

IN THE MATTER OF THE GUARDIANSHIP OF VIRGINIA DATO AND PEPITA DATO, MINORS, JOSE O. RAMOS, GUARDIAN OF THE PERSONS, PETITIONER AND APPELLEE, VS, PHILIPPINE NATIONAL BANK, GUARDI...

G.R. No. 10295. August 30, 1957

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

In this appeal—taken by the Administrator of Veterans Affairs, from an order of the Court of First Instance of Abra, as amended, in the above entitled case, directing the Philippine National Bank to pay to Dr. Jose O. Ramos, the sum of P5 a month from April 29, 1946 to June 30, 1956, by way of compensation for his services as guardian of the person of the minors Virginia and Pepita, both surnamed Dato, and holding that beginning July 1, 1956, Dr. Ramos shall be paid compensation at the rate of 2 per cent, and the Philippine National Bank 3 per cent of all monies received for each ward every year—the only question raised is one of law, namely, whether the guardian of the person of a minor is entitled to compensation for his services as such guardian.

It appears that on April 29, 1946, Dr. Ramos became the judicial guardian of the person and properties of the minors above mentioned. On motion of the United States Veterans Administration, the Court subsequently appointed the Philippine National Bank as guardian of said properties, in lieu of Dr. Ramos, who continued as guardian of the person of said minors. As such guardian, Dr. Ramos incurred expenses for their support, which were later reimbursed by order of the Court. Since 1952, he received from the Bank the sum of F40 as monthly allowance for the support of each minor, which was increased in 1955 to P50 for the minor Virginia Dato. Upon petition filed by Dr. Ramos, on June 23, 1955, and, over the objection of the Administrator of Veterans Affairs, the Court of First Instance of Abra issued, after due hearing, an order, dated August 25, 1955, directing payment by the Philippine National Bank to Dr. Ramos of the sum of F10 a month from April 29, 1946. The Administrator of Veterans Affairs and the Philippine National Bank moved for a reconsideration of this order, which, the court amended on November 15, 1955, in the manner indicated in the opening paragraph of this decision. The Administrator of Veterans Affairs has appealed from said order, as amended, upon the ground that:

"1. The lower court erred in maintaining that a guardian of the person of a minor is entitled to compensation as such guardian.

"2. The lower court erred in ordering that the guardian of the persons of the minors be paid the sum of P5 a month from April 29, 1946 to June 30, 1956 and two (2%) per centum of all monies received for each "ward every year thereafter."

Briefly stated, appellant maintains that the right to compensation, if any, of a guardian, as such, is purely statutory in nature; that there is no law granting said right to guardians whose authority as such is limited only to the person of their respective wards and does not extend to the latter's property; and that, pursuant to section 15 of Republic Act No. 390, the compensation of guardians of minors entitled to receive benefits payable by or through the

Veterans Administration "shall not exceed five per cent of the amount of money received during any year," which was being paid to the Philippine National Bank, as guardian of the estate of the minors Virginia and Pepita Dato.

Section 27 of Republic Act No. 390 declares that Rules 98 to 98, inclusive, of the Rules of Court, insofar as not inconsistent with the provisions of said Act, shall apply to proceedings under the same. Section 8 of Rule 97 of said Rules, in turn, provides:

"Upon the expiration of a year from the time of Ms appointment, and as often thereafter as may be required, a guardian must present his account to the court- for settlement and allowance. In the settlement of the account, the guardian shall be allowed the amount of his reasonable expenses incurred in' the execution of his trust and also such compensation for his services as the court deems just, not exceeding fifteen per centum of the net income of the ward."

We find in this section nothing that would indicate clearly an intention to deny the right to compensation for services rendered by the guardian of the person of a minor. On the contrary, it provides that "the guardian shall be allowed * * * such compensation for his services as the court deems just," without any distinction as to whether the guardianship extends to the property, or is limited to the person, of the ward. The maximum of "fifteen per centum of the net income of the ward" prescribed in said section, does not necessarily imply that said income must be received by the guardian whose services are to be compensated. Upon the other hand, logic and reason, as well as equity and justice, demand that every person be duly compensated for his services, in the absence of express legal provision, or manifest intent of the lawmaker, to the contrary, none of which exists in the case at bar. Moreover, appellant's pretense would seem to be premised upon the assumption that Dr. Ramos does not handle any funds belonging to the minors, which is not a fact, for he receives the monthly allowances for their support, and is accountable and liable therefor. What is more, he advanced his own funds for the support of said minors, from 1946 to 1952, and he was not reimbursed therefor until November, 1954. Again, although the compensation of guardians, under section 15 of Republic Act No. 390, "shall not exceed five per cent of the amount of monies received during any year," the same section authorizes "reasonable additional compensation in case of extraordinary or unusual services" rendered by the guardian. Inasmuch as Dr. Ramos is not related to the Datos, we are not prepared to hold that the lower court had erred in characterizing as "unusual" the services rendered by the guardian, considering particularly that he supported the minors, with his personal funds, for seven (7) consecutive years. It should be noted, also, that, beginning from July 1, 1956, said normal maximum of 5 per cent will not be exceeded, for the order appealed from, as amended, provides that, thereafter, "Dr. Ramos shall be paid compensation at the rate of 2 per cent, and the Philippine National Bank 3 per cent, of all amounts received for each ward every year."

Wherefore, the order appealed from, as amended, is hereby affirmed in toto, without special pronouncement as to costs. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angela, Labrador, Reyes, J. B. L., Endencia and Felix, JJ., concur.

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