

**IN RE: GUARDIANSHIP OF ANTONIO TABOR, INCOMPETENT.
ELPIDIO TABOR, PETITIONER, VS. HON. RODOLFO BALTAZAR, ET
AL., RESPONDENTS.**

G. R. No. L-5468. February 11, 1953

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Antonio Tabor and Justa Saranas were husband and wife and had an only child Eipidio Tabor. They owned dotted a residential lot with an area of 522 square meters in the poblacion of Tayug, Pangasinan, and were able to register it under Original Certificate of Title No. 66 as conjugal property. Justa Saranas died in December, 1948. Sometime after her death, on August 26, 1949, the surviving spouse Antonio Tabor then still competent, executed a deed of promise to sell the western half of the lot in question to Flaviano Magpali and Dalmacio Miranda with option on their part to purchase the whole lot for P7,000. Antonio Tabor received as earnest money or partial payment the sum of P100. Thereafter, Antonio fell sick and became mentally incapacitated and his sister Benita Tabor in Special Proceedings No. 3943 of the Court of First Instance of Pangasinan, Tayug Branch, applied for the guardianship of the person and property of her brother. The necessary notices were issued to the next of kin and because no opposition was filed the court on April 12, 1951, granted the petition and appointed Benita guardian of the person and estate of incompetent Antonio Tabor upon the filing of a bond in the sum of P500.

In the meantime Eipidio Tabor, the only child of Antonio and Justa executed on May 24, 1950, a deed of pacto de retro sale (Annex 1) of the same residential lot in favor of the same Flaviano Magpali and Dalmacio Miranda for P5,000. The period of repurchase was fixed at one (1) year but the purchasers were given the option to make the sale definite and absolute if they added P2,000 to the purchase price of P5,000. In the deed of sale Elpidio Tabor stated that he was making the sale not only in his name but also that of his father who according to him was then seriously ill. This was because as stated in the deed, one-half belonged to his father and the other half belonged to him (Elpidio).

On May 1, 1951, Benita Tabor acting as guardian jointly with Flaviano Magpali and Dalmacio Miranda to whom Antonio had previously promised to sell the lot and to whom Elpidio had actually sold the same property, petitioned the court for authority to sell the lot to Magpali and Miranda in the sum of P7,000, alleging that Elpidio had already collected from them a total of P5,450, and that she as guardian had also received from the said purchasers the amount of P1,450. Stating that the petition was in order, and that it was for the best interests of the incompetent, the court granted the petition and authorized Benita to execute the corresponding deed of sale, submit the deed for the court's approval and deposit whatever proceeds she may receive in the Philippine National Bank, Dagupan Branch, and to render an accounting. Elpidio Tabor filed two motions for the disapproval of Benita's appointment as a guardian and of the order authorizing her to sell. Both motions were denied. Elpidio has now brought the case here on certiorari seeking to annul the order of May 8, 1951, authorizing the guardian to execute a deed of sale of the lot on the ground that the court did not have jurisdiction to authorize the sale of the one-half belonging to him.

Technically, the contention of petitioner Elpidio Tabor is correct because the court could authorize the sale of only that portion that belonged to the incompetent. However, under the circumstances, we are not prepared to find that the trial court acted illegally and with abuse of its discretion in authorizing the sale. As already stated, petitioner, in 1950 and after his father Antonio had become incompetent actually sold the same lot including the one-half belonging to his father for the sum of P5,000 with the right to repurchase within one year. He said he was acting in behalf of his father but he had not been appointed guardian of the incompetent; neither had he any authority to make the sale of the one-half not belonging to him (Elpidio). It does not appear that he ever tried, much less succeeded in repurchasing the lot within a period of one year. On the other hand, according to the terms of the deed of sale executed by him, purchasers Magpali and Miranda who had the option to make the sale absolute by adding the sum of P2,000 to the sales price of P5,000, had already paid this addition, giving P450 to the petitioner and P1,450 to the guardian. As a result, for the sale of the whole lot, although only $\frac{1}{2}$ of it belonged to petitioner, the latter received P5,450 as against the sum of P1,450 and P100 that went to his father. Obviously, he has no reason to complain specially since all that the court did was to sanction and legalize what had already been done by Antonio Tabor and the petitioner. Technicalities must give way to substantial justice. It is claimed by petitioner that the purchase price is inadequate but considering that the lot contains only 522 square meters, and that the sales price was P7,000 or at the rate of almost P14 a square meter, that would seem to be adequate enough for a lot in a town even if it is in the poblacion. Besides, petitioner himself did not consider inadequate the sum of P5,000 for which he sold the whole lot in Annex "1", with pacto de retro, or P7,000 for an absolute sale thereof.

Finding no merit in the petition, the same is hereby denied, with costs.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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