

## THIRD DIVISION

[ G.R. No. 210487, September 02, 2020 ]

**MELYSINDA D. REYES, PETITIONER, VS. MARIA SALOME R. ELQUIERO, REPRESENTED BY ATTORNEY-IN-FACT, DAISY ELQUIERO-BENAVIDEZ, RESPONDENTS.**

### DECISION

**GAERLAN, J.:**

Assailed in this Petition for Review on *Certiorari* under Rule 45 of the Rules of Court are the April 26, 2012 Decision<sup>[1]</sup> and the December 12, 2013 Resolution<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. No. 115366, which nullified two orders issued by the Regional Trial Court (RTC) of San Pablo City in a *habeas corpus* proceeding relating to the custody of a minor child.

#### The Facts

Petitioner Melysinda D. Reyes (Melysinda) is the biological aunt of the minor child Irish Elquiero (Irish). Irish is the biological daughter of Melysinda's brother and the legally adopted daughter of Rex R. Elquiero (Rex) who, in turn, is the son of respondent Maria Salome R. Elquiero (Salome). Upon the death of Rex in 2009, Melysinda and Salome both claimed custody of Irish.

#### *The Habeas Corpus Case*

On March 26, 2010, Salome petitioned the CA for a writ of *habeas corpus* which was docketed as CA-G.R. SP. No. 113286. Salome essentially alleged therein that: Melysinda, Rex, and Irish lived together in San Pedro, Laguna, until Rex left in August 2007 for the United States, where he died in February 2009; thereafter, Irish has remained in the custody of Melysinda; Salome last heard from Irish when the former's daughter, Daisy E. Benavidez (Daisy), visited the child in San Pablo City on March 29, 2009. Since then, Melysinda prevented Salome and her daughters Daisy and Gilda E. Kelley (Gilda) from having any contact or communication with Irish. Salome thus prayed for the issuance of a writ of *habeas corpus* to compel Melysinda "and any person acting on her behalf" to produce the body of Irish before the Court.

<sup>[3]</sup>

The CA granted the petition in a Resolution dated March 31, 2010. It directed the issuance of a writ of *habeas corpus* returnable to the RTC of San Pablo City, Laguna. The appellate court observed that:

A perusal of the records reveals that the petitioner claims custody as adoptive grandmother and substitute parent over the minor subject of the instant petition. On the other hand, the respondent who allegedly

withholds lawful custody is referred to as both a girlfriend of the deceased adoptive father and the sister of the minor's biological father.<sup>[4]</sup>

On April 8, 2010, NBI Special Investigator Mark Anthony G. Diaz filed a return of the writ and the San Pablo City RTC Branch 30, conducted hearings on the matter. Afterwards, the RTC issued an Order confirming the parties' agreement to vest temporary custody of Irish with Melysinda while the case was pending.<sup>[5]</sup>

Melysinda then filed an Opposition to Petition for Writ of *Habeas Corpus* dated April 12, 2010, where she argued that: Salome had no personality to question Irish's custody; the petition was baseless as Irish was not being deprived of liberty or otherwise restrained, but instead is in the rightful care and custody of her biological aunt, whom she purportedly recognizes "as her very own mother"; Salome was guilty of forum shopping; and Salome was not genuinely interested in the child's welfare, but merely hoped to benefit materially from Rex's estate.<sup>[6]</sup>

Another hearing was conducted on April 16, 2010, but Salome did not appear either in person or through a representative. Instead of requiring Salome's appearance, the RTC issued an Order requiring submission of either a compromise agreement or the parties' pre-trial briefs. Salome moved for reconsideration, arguing that petitions for *habeas corpus* are summary in nature and are thus not covered by the provision on mandatory pre-trial under A.M. No. 03-04-04-SC.<sup>[7]</sup> Melysinda filed an Opposition to Salome's motion for reconsideration, asserting that "the custody of minor (sic) has a similar purpose akin or similar to the Writ of Habeas Corpus(.)"<sup>[8]</sup> Salome's motion for reconsideration was denied in an order which she received on July 9, 2010.<sup>[9]</sup>

Aggrieved, Salome challenged the April 16, 2010 and July 9, 2010 orders before the CA, which was docketed as CA-G.R. SP No. 115366. While this petition was pending, Salome sought injunctive relief. In her pleadings, she admitted that she had filed another petition for custody of Irish before Branch 207 of the Muntinlupa RTC, which was docketed as Sp. Case No. 10-027 (hereinafter referred to as the Muntinlupa Custody Case). The records reveal that Salome had filed the case through a representative. The representative even disclosed the pendency of the *habeas corpus* proceeding in the verification of the Muntinlupa petition.<sup>[10]</sup>

