

**IN THE MATTER OF THE GUARDIANSHIP OF EULOGIO IMPERIAL,
PHILIPPINE NATIONAL BANK, GUARDIAN. GLORIA GOMEZ,
CUSTODIAN-CLAIMANT-APPELLEE, VS. RUFINO IMPERIAL, ESTEBAN
IMPERIAL, AQU...**

G.R. No. L-26981. October 30, 1968

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9c552ac05c71/>

CONCEPCION, C.J.:

Appeal from some orders of the Court of First Instance of Zamboanga del Norte.

On August 9, 1956, the Philippine National Bank commenced Special Proceedings No. R-145 of said court with a petition praying-pursuant to Republic Act No. 390[1] - that Eulogio Imperial - an 85 year old veteran, who was to receive a monthly pension of P270 from the U.S. Veterans Administration and had been found by the same to be incompetent - be so adjudged and that the Bank be appointed guardian of his estate and authorized to pay therefrom not more than P100.00 a month to the person in actual custody of said incompetent, namely, his granddaughter, Gloria Gomez, at No. 20 Arellano St., Dipolog, Zamboanga del Norte. It was alleged in said petition that the other near relatives of the incompetent had signified their "waiver, agreement and conformity", which was attached to the petition.

On the same date, the court granted the petition as well as the authority therein prayed for. Thereupon, the Bank qualified as guardian and discharged its duties as such. After filing the necessary petitions, which were granted by the court, the monthly allowance for the ward was, from time to time, increased, from P100.00, on August 9, 1956, to P200.00, as of January, 1962. Similarly, the net value of the estate of the ward had gradually increased until it reached the sum of P10,131.57 as of December 10, 1963, when, in view of the death of the ward, on September 13, 1962, the bank submitted its final account, which was approved by the court on February 8, 1964. In its order of that date, the court, likewise, directed Miss Gomez to submit a verified statement of the names of all known legal heirs of the deceased. The last para-graph of said order was of the following tenor:

"In the meantime, the guardian Philippine National Bank is hereby directed to deposit the residuary estate of said ward with its bank agency in Dipolog, this province, in the name of the estate of the deceased of the same to the heirs when the latter shall be known, and, upon proof of deposit of said residuary estate, the guardian Philippine National Bank shall forthwith be relieved from any responsibility as such, and this proceeding shall be considered closed and terminated."

Soon thereafter, or on February 21, 1964, four children of the deceased, namely, Rufino, Esteban, Nicasia and Irinea, all surnamed Imperial - the last two represented, respectively, by their descendants, Aquilla Alonzo and Francisca Ordinario Imperial - filed a motion to set aside said order of February 8, 1964, and prayed that an accounting be rendered by Miss Gomez either together with, or separately from, the Bank, and that the termination of the proceedings or the division of the residuary estate be held in abeyance until said accounting shall have been made.

On February 29, 1964, Miss Gomez objected to this motion. Moreover, on March 10, 1964, she submitted to the court the names and addresses of seven (7) children of the deceased, three (3) of whom were, likewise, deceased, and the names and addresses of the children of the latter. On the same date, she, also, filed a motion for the payment of a monthly compensation of P15.00, for her services as custodian of the person of the ward, from August 9, 1956 to September 13, 1962, or the aggregate sum of P1,080.00.

On March 11, 1964, the Bank reported to the court that the residue of the estate of the deceased incompetent had been transferred to the Dipolog agency of said Bank, where a savings account in the name of said estate was opened. On May 11, 1964, the court issued an order denying said motion for reconsideration of the order of February 8, 1964, and granting Miss Gomez the aforementioned compensation for her services as custodian of the person of the ward. A reconsideration of this order having been denied on July 11, 1964, the above named children of the deceased interposed the present appeal from said orders of May 11 and July 11, 1964.

The questions raised in the seven assignments of error made by appellants herein may be summed up as follows: (a) that the lower court had no jurisdiction to entertain the petition for guardianship, because notice of said petition had not allegedly been served upon them; (b) that Miss Gomez is not entitled to compensation for her services as custodian of the incompetent; (c) that she may be required to render an accounting; and (d) that the lower court should have distributed in the present proceedings the residue of the estate of the incompetent among his heirs.

