\frac{1}{2}</math> of the hereditary estate (Art. 888)</li> </ul>
6. Spouse and legitimate children / descendants and illegitimate children	<ul style="list-style-type: none"> <li>• Spouse gets a portion equal to the legitime of each legitimate child and it is taken from the free portion (Art. 898)</li> <li>• Legitimate children / descendants get <math>\frac{1}{2}</math> of the hereditary estate (Art. 888)</li> </ul>
7. Spouse and legitimate parents / ascendants and illegitimate children	<ul style="list-style-type: none"> <li>• Spouse gets <math>\frac{1}{8}</math> of hereditary estate from the free portion (Art. 899)</li> <li>• Illegitimate children get <math>\frac{1}{4}</math> of hereditary estate from the free portion (Art. 899)</li> <li>• Parents get their legitimes according to Art. 889</li> <li>• In absence of parents, ascendants get their legitimes according to Art. 890</li> </ul>

The table below focuses on legitimate, natural and illegitimate children from Articles 895 - 896.

Survived by	Legitime
1. Natural children and legitimate children	<ul style="list-style-type: none"><li>● Each natural child gets <math>\frac{1}{2}</math> of the legitime of each legitimate child (Art. 895)</li><li>● Legitimate children get <math>\frac{1}{2}</math> of the hereditary estate of Valeros (Art. 888)</li></ul>
2. Illegitimate child and natural child	<ul style="list-style-type: none"><li>● Natural child gets <math>\frac{1}{2}</math> of the legitime of each legitimate child (Art. 895)</li><li>● Illegitimate child gets <math>\frac{4}{5}</math> of what the natural child gets (Art. 895)<ul style="list-style-type: none"><li>○ Taken from free portion and must not exceed it</li><li>○ Legitime of spouse must be satisfied first</li></ul></li></ul>
3. Illegitimate children and ascendants	<ul style="list-style-type: none"><li>● Illegitimate children get <math>\frac{1}{4}</math> and it is taken from the free portion (Art. 896)</li><li>● Ascendants</li></ul>

- II.
- a. No, Kathleen’s will remains to be valid even though it was written only in a dialect known to the testator and there is an absence of the marginal signatures.

Article 804 of the Civil Code requires ordinary wills to be executed in a language or dialect known to the testator. Based on the situation given, it is clearly stated that “Kathleen knew and understood” the Cebuano-Bisaya dialect in which the will was written. However, the scenario focuses on the fact that the witnesses were unfamiliar with the dialect. Article 805 of the Civil Code states that each will must be attested and subscribed to by three or more credible witnesses. The attestation of the will is for the witnesses to mentally take note that the will was executed following the requirements prescribed by the law. Its main purpose is for the witnesses to vouch for the validity during the probate proceedings. This means that the witnesses did not need to personally know the language or dialect in which the will was written in. What matters was that they knew that Kathleen was complying with the requirements such as the fact that she understood

Cebuano-Bisaya in which the will is executed, and that it was done in the presence of at least three witnesses. Furthermore, the attestation clause was interpreted to the witnesses by Kathleen's lawyer and former beau, Ivan who was present to notarize the will.

Secondly, even though the marginal signatures of the testator and the witnesses were absent, the will remains to be valid because of the exemptions on the marginal signatures based on Article 805 of the Civil Code. One of the exemptions states that the requirement for all of the pages to be signed on the left margin by the testator and the witnesses are not necessary if the will consists of only one page. In the scenario, it is clearly stated that Kathleen executed a one-page notarial will and that Kathleen and the witnesses signed the attestation clause. Since the will only has one page, Kathleen's will falls under the exempting scenarios. This implies that her will does not need to be paginated and Kathleen's and the witnesses' signatures only need to be at the bottom, at the attestation clause.

Therefore, Kathleen's will remains to be valid even though it was written in a dialect that the witnesses were unfamiliar with and it had no marginal signatures of the testator and witnesses.

