

IN THE MATTER OF THE GUARDIANSHIP OF CARMEN PADILLA VDA. DE BENGSON, IMCOMPETENT. CARMEN PADILLA VDA. DE BENGSON, PETITIONER AND APPELLEE, VS. PHILIPPINES NATIONAL BANK, GUARDIA...*G.R. No. 17066. December 28, 1961*

Ponente: REYES, J.B.L., J.

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As the mother of a veteran who died in World War II, Carmen Padilla Vda.de Bengson became entitled to certain accrued insurance benefits which amounted to P10,733 as of July 1, 1957, and to a monthly death compensation for the rest of her life, all extended by the United States Veterans Administration. Upon inquiry which showed that the beneficiary was incompetent, the Veterans Administration filed Special Proceeding No. 586 in the Court of First Instance of La Union, where in due course, an order was entered on August 8, 1957, adjudging Carmen Padilla Vda. de Bengson to be an incompetent and appointing the Philippine National Bank (PNB) as guardian of her estate comprising the monies due from the said Veterans Administration. Letters of guardianship were then issued in favor of the Philippine National Bank.

On March 5, 1960, alleging that she had regained her competence, the ward, by counsel, filed a petition asking for an order terminating the guardianship, and for delivery to her of the residuary estate. Attached to this petition was a medical certificate attesting that she was mentally competent and possessed full knowledge of her environmental surroundings. This was opposed by the Veterans Administration on the ground that by reason of her advanced age (78), physical and mental debility, she was still an incompetent within the meaning of Section 2, Rule o3 of the Rules of Court, On March 30, 1960, the son of the ward, Francisco Bengson, filed a "Manifestation" to the effect that he was the personal guardian of the incompetent; that if appointed guardian of her estate as well, he will comply with all the provisions of the Rules of Court, will not ask any remuneration for his services, and will file a nominal bond. He prayed to be appointed guardian of the ward's estate in place of the Philippine National Bank, and for the balance of her estate to be withdrawn or transferred from the Philippine National Bank main office to its branch at San Fernando, La Union, in his account as guardian. On the same date, the lower court ordered Francisco Bengson to be appointed guardian of the ward's estate to substitute the Philippine National Bank, upon filing a P1,000 bond with proper sureties; the Philippine National Bank to transfer to its branch office at San Fernando, La Union, whatever funds It has belonging to the ward, upon Francisco Bengson's filing the required bond and taking his oath. As reasons for the removal of the Philippine National Bank and the appointment of Bengson, the lower court observed that the itfard was living with Francisco Bengson in the letter's capacity as personal guardian; that the appointment of Bengson in place of the Philippine National Bank would save the compensation being paid that Bank; and that the transfer to the Philippine National Bank branch at San Fernando, La Union would be more convenient to all concerned for the proper administration of the estate. The required bond was thereafter filed and letters of guardianship issued to Francisco Bengson. A motion to reconsider was denied by the order of May 11, 1960, which, however, raised the amount of the bond to

P13,000, based on a finding that the cash balance of the estate then amounted to P11,464.34 plus the monthly income estimated at P134, or P1,608 per annum. Hence, this joint appeal by the Philippine National Bank and the Veterans Administration.

We find this appeal meritorious. The grounds for which a guardian may be removed are found in Section 2, Rule 98 of the Rules.

"When a guardian becomes insane or otherwise incapable of discharging his trust or unsuitable therefor or has wasted or mismanaged the estate, or failed for thirty days after it is due suitable therefor, or has wasted or mismanaged return, the court may, upon reasonable notice to the guardian, remove him, and compel him to surrender the estate of the ward to the person found to be lawfully entitled thereto, * * * " (Italics supplied)

Since the Rules enumerate the grounds for removal of a guardian, a guardian cannot be legally removed from office except for the causes therein mentioned (*Alemanys vs. Moreno*, 5 Phil. 172; *Moran*, Comments on the Rules of Court, Vol. 11) 1957 Ed., p. 515). This is also the American law (39 C.J.S., p. 657). Accordingly, conflict of interest (*Ribaya vs. Ribaya*, 74 Phil. 254; *Gabriel vs. Sotelo*, 74 Phil. 25) has been held sufficient ground for removal, premised on the logic that antagonistic interests would render a guardian unsuitable for the trust. To the extent that a court uses its discretion in appraising whether a person is unsuitable or incapable of discharging his trust, that much it can be said that removal is discretionary. But the discretion must be exercised within the law, and when the latter has laid down the grounds for removal of a guardian, discretion is limited to inquiring as to the existence of any of those grounds.

No pretense is made in this case, and nothing in the record would indicate, that there was any legal ground upon which removal of the Philippine National Bank as guardian was founded. Neither in *Francisco Bengson's* manifestation nor in the orders of the lower court is it made to appear that the Philippine National Bank had become incapable of discharging its trust or was unsuitable therefor, or that it had committed anything which the Rules includes as grounds for removal. On the contrary, it appears incontestable that all throughout, the Philippine National Bank has discharged its trust satisfactorily. That it has received commissions allowed by law for its services is no ground to remove it, especially since the Bank's commission averages no more than P100.00 a year and is offset by interest on the ward's deposit and the sum that the son would probably have to disburse in bond premiums. Neither is it sufficient to base removal on the unsubstantiated opinion that it would be more beneficial to the interests of the ward and more convenient for the administration of the estate. A guardian should not be removed except for the most cogent reasons (39 C.J.S. 65); otherwise, the removal is unwarranted and illegal.

As to the alleged inconvenience of the guardian of the incompetent's person having to come to Manila to obtain money for the ward's sustenance, the same can be obviated by merely requiring the appellant Bank to keep part of the moneys in the San Fernando (La Union) branch, without altering the guardianship.

Wherefore, the orders appealed from dated March 30, 1960 and May 11, 1960 are reversed, with costs against the appellee *Francisco Bengson*.

Bengzon, C.J., Padilla, Bautista Angelo, Labrador, Concepcion, Barrera, Paredes, Dizon and De Leon, JJ., concur.

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