As regards the first question, suffice it to say that, before the commencement of this case, and with full knowledge of the fact that the same would be instituted, the near relatives of the ward had signed a "waiver, agreement and conformity" - which was attached to the petition for guardianship - of the following tenor:

"I hereby acknowledge notice that a guardian must be appointed in the above-styled case before benefits payable through the U.S. Veterans Administration may be released. I request that the Philippine National Bank be appointed as guardian for the incompetent's estate, and hereby WAIVE further notice, entry of appearance, conform to the pleading and consent that this matter may be heard ex--parte by the court pursuant to Section 19 of the 'Uniform Veterans' Guardianship Act' (Republic Act No. 390)."[2]

Indeed, the lower court made specific reference to this "waiver, agreement and conformity" in granting said petition of the Bank. In view of said waiver, which is explicitly sanctioned by law,[3] it is apparent that the lower court had jurisdiction over the guardianship proceedings and full authority to dispose of the same in the manner in which it did. Thus:

"In *Burroughs v. De Coutts* (1886) 70 Cal. 361, 11 p. 734, it was held that there had been a sufficient compliance with the California statute which provided that before appointing a guardian for a minor, 'the judge shall cause such notice to relatives of the minor residing in the county, and to any person under whose care such minor shall be, as he shall on due inquiry deem reasonable.' x x x; where the order making the appointment recited that it satisfactorily appeared that all the near relatives of the infant, residing in the county, had assented thereto, and that two of such relatives had filed their consent in writing,"[4]

Needless to say, as correctly adverted to in the order of May 11, 1964, "it is extremely hard to believe that in the almost seven years that this proceeding had been pending" in the lower court appellants herein - all of them residents of Zamboanga del Norte, some in the very municipality of Dipolog, where Miss Gomez and her grandfather were residing - had not known or heard of the present case. One can not, of course, overlook the fact that, on August 9, 1956, when the same began, the sum available for the incompetent was only P270. In other words, it was too meager for the appellants to attach any importance thereto.

With respect to the second question, it is clear that the lower court had discretion to authorize the payment to Miss

Gomez of a nominal compensation of P15.00 a month, considering that she had agreed to take care of an old man, who preferred to be with her than with any of his children, and that none of the latter had volunteered to give him the attention he needed so badly. Besides, in granting the petition for guardianship - which included a request for authority to pay Miss Gomez a monthly allowance of P100 for the support of the incompetent - as well as the subsequent motions of the Bank for the gradual increase of said allowance, the court had in effect authorized the Bank to engage her services as custodian of the person of said incompetent. The lower court did not err, therefore, in holding that those services should be compensated, not only as a matter of principle, but, also, because of the surrounding circumstances and the insignificant amount awarded therefor.

The third assignment of error is, likewise, untenable. The above-mentioned monthly allowance was in payment for the board, lodging, clothing and other necessities of the deceased. Miss Gomez did not have to render accounts of the expenses incurred by her for such purpose. The Bank had already submitted its reports of the expenses of the guardianship, which reports were approved by the court.

The last assignment of error is manifestly devoid of merit, for the distribution of the residue of the estate of the deceased incompetent is a function pertaining properly, not to the guardianship proceedings, but to another proceeding which his heirs are at liberty to initiate.

WHEREFORE, the orders appealed from are hereby affirmed, with costs against the appellants.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., did not take part.

[1] Otherwise known as the Uniform Veterans Guardianship Act.

[2] Appellee's brief, p. 6; p. 82, Rollo.

[3] Section 19 of Republic Act No. 390 provides: "The parties at interest in any case under this Act, including the Administrator, through his attorney, may, by written consent filed with the Court waive formal hearing and appearance in any matter affecting such case; whereupon the Court shall determine the matters involved solely upon the pleadings and shall render judgment thereon without requiring the parties or their attorneys to be present and shall cause a certified copy of any judgment so rendered or order issued to be mailed to the guardian and to the Chief Attorney of the Veterans Administration."

[4] 109 A.L.R., p. 340.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.