Melysinda, in her opposition to Salome's prayer for injunctive relief, alleged that in addition to the Muntinlupa custody case, Salome filed on July 17, 2009 yet another Petition for Guardianship of Irish before Branch 30 of the San Pablo City RTC, which was docketed as Sp. Proc. Case No. SP-1768(09) (hereinafter referred to as the Guardianship Case). Melysinda further alleged that Salome's daughters were actively pursuing the Guardianship Case.<sup>[11]</sup>

### *The Muntinlupa Custody Case*

The Muntinlupa Custody Case was initiated on June 15, 2010.<sup>[12]</sup> In her petition before the Muntinlupa court, Salome alleged the following: (1) her son Rex was the legal adoptive father of Irish, who was nine (9) years old at that time; (2) Melysinda was the sister of Irish's biological father; (3) Melysinda and Rex had a romantic relationship and lived together in one house along with Irish; (4) on February 17,

2009, Rex died of cardiac ailment in the United States of America; (5) Salome's daughter Daisy last saw Irish in Melysinda's custody on March 29, 2009; (5) Salome and her daughters had been deprived of Irish's custody, in spite of the fact that they were relatives of Irish's adoptive father; (6) Melysinda had no legal right to retain Irish's custody; and (7) Melysinda had no gainful employment and was exerting undue influence detrimental to Irish.<sup>[13]</sup>

In her Answer dated August 13, 2010, Melysinda countered that: (1) Salome was not related to Irish because the legal relationship created by adoption was only between the adopting parent and the adopted, and it did not extend to the adopter's relatives; (2) Irish has been in Melysinda's care and custody since the former was seven days old up to the present, and Irish considers Melysinda as her own mother; (3) Salome, in filing the petition for custody, was guilty of forum shopping since there were already pending petitions for guardianship and for writ of *habeas corpus* in relation to Irish's custody; (4) Salome and her daughters were not really interested in Irish's well-being, but in the property left behind by Rex; and (5) Salome was not well known to Irish since the former had only seen the latter thrice: when she was just four months, four years, and six years old.

Melysinda filed a Motion to Dismiss dated August 24, 2010, on the following grounds: (1) the pendency of the *Habeas Corpus* Case involving before Branch 30 of the San Pablo City RTC; (2) forum shopping; (3) Salome's lack of qualifications for custody of Irish; and (4) the lack of emotional and psychological bonds between Irish and Salome.

Salome argued that the motion to dismiss should be denied because it was filed after Melysinda had already filed an answer; and there was no forum shopping since the only relief sought by the *Habeas Corpus* Case was the production of the person of Irish.

On January 11, 2011, the Muntinlupa court issued an order granting Melysinda's motion to dismiss, ruling that Salome had failed to establish any right to exercise custody over Irish considering that there was no legal relationship whatsoever between Salome and Irish. Salome moved for reconsideration, which the Muntinlupa court denied in an order dated April 12, 2011. Salome thus appealed to the CA. The case was docketed as CA-G.R. CV No. 97013.

*Ruling in CA-G.R. CV No. 97013  
(Muntinlupa Custody Case)*

The CA 16<sup>th</sup> Division, in a Decision<sup>[14]</sup> dated September 25, 2012, denied Salome's petition, the *fallo* of which reads:

ACCORDINGLY, the appeal is DENIED for lack of merit The Orders dated January 11, 2011 and April 12, 2011 are affirmed. Further, appellant Maria Salome R. Elquero, represented by Daisy Elquero-Bernadez and her lawyer Atty. Nelson H. Manalili are directed to show cause, within ten days from notice, why they should not be sanctioned for committing multiple acts of forum shopping.

SO ORDERED.<sup>[15]</sup>

The CA affirmed the Muntinlupa RTC Decision and found Salome guilty of forum shopping, viz.:

x x x The habeas corpus case, in relation to custody, is currently pending before RTC-Branch 30, San Pablo City. The fact that this Court had earlier issued the corresponding writ requiring appellee to produce the person of Irish in court did not terminate said case, for this Court had, thereafter, referred the case to RTC-Branch 30, San Pablo City for hearing and disposition, specifically on the issue of who should rightfully exercise custody over the person and property of Irish. Notably, the habeas corpus case involves exactly the same parties, subject matter, and issue, as in the present case.

Not only that. There is even another case for guardianship still pending before RTC-San Pablo City. There, RTC-San Pablo City appointed appellee as guardian over the person and property of Irish. Appellant opposed appellee's appointment as guardian, but she did not appeal it. To be sure, the custody case here is a replication of the guardianship case where the sole subject is custody of the person and property of Irish. It is settled, however, that a party cannot go to another forum for the purpose of setting aside the disposition of a coequal body. Applying this to the present case, RTC-Muntinlupa City cannot review, let alone, reverse the disposition of RTC-San Pablo City in the guardianship proceedings similarly involving minor Irish and her property.

