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A. Should the court grant Betty's petition to dissolve the Farm Trust

1. Valid Will

A valid will requires (1) a testator with capacity, (2), intend an instrument to be a will,(3), signed (4) conforms with the required format.

Capacity

Capacity requires a testator to be (1) aged 18 or over (2) of sound mind.

Here, the facts Grandma already had grand daughter indicated that she was over 18 years old.

Thus, Grandma was over 18.

Here, no facts indicated Granda was not of sound mind.

Thus, Grandma was of sound mind.

In conclusion, Grandma had capacity as a testator.

Intent

Here, Grandma left a valid will, creating two trusts.

Thus, Grandma intended the instrument to be a will.

Sign

Here, no facts mentioned Grandma signed. However, 'In 2020, Grandma died, leaving a valid will.' This indicated Grandma signed.

Thus, Grandma left a valid will.

Two types of Will

There are two types of will: (1) attested will, (2) holographic will

Attested Will

An attested will requires:(1) a testor intend an instrument to be a will, (2) signed (3) in the presence of 2 disinterested witnesses.

Here, no facts mentioned witnesses.

Thus, there was no attested will.

Holographic Will

A holographic will requires a testator of capacity (1) intend an instrument to be a will, (2) sets forth the material terms in writing ,(3) sign or have someone sign in his/her direction and

presence. A holographic will does not require testifying by witness.

Intent

See above rules and analysis.

Thus, there was intent.

Writing and Material terms

See above rules and analysis.

Thus, there was intent.

Sign

See rules and analysis above.

In conclusion, Grandma left a holographic will.

Valid Trust

A valid trust requires the settlor:(1) aged 18 , (2) of sound mind,(3) intend to put assets in a trust,(4)with beneficiaries, (5) for a purpose not contrary to public policy,(6) entrusted to trustees. Trustees can be appointed by settlor or the court.

Capacity(aged 18 and of sound mind) and Intent

See rules and analysis in Will

Thus, Grandma of capacity intended to set up a trust.

Purpose

Here, Grandma created two trusts: the Farm Trust and the Ancestry Trust. The Farm Trust left Grandma's large farm to the City for the general benefit of the City. The trust stated Grandma preferred that the farm be used in perpetuity as an active organic-certified farm, on which no chemical pesticides were to be used. The Ancestry Trust directed the trustee to distribute all income from the trust annually in equal shares to Tom, Betty, and Carol, Grandma's grandchildren.

Thus, there was purpose not contrary to public policy.

Charity Trust

A charity trust is made for the benefit of public purpose.

Here, Farm Trust was for the general benefit of the City.

Thus, Farm trust is a charity trust.

Private Trust

Private Trust is for private beneficiaries the settlor intends to benefit.

Here, Grandma intended Ancestry Trust to benefit Tom, Betty, and Carol, Grandma's grandchildren, the private persons.

Thus, Ancestry was a private trust.

Beneficiaries

Here, The City was the beneficiary of Farm Trust, Tom, Betty, and Carol, Grandma's grandchildren were the beneficiaries of Ancestry Trust.

Thus, there were beneficiaries.

Trustee

A trustee is appointed to manage the trust either by the settlor or the court.

Here, Bank was named as trustee of the Farm Trust. Tom was named as trustee of the Ancestry Trust.

Thus, Bank and Tom were named as trustees.

Trustee Duties

A trustee owes to the beneficiaries the fiduciary duty of: (1) care, (2) loyalty, (3) diversifying investment, (4) deposit and account trust assets, and (5) in accord with trust terms. A trustee is liable for the loss resulted from his/her failure to exercise his/her duties to the beneficiaries.

Duty of Care

A trustee must exercise the care a reasonable prudent person in like position should exercise to the beneficiaries.

Duty of Loyalty

A trustee must act in the best interest of the beneficiaries and should not appropriate trust assets for his/her own debt.

Here, in March 2024, Tom unexpectedly incurred a large debt for medical expenses. As trustee, Tom wrote a check from the assets of Ancestry Trust to pay off the debt.

Thus, Tom violated his duty of loyalty.

Termination of Trust

Trust can be terminated: (1) upon expiration, (2) by consent of all beneficiaries, (3) change of circumstances unanticipated by the settlor renders it impossible to continue the trust, (4) contrary to the settlor's purpose of creating trust, and (5) petition by trustees or beneficiaries for (5) court approval.

Here, no facts indicated expiration of the trust, consent of all beneficiaries, change of circumstances.

Contrary to The Settlor's Purpose of Trust Creation

Farm Trust was created to intend perpetual use of the farm as an active organic-certified farm, on which no chemical pesticides were to be used.

Here, Bank intends to allow City to use pesticides on the farm. It was contrary to Grandma's purpose of creation of Farm Trust.

Thus, Farm trust was made contrary to Grandma's trust purpose.

The Court Should Grant Betty's Petition to Dissolve the Farm Trust Debatable

As analyzed above, Farm Trust was contrary to Grandma's trust purpose by using pesticides on the farm. Farm Trust can be dissolved. However, Betty had nothing to do with Farm Trust, a charity trust with the City as beneficiary.

Thus, it is debatable the court should grant Betty's petition to dissolve the Farm Trust.

In conclusion, the court should grant Betty's petition to dissolve is debatable.

2. Should the Court Grant Betty's Petition to Dissolve the Ancestry Trust?

As analyzed above, the Ancestry Trust was a valid private trust, Tom was the trustee, Tom violated his duty of loyalty by appropriating trust fund to pay his own debt. Betty was one of the beneficiaries of the Farm Trust.

Here, Tom's estate was liable to repay the Ancestry Trust. However, the conditions for dissolving the Ancestry Trust was not mature as indicated in Termination of Trust.

Thus, Tom's estate was liable to repay the Ancestry Trust. But it is debatable the court should grant Betty's petition to dissolve the ancestry trust.

3. Should the court order Tom's estate to repay the Ancestry Trust?

Violation of Duty of Loyalty

See rules and analysis above.

Here, Tom violated his duty of loyalty by appropriating the trust funds to pay off his own medical debt. Tom died. Tom's estate was liable to repay the Ancestry Trust.

Thus, the court should order Tom's estate to repay the Ancestry Trust.

Residual Estate

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END OF EXAM