

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

G.R. No. L-23159. July 28, 1969

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/95b401f1f6d7/>

SANCHEZ, J.:

The four (4) cases above numbered are before this Court upon a joint motion to dismiss filed in each of the said cases, which motions to dismiss are written in the same language, one a verbatim reproduction of the others except as hereinafter noted. A sample of the joint motion to dismiss as set forth in L-23159 reads:

"JOINT MOTION TO DISMISS

COME NOW, J. Antonio Araneta, the trustee-appellee in the above-entitled case, and the undersigned Benigno de la Vega, Angela T. Staley (nee Angela Perez y Tuason), and Antonio Perez y Tuason, assisted by their respective counsels and to this Honorable Court respectfully allege:

1. That this appeal from an order of the trusteeship court in Special Proceeding No. Q-73 involves a trust which was created by the late Angela S. Tuason for the benefit of the children of her daughter, Angela I. Tuason, and which was administered by J. Antonio Araneta as trustee in trusteeship proceeding No. Q-73 of the lower court.
2. That the undersigned Benigno de la Vega is Angela I. Tuason's son by the late Benigno de la Vega Inclan, but was also known as Benigno Perez y Tuason' because he was adopted by Antonio M. Perez the present husband of Angela I. Tuason; Angela T. Staley (nee Angela Perez y Tuason) and Antonio Perez y Tuason are the children of Angela I. Tuason by Antonio M. Perez; and that Benigno de la Vega (Benigno Perez y Tuason), Angela T. Staley (nee Angela Perez y Tuason) and Antonio Perez y Tuason are all the beneficiaries of the trust administered by the trustee-appellee in Special Proceeding No. Q-73 in the lower court.
3. That the judicial guardian-appellant, Antonio M. Perez, is a party to trusteeship proceeding No. Q-73 and prosecuted this appeal and other appeals from orders of the lower court in said proceeding only in his capacity as the judicial guardian and in behalf of the aforesaid three beneficiaries who were then his wards on account of their minority.
4. That the guardianship over the three afore-named beneficiaries terminated when they became of legal age.
5. That Benigno de la Vega (Benigno Perez y Tuason) became of age on February 3, 1960, Angela T. Staley on March 21, 1965 and Antonio Perez y Tuason, the youngest, on April 17, 1969.
6. That under the terms of the trust herein involved, the trust would terminate when all of the beneficiaries become of legal age and a majority of them should decide to terminate it, in which case, the entire trust estate should be distributed equally among all the beneficiaries; and that all the said three beneficiaries as well as the trustee-appellee decided and agreed, after the youngest beneficiary, Antonio Perez y Tuason, had reached

the age of 21 on April 17, 1969, to terminate the trust on April 30, 1969.

7. That the trustee-appellee and all the afore-named three beneficiaries of the trust, assisted by their respective counsels, thereafter filed with the lower court in the trusteeship proceeding a 'Joint Manifestation and Motion for Approval of Project of Partition', dated April 18, 1969, praying for an order declaring that the trust would terminate on April 30, 1969, approving the project of partition of the trust estate therein embodied, and authorizing the trustee-appellee to convey all the assets of the trust estate to the above-named three beneficiaries in accordance with said project of partition. A xerox copy of said 'Joint Manifestation and Motion for Approval of Project of Partition' is hereto attached as Appendix 'A', and the corresponding Order (xerox copy) of the lower court, dated April 19, 1969 granting it is hereto attached as Appendix 'B'.

8. That as this honorable Court will note, all the three beneficiaries already manifested in the said joint manifestation and motion (Appendix 'A') that they confirmed and ratified all the quarterly accounts of the trustee-appellee which had been filed prior to the date of said motion (See paragraphs 5 and 12 of Appendix 'A'), and that 'for expediency and practical reasons all motions, petitions and incidents which may still be pending resolution in this proceeding, and all appeals and special civil actions pending in the Supreme Court and the Court of Appeals relating to or affecting this trust be considered abandoned and withdrawn' (See paragraph 4 of Appendix 'A').

9. That the three beneficiaries herein confirm and ratify the trustee-appellee's right to the trustee's fees involved in this appeal.

10. That all the undersigned parties have no further desire to prosecute this appeal.

11. That since the undersigned are all the real parties in interest in the above-entitled case, it is submitted that in view of the foregoing, this case has become academic and should be dismissed.

WHEREFORE, it is respectfully prayed that the above-entitled case be dismissed.

Manila, MAY 30, 1969.

(SGD.) J. ANTONIO ARANETA

Trustee

(SGD.) ANGELA T. STALEY (SGD.) BENIGNO DE LA VEGA

Beneficiary Beneficiary

(SGD.) ANTONIO PEREZ Y TUASON

Beneficiary

Assisted By:

ARANETA, MENDOZA & PAPA

By

(SGD.) J. ANTONIO ARANETA

Counsel for Trustee

4th Floor, A & T Building

Escolta, Manila

(SGD.) ANTONIO PISON, JR. (SGD.) LEONARDO ABOLA

Counsel for Angela T. Staley Counsel for Benigno dela

UPL Building Vega and Antonio Perez y

Port Area, Manila Tuason

3rd Floor, Avenue Building

Rizal Avenue, Manila

V e r i f i c a t i o n

WE, the undersigned, after being duly sworn, depose and declare:

That we have read the foregoing motion and that the allegations thereof are true and correct of our own know-ledge.

(SGD.) ANGELA T. STALEY (SGD.) J. ANTONIO ARANETA

(SGD.) BENIGNO DE LA VEGA (SGD.) ANTONIO PEREZ Y TUASON

J u r a t

SUBSCRIBED AND SWORN TO BEFORE me on this 30th day of May, 1969 at Manila affiants exhibiting to me the following:

Name Res. Cert. No. Date and Place

J. Antonio Araneta A-182901 Jan. 10, 1969 - Manila

Angela T. Staley A-157243 Feb. 27, 1969 -Manila

Benigno de la Vega A-3417506 Jan. 31, 1969 - Sagada, Mt. Prov.

Antonio Perez y Tuason A-5879287 May 19, 1969 – Manila

(SGD.) RODOLFO D. MAPILE

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Doc. No. 314

Page No. 64

Book No. II

Series of 1969."

The sole difference between the averments in the joint motion to dismiss in L-23159 and L-23160 is in the averment of paragraph 9 in the last mentioned case, which reads:

"9. That this appeal was made solely to seek a ruling on what expenses should be charged to principal of the trust or to its income, a question that will serve no purpose now because the undersigned beneficiaries of the trust, in whose behalf this appeal was made, are now entitled both to the principal and income of the trust."

In L-23161 and in L-24297, the allegations noted in paragraph 9 of the joint motion to dismiss in L-23159 and L-23160 are omitted. Instead, paragraphs 10 and 11 in L-23159 and L-23160 were reproduced in L-23161 and L-24297 as paragraphs 9 and 10.

It thus appearing that the above-entitled casts have all become moot and academic, the Court RESOLVED to dismiss all of the said cases, without costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Dizon, Zaldivar, Castro, Fernando, Capistrano, Teehankee and Barredo, JJ., concur.

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