

FIFTH DIVISION

[CA-G.R. SP NO. 75199, June 30, 2006]

**DOMINADOR S. ISIP, PETITIONER, VS. HON. HERMINIO CANLAS,
U. S. VETERAN ADMINISTRATION, BANK OF THE PHILIPPINE
ISLAND AND VICTORIA V. ISIP, RESPONDENTS.**

DECISION

BARRIOS, J.:

Alleging that these were rendered by the respondent Hon. Herminio Canlas, Presiding Judge of Branch 54 of the Regional Trial Court of Pampanga (or RTC) with grave abuse of discretion, the petitioner Dominador Isip (or Dominador) pleads that the Orders dated September 16, 2002 and November 28, 2002 issued in Sp. Proc. No. G-564, be set aside. The earlier Order denied Dominador's Motion to Substitute and be Appointed Personal Custodian of the Incompetent Ricardo B. Isip while the later Order denied his concomitant Motion for Reconsideration.

Ricardo B. Isip (or Ricardo), a U.S. Veteran was declared incompetent in January 1950 and placed under legal guardianship pursuant to Republic Act No. 390 or the Uniform Veterans Guardianship Act. His father Candido Isip was initially appointed as the guardian over the person of Ricardo, while the respondent Bank of the Philippine Islands (or BPI) was appointed as guardian of the estate.

Upon the death of Candido in January 1977, Abelardo Isip was appointed as the guardian in his place, but he died too in May 1992. Manuel Isip (or Manuel), Ricardo's half-brother, then moved for his appointment as the new guardian, and this was granted by the court a quo. The respondent Victoria V. Isip (or Victoria), Abelardo's widow, successfully assailed Manuel's appointment before this Court in CA-G.R. SP. No. 29095 where in the Decision dated March 30, 1993 Manuel's appointment was set aside and Victoria was appointed in his stead.

Time passed. Victoria has since turned about eighty (80) years of age, and was allegedly sickly and bedridden according to the petitioner Dominador Isip, another half-brother of Ricardo. Dominador thus asked for his appointment as guardian of Ricardo in Sp. Proc. No. G-564 heard before Hon. Canlas.

Victoria opposed this asseverating that she is still physically and mentally capable of discharging her functions, duties and obligations as guardian of Ricardo. Besides Dominador has only a meager income and does not even own a house, hence Ricardo cannot live comfortably in his care. Finally, the motion for substitution of guardian was premature as it was filed sans the required recommendation of the U.S. Department of Veterans Affairs.

After the ensuing trial, Hon. Canlas handed down the first assailed Order resolving: