§ 1715. Authority of guardian to sell, lease, exchange or mortgage

1. The surrogate's court of the county from which letters were issued to the guardian of the property of an infant may, in accordance with this section, authorize the guardian in the name of the infant to sell, lease, exchange or mortgage any interest of the infant in real property.

2. A proceeding therefor may be commenced by the guardian by filing a petition in which the infant, if over the age of 14 years, may join. It must show the facts as to the real property, the interest of the infant therein, the other property of the infant, his financial circumstances and such other facts showing that it is for the best interest of the infant to sell, lease, exchange or mortgage all or a portion of the infant's interest in the real property.

3. If the petition be entertained process shall issue to the infant if he has not joined therein, to the parent or parents, or if there be none, to an adult person with whom the infant resides, the person having his care and custody, and if the infant be married, to the infant's spouse. If the guardian show to the satisfaction of the court either by the petition or affidavit that he lacks knowledge of the existence, identity, name, residence or location of any person to be served or shows that with due diligence any such person cannot be personally served with process within any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or a territory or possession of the United States, the court may dispense with such service or make such direction as it deems appropriate for the protection of the infant.

4. On the return of process the court shall take such proof as it deems necessary and make such order as justice and the best interests of the infant require.

5. Any instrument executed by the guardian in the name of the infant in conformity with the provisions of this section shall have the same effect as if the infant being of full age had executed it.

6. The court shall have jurisdiction on like application to ratify and confirm any lease or leases made by the guardian in behalf of the infant and not theretofore authorized, ratified or confirmed by a court of competent jurisdiction.

7. Nothing in this section shall be deemed to authorize a guardian appointed by will or deed to sell, lease, exchange or mortgage the infant's real property contrary to the express provisions of the will or deed.