

Title: *Carmen G. de Perez vs. Mariano Garchitorena and Jose Casimiro, Sheriff of the Court of First Instance of Manila* (54 Phil. 431)

Facts: Ana Maria Alcantara, deceased, left a sum of P21,428.58 on deposit with La Urbana, Manila, in the name of her heir, Carmen G. de Perez. This amount represented the final payment of Alcantara's liquidated credit against Andres Garchitorena, also deceased, who was represented by his son, defendant Mariano Garchitorena. Mariano Garchitorena, holding a judgment against Joaquin Perez Alcantara, husband of Carmen G. de Perez, directed the sheriff, Jose Casimiro, to levy an attachment on the said deposit. Carmen G. de Perez, the plaintiff, argued that the deposit was the property of the fideicommissary heirs of Ana Maria Alcantara, thus securing a preliminary injunction to restrain the execution. The defendants argued that Carmen G. de Perez was the universal heiress and moved for the dissolution of the injunction. The trial court found for the plaintiff, making the injunction permanent, a decision Mariano Garchitorena appealed, leading to the Supreme Court review.

Issues:

1. Whether the will of Ana Maria Alcantara created a trust.
2. Whether the amount deposited with La Urbana is the property of the children of Carmen G. de Perez as fideicommissary heirs.
3. Whether the injunction should be made permanent.

Court's Decision:

The Supreme Court affirmed the decision of the trial court, holding that the will of Ana Maria Alcantara indeed established a fideicommissary substitution, not a simple substitution. It was determined that the inheritance vested in Carmen G. de Perez was not her absolute property, but instead belonged to her children from the moment of Ana Maria Alcantara's death. Consequently, the inheritance, including the disputed deposit with La Urbana, could not be subjected to execution for the judgment against Joaquin Perez Alcantara.

Doctrine:

This case reiterates the principles of a fideicommissary substitution, emphasizing three requisite elements: (1) a primary heir called to enjoy the estate; (2) an obligation imposed on this heir to preserve and transmit to a third person the estate; and (3) a second heir entitled to the estate from the testator's death. It underlines that the second heir does not

inherit from the primary heir but directly from the testator, preserving the estate beyond the immediate heir's control.

Class Notes:

- **Fideicommissary Substitution**: A legal mechanism that allows a testator to designate an heir (fiduciary) to receive and enjoy the inheritance with the obligation to preserve and transmit it to a subsequent heir (fideicommissary).
- **Requisites**: Primary heir, obligation to preserve and transmit, second heir entitled from testator's death.
- **Key Concept**: The primary heir cannot dispose of the inherited property as it must be passed on intact to the subsequent heir, according to the testator's wishes.

Historical Background:

This case highlights the intricate legal framework surrounding inheritance and the ability of a testator to control the disposition of their estate beyond their lifetime through mechanisms such as fideicommissary substitutions. It showcases the Roman law influence on Philippine civil law, particularly in terms of property and inheritance laws. The decision enforces the principle that the intentions expressed in a will, provided they adhere to legal stipulations, must be respected, ensuring the testator's wishes regarding the future of their estate are fulfilled.