

**PHILIPPINE NATIONAL BANK, GUARDIAN-OPPOSITOR?APPELLANT,
VS. DONATA D. CABUGSA, PETITIONER-APPELLEE.***G.R. No. L-29406. January 28, 1971*

Ponente: MAKALINTAL, J.

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Upon petition of the Philippine National Bank, appellant here, pursuant to the Uniform Veterans Guardian-ship Act (R.A. No. 3903), the Court of First Instance of Bohol, in an order dated June 18, 1953, adjudged Victoria Dominisac an incompetent and appointed said appellant guardian of her property. The ward was then and even before that date in the physical custody of her niece, Donata Dominisac Cabugsa, herein appellee. In the same order the court authorized the guardian to pay immediately from the estate of the ward the sum of P100, and thereafter a sum not to exceed P55.00 monthly "to the person having actual, physical custody of said incompetent person, for so long as such person shall provide satisfactorily for the incompetent person's maintenance and other necessities, or until further orders of the Court and such other season-able and necessary amounts, from time to time, to cover unforeseen contingencies..."

The guardian regularly submitted its accounts to the court. On November 21, 1966 Victoria Dominisac died, whereupon the bank filed its final accounting and prayed that the same be approved, that it be relieved from further responsibility as guardian and that the guardianship proceeding be declared terminated. The accounts showed that the bank had a balance of P24,031.34 to the credit of the ward, and some securities valued at P4,872.94.

On March 11, 1967 the court approved the final accounts and ordered the bank "to keep the money of the residuary estate of the ward until her heir or heirs are definitely determined by the Court."

On April 5, 1967 Donata Dominisac Cabugsa filed a petition in the guardianship proceeding for (1) compensation for services rendered by her to the ward, computed by her at P28,080.00, covering a period of 13 years (1953-1966) and (2) for a declaration that she was the heir of said ward and hence entitled to inherit the balance of the estate.

The bank opposed the petition on the ground that the guardianship court had no jurisdiction to entertain the petition, which should be submitted to the corresponding testate or intestate proceeding for the settlement of the estate of the deceased ward.

After hearing, the court, in an order dated February 28, 1968, granted the petition and declared that the petitioner was "entitled to be paid for her services as physical custodian of the incompetent... from June 18, 1944 (subsequently amended to June 18, 1953) to November 21, 1966 at the rate of Six Pesos (P6.00) a day or in the total sum of Twenty-Nine Thousand Five Hundred Seventy-Six Pesos (P29,576.00) to be paid from the residuary estate of the incompetent Victoria Dominisac." As may be noted, the amount thus awarded was almost equal to the value of the entire estate, and if paid would leave only a few hundred pesos as remainder. The bank moved to reconsider but was turned down, and thereafter came up to this Court.

The appeal must be sustained. The claim for compensation for services rendered could have been properly considered by the guardianship court had it been filed before the final accounts of the guardian were approved and before the guardianship proceeding was terminated. Thereafter, and since the incompetent had died, it should be filed as an ordinary claim for money in the corresponding proceeding for the settlement of her estate in order to afford other persons, who may themselves be heirs of the deceased, to be heard on the matter and to present their objections, if any, not only as the truth of the facts upon which the claim was based, that is, the rendition of services to the incompetent, but also as to the reasonableness of the amount claimed, which amount, as presented to and approved by the court, would just about clean up the entire estate.

It may be true that the claimant, as she alleged, is the only surviving heir of the deceased. But whether she is or not is beyond the competence of the guardianship court to decide. A declaration of heirs may be made only in a proceeding for the settlement of the deceased's estate, for which there are certain procedural requisites not present in a guardianship proceeding. At any rate, if the petitioner is really the only heir entitled to inherit, then she will receive the estate in that capacity after deducting the inheritance taxes; but the possibility that there may be other heirs similarly entitled should not be summarily foreclosed by the expedient of a claim for compensation for services such as was followed in this case.

Wherefore, the orders appealed from are reversed and set aside, without prejudice to the right of appellee to file the corresponding proceeding for the settlement of the estate of the deceased Victoria Dominisac, and to pursue her claim therein. No pronouncement as to costs.

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

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