

**GUARDIANSHIP OF THE INCAPACITATED BRAULIO MARCELINO.
MARCELA BALLESTEROS, APPLICANT AND APPELLANT, VS.
VETERANS ADMINISTRATION, OPPOSITOR AND APPELLEE.**

G.R. No. 45340. April 15, 1939

Ponente: DIAZ, J.

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DIAZ, J.:

The ward subject to guardianship in the present case is a veteran within the meaning of the Act of Congress of 1924, known as the World War Veterans Act, having¹ been a soldier in the United States Army at the time and under the circumstances referred to therein. Having been incapacitated for further military service, he was thereby declared entitled to an annual pension of P611.17, and the said pension was being paid to him regularly until June 20, 1924. For reasons not known to us and not shown by the record, the pension was suspended until August 27, 1927. When the payment thereof was resumed and the amount accumulated for four years was delivered to his guardian, the latter asked the Court of First Instance of Ilocos Norte, where the guardianship proceeding was pending, for authority to pay out of the funds in her hands the debts which the ward, through her, had contracted for his support and care during the four years when no pension was paid to him. The petition of said guardian was opposed by the Manager of the Veterans Administration on the ground that the law does not permit that the ward's indebtedness be satisfied with the pensions paid to him. Finding merit in the opposition, the Court of First Instance of Ilocos Norte denied the guardian's petition. Not agreeable to the said resolution, the latter appealed to this court. In her brief it is alleged that the lower court erred in not authorizing the payment of the obligations contracted by the incapacitated for his support and that of his family from 1926 to 1929, and that it also erred in denying her motion for consideration.

The question raised by the guardian's appeal is exactly the same as the one we resolved in G. R. No. 45400 (April 14, 1939), entitled "In the matter of the guardianship of Remigio Paquiao; Marciano Lunasco, applicant and appellant, vs. Veterans Administration, oppositor and appellee." We held in said case, following the same view taken by the courts of New York and California and the interpretation given by them to section 3 of the World War Veterans Act in resolving the cases cited in the said case, inasmuch as the same section is invoked by the Manager of the Veterans Administration in support of his opposition, that the funds of the guardianship of an incapacitated pensioner may be applied to the payment of the obligations contracted for the ward's support and care during the time he was under guardianship. No new reason has been advanced, and we do not know of any, that may justify us to change our view. It would seem just that the expenses referred to be paid with the aforesaid pensions, for it is unfair and against the spirit of the law in question to hold otherwise because it would be like holding that the pensioner may not incur any indebtedness for his support, even should he be in danger of starving, because his pensions are not answerable for the obligation which he may incur under the circumstances.

However, we believe that the lower court, before approving the guardian's petition which it denied, should inquire and ascertain, by setting the same for trial and receiving evidence thereon, if the expenses which she seeks to pay with funds in her hands as such guardian are true, reasonable and just.

In view of the foregoing, we decide the question raised herein by reversing the appealed order, but the lower court should set the guardian's petition denied by it for trial and receive evidence thereon, with a view to determining if the expenses in question are true, reasonable and just. Without costs. So ordered.

Avanceña, C. J., Villa-Real, Imperial, Concepcion, Laurel, and Moran, JJ., concur.

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