

The Form of Donations *Mortis Causa*

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4 ATENEO L.J. 107 (1954)

SUBJECT(S): CIVIL CODE

KEYWORD(S): DONATIONS, FORMALITIES, WILL

The Article begins by recognizing that it is already settled in the Philippine legal system that a donation *mortis causa*, to be valid, must observe the formalities of a will. The Article, however, continues by stating that the ruling in *Heirs of Bonsato et al v. The Court of Appeals* made the said doctrine questionable. In the said case, while the Supreme Court clarified the standards to be used in determining the nature of donations, several aspects regarding the formal aspects of a donation *mortis causa* remained unanswered.

While acknowledging that previous rulings of the Supreme Court expressly provide that donations *mortis causa* cannot be made without the formalities of the will, the Author makes a side by side examination of Article 620 of the old Civil Code and of the disquisitions of Muscius Scaevola on the nature of donations *mortis causa* to support the thesis that a donation *mortis causa*, while being in the nature of property disposal by will, does not have to follow the formalities of a will for its validity.

He submits that interpreting Article 620 of the old Civil Code as a provision that requires the formalities of a will for the validity of a donation *mortis causa* renders it useless to execute a will later on, unless its purpose is to revoke the donation. Hence, there is no reason to make a will from the beginning.

In the end, the Author concludes that neither Article 620 nor any article of the old Civil Code requires that donations *mortis causa* be executed in the solemnities required for wills.