- b. According to the Republic Act No. 386, or also known as the Civil Code of the Philippines, the following are the requisites and rules in the execution of a notarial will:
  - (1) Every will must be in writing and executed in a language or dialect known to the testator (Article 804).
  - (2) A notarial will must be attested and subscribed by three (3) or more credible witnesses (Article 805).
  - (3) The testator and witnesses shall sign each and every page thereof, except the last, on the left margin in a notarial will (Article 805, Paragraph 2).
  - (4) A notarial will must have all its pages be numbered correlatively in letters placed on the upper part of each page (Article 805, Paragraph 2).
  - (5) A notarial will must be acknowledged before a notary public by the testator and the witnesses. The notary public shall not be required to retain a copy of the will, or file another with the Office of the Clerk of Court (Article 806).
  - (6) If the testator be deaf, or a deaf-mute, he must personally read the notarial will (if able); otherwise, two designated persons read it and communicate to him the contents in a practicable manner (Article 807).
  - (7) If the testator is blind, the notarial will must be read to him twice. First by the subscribing witnesses and second by the

- notary public before whom the will is acknowledged (Article 808).
- (8) If a notarial will was executed and attested in substantial compliance with all the requirements of Article 805, the will shall not be rendered invalid so long as there is no bad faith, fraud, undue or improper pressure, and influence (Article 809).
  - (9) In the probate of a holographic will, it shall be necessary that at least one witness who knows the handwriting and signature of the testator explicitly declare that the will and the signature are in the handwriting of the testator. If the will is contested, at least three of such witnesses shall be required (Article 811).
  - (10) Any person of sound mind and of the age of eighteen years or more, and not blind, deaf or dumb, and able to read and write, may be a witness to the execution of a will mentioned in article 805 of this Code (Article 820).
  - (11) If the witnesses attesting the execution of a will are competent at the time of attesting, their becoming subsequently incompetent shall not prevent the allowance of the will (Article 822).
  - (12) If a person attests the execution of a will, to whom or to whose spouse, or parent, or child, a devise or legacy is given by such will, such devise or legacy shall, so far only as concerns such person, or spouse, or parent, or child of such person, or any one claiming under such person or spouse, or parent, or child, be void, unless there are three other competent witnesses to such will. However, such person so attesting shall be admitted as a witness as if such devise or legacy had not been made or given (Article 823).
- c. In cases when Kathleen failed to execute a will before her death, the laws of intestacy of the Civil Code of the Philippines under Title III shall be observed. Assuming that Kathleen is a legitimate decedent, in that case the following order shall be followed for intestate succession: (1) Legitimate child, children, or descendants, (2) Legitimate parents or ascendants, (3) Legitimate parents or ascendants, (4) Surviving spouse, (5) Brothers and sisters, nephews and nieces, (6) Other collateral relatives within the fifth (5th) degree, and lastly (7) the State.

Intestate Succession Table

Survived by	Legitime
(1) Spouse and legitimate children	The share of the widow or widower shall be <b>the same as the share of each of the children</b>



(2) Spouse, legitimate children, and illegitimate children	The illegitimate children are entitled to the equivalent of <b>1/2</b> the <b>share of the legitimate children</b> . However, the legitimate children and the spouse's legitime must be fulfilled first.
(3) Legitimate and illegitimate children only	The general rule is that an illegitimate child is entitled to <b>one-half (1/2)</b> of the share of a legitimate child. The Concurrence or Exclusion Theory/Rule is applied.
(4) Spouse and Legitimate Ascendants/Parents	The estate shall be divided in such a way that <b>1/2</b> shall be given to the <b>surviving spouse</b> , while the other <b>1/2</b> shall be given to the <b>legitimate Ascendants</b>
(5) Legitimate Parents, and Illegitimate Children	<b>1/2</b> given to legitimate parents and <b>1/2</b> given to Illegitimate Children
(6) Legitimate Parents, Illegitimate Children, Surviving Spouse	<b>1/2</b> given to legitimate parents, <b>1/4</b> to Illegitimate children and <b>1/4</b> to surviving spouse
(7) Surviving Spouse and Brothers and Sisters, Nephews and Nieces	<b>1/2</b> given to surviving spouse and <b>1/2</b> given to Brothers and Sisters, Nephews and Nieces
(8) Brothers and Sisters, Nephews and Nieces	The brothers and sisters shall <b>inherit <i>per capita</i></b> ( <i>Same rules applied to brothers and sisters of the half blood</i> ), while the nephews and nieces shall <b>inherit <i>per stirpes</i></b> .

(9) Collaterals	Collateral relatives shall succeed to the <b>entire estate</b> in the absence of legitimate descendants, legitimate ascendants, illegitimate children, and the surviving spouse.
(10) The State	In the absence of legitimate children or descendants, legitimate parents or ascendants, illegitimate children or descendants, the surviving spouse, and collateral relatives within the fifth degree, the State shall <b>inherit the whole estate</b> .

