

TRUSTEESHIP OF THE MINORS BENIGNO, ANGELA AND ANTONIO ALL SURNAMED PEREZ Y TUASON,

G.R. Nos. L-16185-86. May 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

APPEAL to review the orders of the Court of First Instance.

SUMMARY

Presented in the Court of First Instance of Rizal for resolution were two incidents of the Trusteeship of minors Benigno, Angela and Antonio all surnamed Perez y Tuason. The first, is whether or not to allow the trustee to pay the Law firm Araneta & Araneta of which he is a member, for services rendered him as such trustee in several proceedings. The second, is whether or not to approve the purchase of 118 common shares of stock of the Philippine-American Drug Co. by the trustee for the benefit of the trust estate. Judicial Guardian, Antonio' M. Perez opposed both questions. After the proceedings were terminated, the trial court authorized the payment to the Araneta & Araneta Law Offices the sum of P5,500.00 as counsel for the trustee out of the net income of the trust estate. It also approved the purchase of the shares of stock. From these orders, Judicial Guardian, Antonio Perez appealed. In L-16185 the appellant assailed the payment as contrary to Section 7 of Rule 86 of the Rules of Court; that the trustee is a member of the law firm; that it is excessive; that the services rendered inured to the benefit of the trustee and that no evidence were presented to determine the extent of the services rendered. In L-16186 appellant alleged that the purchase of the shares of stock is an unwise investment; self-dealing as the trustee and his children are stockholders of the drug company and that appellant has no knowledge that the operation of the company is profitable and lawful. On appeal, the Supreme Court affirmed the orders appealed from with costs.

RULING

Section 7 of Rule 86 of the Rules of Court, refers only to executors or administrators of the estate of deceased persons and does not necessarily apply to trustees, although some of their functions are closely analogous. However, since trustees like executors or administrators hold office of trust and they act under judicial authority, the policy set forth in Section 7 of Rule 86 of the Rules of Court which are basically sound and wise should generally apply to trustees. The duties of executors or administrators are limited by law whereas that of trustees are governed by an express trust usually by the intentions of the trustors if established by contracts and that they cover a wider range. Applying therefore, Section 7 of Rule 86 without distinction may dissuade deserving-persons from accepting the position of trustee and consequently have a deterrent effect upon the establishment of trust. It is, therefore, the better policy to acknowledge the authority of courts of justice to exercise sound judgment in determining whether or not trustee shall be allowed to pay attorney's fees and charge the same against the trust estate independently of their compensation as a trustees. The contention that the purchase of the shares of stock is an unwise investment and self-dealing is belied by the evidence of record where all factors lean favorably towards

the trust estate.

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