

TRUSTEESHIP OF THE MINORS BENIGNO, ANGELA AND ANTONIO ALL SURNAMED PEREZ Y TUASON. ANTONIO M. PEREZ, JUDICIAL GUARDIAN, APPELLANT, VS. J. ANTONIO ARANETA, TRUSTEE APPELLEE.

G. R. No. L-16962. February 27, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal from an order denying a motion.

Sometime in 1948, Angela S. Tuason died leaving a will, paragraph 4 of which reads:

"Instituyo como mis unicos herederos a mis mencionados tres hijos, a razon de una novena parte del caudal hereditario que dejare para cada uno de ellos. Lego a mi hijo Antonio otra porcion equivalente a dos novenas partes del caudal hereditario. Lego asimismo a mis nretos que fueren de mi hija Nieves, otra porcion equivalente a dos novenas partes del caudal hereditario. Y finalmente lego a mis ntetos que fueren hijos de mi hija Angela otra porcion equivalente a dos novenas partes del caudal hereditario. Dichos tres legados, sin embargo, estan sujetos a la manda que se menciona en el parrafo siguiente. Los dos legados, a favor de mis mencionados nietos seran administrados por mi albacea, J. Antonio Araneta (y en defecto de este, su hermano, Salvador Araneta), con amplios poderes de vender los mismos, y con su producto adquirir otros bienes, y con derecho a cobrar por su administracion, honorarios razonables. Los poderes de dicho administrador seran los de un trustee con los poderes mas amplios permitidos por la ley. Debera, sin embargo, rendir trimestralmente, cuenta de su administracion a los legatarios que fueren mayores de edad. Y asimismo, debera haeerles entrega de la participadon que a cada legatario corresponda en las rentas netas de la administracion. La administracion sobre un grupo cesara cuando todos mis nietos de dicho grupo llegaren a su mayoria de edad, y una mayoria de los mismos acordaren la terminacion de la administracion. Por nietos, debe entenderse no solamente a los nietos varones sino tambien a los nietos mujeres."

In conformity with this provision of said will, the present trusteeship proceedings was instituted and certain properties of the estate of the deceased, valued P900,000, were turned over in 1950 to J. Antonio Araneta, as trustee for the benefit of Benigno, Angela and Antonio, all surnamed Perez y Tuason, the grandchildren of the decedent referred to in her aforementioned will. Portions of said properties constituting the trust were sold in 1956, 1957 and 1958 at prices exceeding by P13,418.42, P4,023.52 and P81,386.94, respectively—aggregating P98,828.88—the original appraised value thereof. On September 28, 1959, the judicial guardian and father of said minors filed a motion in the trusteeship proceedings alleging that said sum of P98,828.88 represents profits or income of the trusteeship to which said minors are entitled, pursuant to the above quoted provision of the will, and praying that the trustee be accordingly instructed to deliver said sum to the movant. The trustee objected to the motion, which, after due hearing, was denied by an order dated March 10, 1960, from which said guardian has appealed.

The appeal hinges on whether or not the aforesaid sum of P98,828.88 is a profit or income which should be turned

over to the guardian of said minors according to the provisions of the will quoted above. Appellant maintains that it is, because said sum was included as profit in the statements of profits and losses attached to the corresponding income tax returns. This pretense is untenable.

To begin with, the issue as to whether or not the minors are entitled to the delivery of said sum of P98,828.88 is a matter dependent exclusively upon the conditions upon which the trust had been established, as provided in the above quoted paragraph of the will of the decedent, which in turn depends upon the latter's intent, as set forth in said paragraph. Upon the other hand, the question whether the sum in question is a profit or not within the purview of our internal revenue law depends upon the provisions of the latter, regardless of the will of the decedent.

Secondly, the proceeds of the sale of portions of the real estate held in trust, merely take the place of the property sold. What is more, the provision of the will of the decedent explicitly authorizing the trustee to sell the property held in trust and to acquire, with the proceeds of the sale, other property ("con amplios poderes de vender los mismos, y con su producto adquirir otros bienes,") leaves no room for doubt about the intent of the testatrix to keep, as part of the trust, said proceeds of the sale, and not to turn the same over to the beneficiary as net rentals ("rentas netas").

Thirdly, under the principles of the general law on trust, insofar as not in conflict with the Civil Code, the Code of Commerce, the Rules of Court and Special laws, are now part of our laws (Article 1442, Civil Code of the Philippines). Pursuant to the general law on trust, "a provision in the instrument to the effect that the beneficiary shall be entitled to the 'income and profits' of the trust estate is not ordinarily sufficient to indicate an intention that he should be entitled to receive gains arising from the sale of trust property * * *" (In re Account of Houston's Trustees, 165 Atl. 132; Lauman vs. Foster, 50 A.L.R. 531; Guthrie's Trustee vs. Akers, 157 Ky. 649; Estate of Gartenlaule, 198 Cal. 204, 244 Pac. 348, 48 A.L.R. [N.S. 793]). Indeed:

"The corpus of the estate, no matter what changes of form it undergoes, should be regarded as the same property. That the trust property is originally money, later becomes bonds, and still later real estate, ought not to affect the status of the property as the capital fund." (In re Graham's Estate, 198, Pa. 216, 219, 47 A. 1108; See Bogert on Trusts, 2d Ed., p. 436.)

Hence, it is well settled that profits realized in the sale of trust properties are part of the capital held in trust, to which the beneficiaries are not entitled as income. (First Nat. Bank of Carlisle vs. Lee, 23 Ky. L. Rep. 1897; Coleman vs. Grimes, 33 Ky. L. Rep. 455; Bains vs. Globe Bank & Trust Co., 136 Ky. 332; Smith vs. Hooper, 95 Md. 16; Chase vs. Union National Bank, 275 Mass. 503; First National Bank of Canton vs. Mulholland, 13 A.L.R. 1000 [1920] [land]; Stewart vs. Phelps, 75 N. Y. Supp. 526; Rathbun vs. Colton, 15 Pick, 471; Gibson vs. Cooke I Met. 75; See Scott on Trusts, Vol. 2, p. 1259). In the language of the Restatement of the Law:

"Subject to the allocation of receipts from unproductive or wasting property, and except as stated in Comment c, money or other property received by the trustee as the proceeds of a sale or exchange of the principal trust property is principal. Similarly, where trust property is taken on eminent domain, the proceeds received by the trustee are principal. If trust property is destroyed by fire or other casualty, the proceeds of insurance thereon received by the trustee are principal. * * *.

"Where it is provided by the terms of the trust that the 'income and profits' of the trust estate shall be paid to the life beneficiary, it is a question of interpretation whether the life beneficiary is to receive more than he would receive if it were provided that the 'income' should be paid to him. Ordinarily the inference is, that he is not to receive more, and if trust property is sold at a profit, the profit is principal" (Restatement of the Law, Trusts, Vol. I. pp. 682 and 691.)

Wherefore, the order appealed from is hereby affirmed, with costs against appellant, Antonio M. Perez. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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