Explanation:

- (1) If Kathleen was survived by her **spouse** and **legitimate children**, Kathleen’s spouse and children shall receive equal parts of Kathleen’s estate. However, this scenario does not apply since Kathleen has no spouse.
- (2) If Kathleen was survived by her **spouse**, **legitimate children**, and **illegitimate children**, her estate shall be divided in the following manner: half shall go to the spouse, and the other half shall be divided equally between the legitimate and illegitimate children. However, this scenario does not apply since Kathleen died single and childless.
- (3) If Kathleen was survived by her **legitimate and illegitimate children only**, her estate shall be divided in the following manner: the illegitimate children shall be entitled to one-half of the estate, while the legitimate children shall be entitled to the other half. However, this scenario does not apply since Kathleen had no children.
- (4) Kathleen was survived by her **legitimate children only**. Kathleen's estate will be divided equally among her legitimate children. If any of her legitimate children predeceased her but left their own legitimate children, the share of the deceased child will be divided equally among his or her own legitimate children (Kathleen's grandchildren). This would not apply since Kathleen died childless.
- (5) Kathleen was survived by her **spouse only**. In this scenario, Kathleen's entire estate will be inherited by her surviving spouse. This would not apply since Kathleen has no spouse.

(6) Kathleen was survived by her **ascendants only**. Kathleen's estate will be divided equally between her surviving parents, or if only one parent survived her, that surviving parent will inherit her entire estate. If her parents were also predeceased by her, then her estate will be inherited equally by her surviving grandparents or their descendants. This would not apply since Kathleen still has surviving siblings and their descendants.

(7) Kathleen was survived by a **Spouse and Brothers and Sisters, Nephews and Nieces**. Half of Kathleen's estate would be given to the surviving spouse and half of which would be given to Brothers and Sisters, Nephews and Nieces. This would not apply in this situation since Kathleen has no spouse.

(8) Since Kathleen was survived by her **legitimate siblings and nephews**, her estate shall be divided among them. The brothers and sisters shall **inherit per capita**, by which they get to inherit equal portions of Kathleen's estate by their own right, while the nephews and nieces shall **inherit per stirpes**, by which they are to inherit a portion of Kathleen's estate by right of representation and thus share equally among them the share of the person they are representing.

Kathleen has 3 siblings, Jastine, Hannah, and Jay. Jay predeceased Kathleen so his share of Kathleen's estate would be given in favor of his children, Giovanni and Stewart by right of representation. Jastine and Hannah each get  $\frac{1}{3}$  of the estate while Giovanni and Stewart would need to divide equally among them the remaining  $\frac{1}{3}$  of the estate that they would get by right of representation.

(9) Kathleen was survived by her **collateral relatives only**. Kathleen's estate will be inherited by her surviving brothers and sisters (Jastine and Hannah) and nephews (Giovanni and Stewart).

(10) Kathleen has no legitimate children or descendants, legitimate parents or ascendants, illegitimate children or descendants, the surviving spouse, and collateral relatives within the fifth degree. Kathleen's estate would be collected by the State. The collected estate would be put under the city or municipality where Kathleen last resided. If Kathleen did not live in the Philippines, the respective possessed assets would be put under the care of the city or municipality to which the respective assets are located in. This case would not happen since Kathleen still has eligible heirs in the form of her siblings Hannah and Jastine and her nephews Giovanni and Stewart.

### III.

- a. The heirs entitled to inherit Reigina's ten million (Php 10,000,000.00) estate are: (1) rabbi Nhemuel and (2) Reigina's first son Vladymir, and (3) Reigina's second son Orbiso. Vladymir and Orbiso' heirs are compulsory as they are the legitimate children of Reigina while rabbi Nhemuel's heir is voluntary.

The supporting laws from the Civil Code of the Philippines to consider are the following, First, Article 845 states that every disposition in favor of an unknown person shall be void, unless by some event or circumstance his identity becomes certain. However, a disposition in favor of a definite class or group of persons shall be valid. Rabbi Nhemuel's identity was clearly defined in the will that has been validly executed as specified in the scenario. Thus, Rabbi Nhemuel is entitled to a share of the estate with the amount provided in the will. the other witnesses and friends of rabbi Nhemuel are not entitled of the heir as these people were not explicitly mentioned.

Next, Article 887 states that the following are compulsory heirs:

- (1) Legitimate children and descendants, with respect to their legitimate parents and ascendants;
- (2) In default of the foregoing, legitimate parents and ascendants, with respect to their legitimate children and descendants;
- (3) The widow or widower;
- (4) Acknowledged natural children and natural children by legal fiction;
- (5) Other illegitimate children referred to in Article 287.