In light of the following considerations, it is clear as day that appellant committed multiple acts of forum shopping, i.e. the habeas corpus case, the guardianship case, and the custody case, all involving the same subject matter, parties, and relief, albeit, packaged in different forms. x x x<sup>[16]</sup>

Furthermore, the appellate court held that Salome had no cause of action to sue for custody of Irish, because adoption does not create a legal relationship between the adoptee (in this case, Irish) and the adopter's relatives (in this case, Salome and her daughters).

*Ruling in CA-G.R. SP No. 115366  
(Habeas Corpus Case)*

Concurring with Salome's assertion that *habeas corpus* proceedings are summary in nature, the CA 9<sup>th</sup> Division partially granted her petition and reversed the assailed orders which required the parties to submit pleadings preparatory for a pre-trial.

The CA 9<sup>th</sup> Division admitted that the *Habeas Corpus* Case should be considered a regular *habeas corpus* case, bearing in mind that a writ of *habeas corpus* issued by an RTC is enforceable only within the court's judicial region, and that a writ of *habeas corpus* is merely an ancillary remedy in custody cases. The CA 9<sup>th</sup> Division concluded that Salome filed the *habeas corpus* petition with the CA because she knew that any writ of *habeas corpus* issued by the Muntinlupa RTC (where her custody case was pending) could not be enforced in San Pablo, Laguna (where Irish and Melysinda lived). Stated differently, there was a territorial conflict between the main case for custody and the ancillary remedy for writ of *habeas corpus*. Despite

this admission, the CA 9<sup>th</sup> Division treated the *Habeas Corpus* Case "as one strictly under the Rule of Custody of Minors, not under Rule 102 of the Rules of Court," and held that the San Pablo City RTC erred in requiring the parties to submit pre-trial briefs, as *habeas corpus* proceedings are summary in nature. Furthermore, the 9<sup>th</sup> Division held that Salome was not guilty of forum shopping when she filed the *Habeas Corpus* Case before the CA. According to the CA 9<sup>th</sup> Division, the determination of Irish's custody still lay with the Muntinlupa RTC; and the *Habeas Corpus* Case was limited to the issue of whether Irish was being deprived of liberty legally. Ultimately, the CA 9<sup>th</sup> Division ordered the San Pablo City RTC to proceed with the *Habeas Corpus* Case and treat it as a regular *habeas corpus* proceeding under Rule 102.

Melysinda moved for reconsideration, which the CA 9<sup>th</sup> Division denied in the assailed resolution. Hence, this petition, which raises the following issues:

I. THE HONORABLE COURT OF APPEALS GROSSLY ERRED AND COMMITTED REVERSIBLE ERROR IN FINDING THAT THE HONORABLE REGIONAL TRIAL COURT, BRANCH 30, SAN PABLO CITY COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION IN ISSUING THE ORDERS DATED APRIL 16, 2010 AND JULY 5, 2010.

II. THE HONORABLE COURT OF APPEALS GROSSLY ERRED AND COMMITTED REVERSIBLE ERROR IN FINDING THAT [SALOME] IS NOT GUILTY OF FORUM SHOPPING.

III. THE HONORABLE COURT OF APPEALS GROSSLY ERRED AND COMMITTED REVERSIBLE ERROR IN NOT FINDING THAT [SALOME] HAS NO VALID CAUSE OF ACTION FOR CUSTODY OF MINOR IRISH REYES ELQUIERO.

### **The Court's Ruling**

The issues raised by the petition boil down to three questions: first, whether the *Habeas Corpus* Case should be treated as a regular *habeas corpus* petition governed primarily by Rule 102 or as a special *habeas corpus* petition which is an ancillary remedy governed by the special rules on custody; second, whether Salome is guilty of forum shopping; and third, whether Salome is entitled to seek custody of Irish.

#### *Nature of the Habeas Corpus Case*

At this point, it must be noted that the two CA rulings concur as to the purpose of the *Habeas Corpus* Case. The CA 16<sup>th</sup> Division, in ruling upon Melysinda's motion to dismiss the Muntinlupa custody case, held:

x x x The habeas corpus case, in relation to custody, is currently pending before RTC-Branch 30, San Pablo City. The fact that this Court had earlier issued the corresponding writ requiring appellee to produce the person of Irish in court did not terminate said case, for this Court had, thereafter, referred the case to RTC-Branch 30, San Pablo City for hearing and disposition, specifically on the issue of who should rightfully exercise