

PHILIPPINE NATIONAL BANK, GUARDIAN-APPELLANT, VS. ERLINDA G. GARLIT, PERSONAL GUARDIAN-APPELLEE.

G.R. No. L-22504. October 14, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This is an appeal from two orders of the Court of First Instance of Tarlac dated November 15 and 21, 1963, respectively.

The Philippine National Bank was appointed guardian of the incompetent, Federico Garlit, under the provisions of Republic Act No. 390, otherwise known as the "Uniform Veterans Guardianship Act", in Special Proceeding No. 1037 of the Court of First Instance of Tarlac. On May 10, 1963 the guardian filed a petition in said proceeding for authority to invest the sum of P15,000.00 from the ward's trust funds in the purchase of 7% Socio-Economic Bonds issued by the Government. The ward's wife opposed the petition and instead suggested, among other things, that the funds be invested in the purchase of productive agricultural lands, alleging that such an investment would be more profitable than that proposed by the guardian. The guardian as well as the Administrator of Veterans Affairs, U.S. Veterans Administration, objected to the wife's suggestion on the ground that it was not sanctioned by law.

On October 4, 1963 the lower Court issued an order of which the last paragraph reads:

"The investment should be on whichever is most advantageous or beneficial to the estate of the ward. The oppositor, Mrs. Erlinda G. Garlit, has not brought to the attention of the guardian nor of the Court, any agricultural land for sale to which such profitable investment may be made. She is, therefore, hereby directed to bring to the attention of the guardian or of the Court, any agricultural land to which such beneficial investment may be made, within one (1) month from receipt of this order. If she fails to procure such land within the period given, the guardian will be authorized as he is hereby authorized, subject to such contingency, to invest P13,000.00 of the funds of the ward in the purchase of seven (7%) per cent Socio-Economic Bonds of the Government, as prayed for in the petition."

The guardian moved for reconsideration. In her opposition to the motion the ward's wife manifested to the Court that she had found parcels of agricultural land for sale and that the owner had already executed an option to sell in favor of the ward, good for a period of one month from the date of its execution.

On November 15, 1963 the lower Court denied the motion for reconsideration and on the following November 21 issued another order directing the guardian "to invest the funds of the ward in the purchase of the land to which an option is given by its owner Luis Tan in favor of the Ward Federico Garlit if it finds the same to be a first class agricultural land capable of producing 300 cavanes of palay per year".

The only issue in this appeal by the guardian is whether or not the investment of the trust funds of the ward in agricultural lands is sanctioned by Republic Act No. 390. The pertinent provisions of this law are Sections 16 and 21(a), which provide as follows:

"SEC. 16. Investments. - Every guardian shall invest the funds of his ward's estate in such securities or property as authorized under the laws of the Philippines but only upon prior order of the Court; except that the funds may be invested without prior court authorization, in direct, unconditional, interest-bearing obligations of the Governments of the Republic of the Philippines or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by either of the said Govern-ments. A signed duplicate or certified copy of the petition for authority to invest shall be furnished the Chief Attorney of the Veterans Administration, and notice of hearing thereon shall be given said official as provided in the case of hearing on a guardian's account."

"SEC. 21. Purchase of home for ward.- (a) The Court may authorize the purchase of real estate in the Philippines in which the guardian has no interest, but only as a home for the ward, or to protect his interest, or (if he is not a minor) as a home for his dependent family. Such purchase of real estate shall not be made except upon the entry of an order of the Court after hearing upon a verified petition. A copy of the petition shall be furnished the Chief Attorney of the Veterans Administration and notice of hearing thereon shall be given said office as provided in the case of hearing on a guardian's account."

Under Section 16 the guardian has unrestrained authority to invest the trust funds in direct, unconditional interest-bearing obligations of the Philippine or United States Govern-ments and in obligations the interest and principal of which are unconditionally guaranteed by either of them. The limitation in the law refers to other securities or property, and consists of the requirement that the investment be authorized under the laws of the Philippines and made only upon prior order of the Court. With respect to investment in the form of purchase of real estate, section 21 (a) limits the cases in which the same may be authorized by the Court to those where the real estate is needed as a home for the ward, or to protect his interest, or (if he is not a minor) as a home for his dependent family.

The agricultural land which the trial court ordered the guardian to purchase in the present case is admittedly not intended for his home or that of his dependent family. His wife has suggested it as a source of income. Its justification must therefore be sought in the need to protect an interest he may have in the property itself. In other words, the ward must have an already existing interest in the real estate, to protect which the court may authorize the purchase. The nature and extent of such interest is not defined in the law, but that it must exist prior to the purchase is implicit in the provision of Section 21(b), as follows:

"(b) Before authorizing such investment the Court shall require written evidence of value of title and of the advisability of acquiring such real estate. Title shall be taken in the ward's name. This section does not limit the right of the guardian on behalf of his ward to bid and to become the purchaser of real estate at a sale thereof pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold; nor does it limit the right of the guardian, if such be necessary to protect the ward's interest and upon prior order of the Court in which the guardianship is pending, to agree with co-tenants of the ward for a partition in kind or to purchase from co-tenants the entire undivided interest held by them, or to bid and purchase the same at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty."

In the present case there is no suggestion that the ward has any interest to protect in the agricultural land which the lower court ordered the guardian to purchase with the funds of its ward. Apart from the strictly legal aspect, there is of course the valid observation of the Philippine National Bank, as guardian, that it is hardly in a position to actively manage and operate the said land once purchased; that such responsibility would in all probability be in the hands of other persons; and that in such a situation the guardian's accountability could not be easily fixed and determined.

As to the choice of the particular investment proposed by the guardian, there is no question but that the 7%

Socio-Economic Bonds of the Republic meet the requirements of Section 16 of Republic Act No. 390, and are more advantageous to the ward than the present savings deposit in which the trust funds are placed, at only 3-1/2% interest, compounded quarterly.

Wherefore, the orders appealed from are hereby set aside and the guardian-appellant is authorized to invest the amount of P15,000.00 of the trust funds of the ward in the purchase of Socio-Economic Bonds as prayed for in its basic petition of May 10, 1963. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Sanchez, Castro, Angeles, Fernando, and Capistrano, JJ., concur.
Zaldivar, J., on official leave.

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