Orbiso and Vladymir are legitimate children and thus considered compulsory heirs.

Furthermore, by the definition provided in the book Vomments and Jurisprudence on Succession by Justice Jurado, compulsory heirs are those heirs for whom the law has reserved that part of the testator's estate known as the legitime. As such, Reigina, the testator cannot disregard the aforementioned list of heirs provided.

Now we proceed to discuss and argue further the eligibility of Vladymir for his heir. According to Article 916 of the Civil Code of the Philippines, disinheritance can be effected only through a will wherein the legal cause therefor shall be specified.

The book Comments and Jurisprudence on Succession by Justice Jurado elaborated the requisites of disinheritance which must be concured in order that a compulsory heir may be deprived of his legitime through disinheritance.

- (1) The disinheritance must be for a cause expressly stated by law;

- (2) The disinheritance must be effected only through a valid will;
- (3) The legal cause for the disinheritance must be specified in the will itself;
- (4) The cause for the disinheritance must be certain and true;
- (5) The disinheritance must be total; and
- (6) The disinheritance must be unconditional.

Upon analysis of the situation without assuming any facts that are not provided, the requisites (2) and (3) were not met. Reigina as a mother failed to compose a will that would justify the fact that her son Vladimir attempted to kill her 4 years back, or when Vladimir was 22 years old. Even if she mentioned this sceneario, she must explicitly state her intention of the disinheritance in the will in order for it to be granted.

Had she included the former statements on Vladimir's disinheritance in the will, this could have been granted under the grounds of the disinhetitance of descendants found under Article 919 of the Civil Code, (6) Maltreatment of the testator by word or deed, by the child or descendant, for as long as it is clear that this ground includes all acts of violence against the person of the testator and that there was no sufficient signs of insanity, lack of discernment or tender years of the child. A final judgment of conviction is not required here.

There are no other people mentioned in the will nor there are additional legitimes entitled besides the surviving children of Reigina. To conclude, only three people can benefitted from Reigina's property and that is rabbi Nhemuel, Vladimir, and Orbiso.

b. The distribution of shares of Reigina's property are: Php 4,000,000.00 to Vladimir, Php 4,000,000.00 to Orbiso, and Php 2,000,000.00 to Rabbi Nhemuel. The breakdown of the inheritance is found below.

Vladimir.....	Php 2,500,000.00	as compulsory heir (legitime)
	Php 1,500,000.00	as compulsory heir (from free portion)
Orbiso.....	Php 2,500,000.00	as compulsory heir (legitime)
	Php 1,500,000.00	as compulsory heir (from free portion)
Rabbi Nhemuel.....	<u>Php 2,000,000.00</u>	as voluntary heir
	Php 10,000,000.00	

We consider the following articles to justify the distribution of the shares: Article 888 of the Civil Code of the Philippines mentions that the legitime of legitimate children and descendants consists of one-half of the hereditary estate of the father and of the mother. The latter may freely dispose of the remaining half, subject to the rights of illegitimate children and of the surviving spouse as hereinafter provided.

Reigina's estate was worth ten million pesos and as mentioned in part (a), there were three heirs identified for the estate, and among which, two were compulsory heirs. With regards to Article 888, the first half of the estate's worth shall be disposed exclusively to the identified children, each of the children with an equal amount of share within the indicated legitime. With this, each child will then initially receive Php 2,500,000.00 of shares.

We do have to note here that the compulsory heirs must be fulfilled first whether or not there is a will provided by the deceased person where there will be a voluntary disposition of shares to other people not belonging to the list of legitimes. With the remaining five million pesos from the estate's worth, two million pesos is then allocated to rabbi Nhemuel in fulfillment of the will initiated and validly executed by Reigina as written.

With the remaining three million pesos to be properly and legally distributed, we refer to Article 852 of the Civil Code of the Philippines where it states that "if it was the intention of the testator that the instituted heirs should become sole heirs to the whole estate, or the whole free portions, as the case may be, and each of them has been instituted to an aliquot part of the inheritance and their aliquot parts together do not cover the whole inheritance, or the whole free portion, each part shall be increased proportionally".

Moreover, Article 846 of the same code mentions that heirs instituted without designation of shares shall inherit in equal parts.

Since there is no additional information indicating the distribution of the excess free portion of the inheritance, the remaining free portion shall be equally distributed amongst the legitimes, specifically half of it (Php 1,500,000.00) for each of the two sons of Reigima.

Thus, these mentioned articles resulted to the specified amounts that each of the heirs will inherit found in the beginning portion of the answer.