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A. Betty's Petition to Dissolve the Farm Trust Will

A valid will is created when a testator with the requisite capacity creates a document that is either typed or holographic with the identified property to be distributed to identifiable parties and is signed by the testator in the presence of 2 witnesses.

Here, the Grandma died in 2020 and she created a valid will. The will identified two trusts and directed in the result of a failure of either trust, the residual assets should be disbursed to Betty and her grandchildren.

Therefore, a valid will exists.

Trust

A valid trust exists when there is the trustor: 1) intends to create a trust, 2) there is a valid trust purpose, 3) the trustor understands the bounties of their res, 4) there is an identified trustee, and 5) there are intended beneficiaries that are clearly identifiable.

Here, Grandma died in 2020 and left a valid will which created two distinct trusts in her will. Farm Trust was created through the valid will and Grandma named Bank the trustee of this trust. The Farm Trust had a valid trust purpose because Grandma intended Farm Trust to leave her large farm to City. Here, City is an identified trustee. Trusts can be left in a testator's will, and Grandma's will was validly created. City is an identifiable entity and Bank is a valid trustee. Because Grandma intended to have the farm be used for the general benefit for city, this trust will be a charitable trust.

Therefore, a valid trust was created through Grandma's will. The Farm Trust will be deemed to be properly formed.

Charitable Trust

A charitable trust exists when the trustor intends to leave a trust to for the general benefit of the community, the beneficiary or organization will directly help achieve that benefit, and the trustor intentionally created the trust to advance that trust purpose. Charitable trusts can be religiously affiliated or for the general betterment of a specific community.

Here, a valid trust was created when Grandma created The Farm Trust in her duly created will. Further, Grandma created a charitable trust when she created The Farm Trust because she intentionally left her large farm to City through the Farm Trust. Additionally, Grandma intended to have the farm be used in perpetuity as an active organic-certified farm where no chemical pesticides were to be used. Because Grandma left the trust to City for the general benefit, it may be deemed that she intended to create a charitable trust.

However, Betty will argue that a charitable trust was not formed because Grandma did not specifically state that the Farm Trust was intended to be a charitable one to City. This argument will not succeed because Grandma intended to leave the farm to City for its general benefit. Under the reasonable circumstances, the court will likely determine that a valid charitable trust was created.

Lapse of Valid Trust Purpose

A trust may be destroyed as a matter of public policy if a valid trust purpose no longer exists. A valid trust purpose may be destroyed if the purpose of the trust has become exhausted.

Here, Betty will argue that the trust has lapsed because the valid trust purpose no longer exists due to the pesticides

being used. Betty will argue that the trust dissolved in January 2024 when the farm lost its certification and Bank allowed city to use the chemical pesticide. However, this alone will not be deemed to satisfy lapse because there is no evidence that the trust failed.

Therefore, the Farm Trust has not lapsed.

Cy Pres Doctrine

Under the cy pres doctrine, a trust may be revived if the purpose has been lapsed or the specific organization no longer exists due to the specifically identified organization closing due to no fault of the trustor, When applying the cy pres doctrine the courts will generally look towards the intent of the trustor and surrounding circumstances.

Here, the cy pres doctrine may apply to allow City to continue to use the farm because Grandma intended City to use farm for the general benefit of the City. Although Grandma preferred no chemical be used, there is no evidence that the use of chemicals destroyed the valid trust purpose because Grandma intended the farm to benefit and not simply that it cannot use pesticides.

Therefore, the cy pres doctrine will not apply because the trust purpose has not been destroyed.

Betty Will Not Be Able to Rebut the Presumption

There is a rebuttable presumption that intended beneficiaries may overcome to succeed in a dissolution of a trust. Generally, the courts will view the testor's intent as true through the testator's words and actions, however this presumption may be rebutted if the challenger can show that the testor did not intend for the trust to be revived in a specific way such as through the use of the cy pres doctrine.

Here, Betty will argue that the trust failed in January of 2024 when Grandma's farm lost its organic certification but continued to operate as a farm because Grandma specifically stated that she preferred to have the farm be used as an organic farm. However, Betty will not be able to rebut the presumption that Grandma intended to have the Farm Trust dissolved after the farm lost its certification because although Grandma specifically stated that in the event of a trust failure, the assets should be disbursed to Betty, there is no clear evidence that the loss of certification will be deemed as trust failure because Grandma only preferred this, she did not require it. Grandma's express language was prefer and the courts will look to Grandma's intent before dissolving the trust. There is no evidence that Bank failed to perform as a trustee by giving less than the requisite duty owed. Rather, the farm lost the certification by no fault of Bank. Here, Bank intends to allow City to use pesticides on the farm. Under the trust, this is acceptable because the organic farm was a preference and not a requirement.

Therefore, the Farm Trust did not lapse and Betty will not be able to overcome the presumption that Grandma intended the lack of organic certification as a failure.

Betty's Petition to Dissolve

Overall, the court should not grant Betty's petition to dissolve The Farm Trust because there is no evidence to show that The Farm Trust failed.

B. Betty's Petition to Dissolve the Ancestry Trust **Trust**

See rule above.

Here, there is a valid trust because Grandma included this in her will and there is a valid beneficiary and trustee.

Therefore, Ancestry is a valid trust.

Omitted Child

C. Tom's Estate Should Repay Ancestry

Trustee Duties

A trustee owes a duty of good faith and loyalty on behalf of the trustor. This duty requires him to act in the best interest of the trust and to not put his own interests above the trustor's wishes which includes being influenced by beneficiaries when they have conflicting interests nor others.

Here, Tom's estate should pay because he breached this duty and took out money for his own medical bills. This is a violation.

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END OF EXAM