

SECOND DIVISION

[G.R. NO. 156013, July 25, 2006]

ROBERTO P. DE GUZMAN, PETITIONER, VS. HERNANDO B. PEREZ, IN HIS CAPACITY AS SECRETARY OF JUSTICE, AND SHIRLEY F. ABERDE, RESPONDENTS.

D E C I S I O N

CORONA, J.:

May a parent who fails or refuses to do his part in providing his child the education his station in life and financial condition permit, be charged for neglect of child under Article 59(4)^[1] of PD 603?^[2]

In this petition for certiorari,^[3] petitioner Roberto P. de Guzman assails the January 3, 2002 resolution of public respondent, then Justice Secretary Hernando B. Perez, dismissing de Guzman's petition for review of the City Prosecutor of Lipa City's resolution in I.S. No. 2000-2111. Likewise questioned is public respondent's September 24, 2002 resolution denying reconsideration.

Petitioner and private respondent Shirley F. Aberde became sweethearts while studying law in the University of Sto. Tomas. Their studies were interrupted when private respondent became pregnant. She gave birth to petitioner's child, Robby Aberde de Guzman, on October 2, 1987.

Private respondent and petitioner never got married. In 1991, petitioner married another woman with whom he begot two children.

Petitioner sent money for Robby's schooling only twice - the first in 1992 and the second in 1993. In 1994, when Robby fell seriously ill, petitioner gave private respondent P7,000 to help defray the cost of the child's hospitalization and medical expenses. Other than these instances, petitioner never provided any other financial support for his son.

In 1994, in order to make ends meet and to provide for Robby's needs, private respondent accepted a job as a factory worker in Taiwan where she worked for two years. It was only because of her short stint overseas that she was able to support Robby and send him to school. However, she reached the point where she had just about spent all her savings to provide for her and Robby's needs. The child's continued education thus became uncertain.

On the other hand, petitioner managed the de Guzman family corporations. He apparently did well as he led a luxurious lifestyle. He owned at least five luxury cars, lived in a palatial home in the exclusive enclave of Ayala Heights Subdivision, Quezon City, built a bigger and more extravagant house in the same private community, and sent his children (by his wife) to expensive schools in Metro Manila.

He also regularly traveled abroad with his family. Despite his fabulous wealth, however, petitioner failed to provide support to Robby.

In a letter dated February 21, 2000, private respondent demanded support for Robby who was entering high school that coming schoolyear (June 2000). She explained that, given her financial problems, it was extremely difficult for her to send him to a good school.

Petitioner ignored private respondent's demand. The latter was thus forced to rely on the charity of her relatives so that she could enroll her son in De La Salle high school in Lipa City.

On June 15, 2000, private respondent filed a criminal complaint^[4] for abandonment and neglect of child under Article 59(2) and (4) of PD 603 with the Office of the City Prosecutor of Lipa City. It was docketed as I.S. No. 2000-2111.

In his counter-affidavit,^[5] petitioner averred that he never abandoned nor intended to abandon Robby whom he readily acknowledged as his son. He claimed that he discharged his responsibilities as a father and said that he paid P7,000 for his son's hospitalization and medical needs. He also shouldered the expenses of Robby's birth and sent money to help out when Robby was sick or was in need of money. Claiming financial incapacity, he insisted that the acts attributed to him did not constitute abandonment or neglect.

Petitioner pointed out that private respondent was the financially capable parent while he had no fixed job and merely depended on the charity of his father. He asserted that the five luxury cars belonged not to him but to Balintawak Cloverleaf Market Corporation. He denied ownership of the big house in Ayala Heights Subdivision, Quezon City. He lived there with his family only by tolerance of his father. He also disclaimed ownership of the newly constructed house and again pointed to his father as the owner. Even the schooling of his two children (by his wife) was shouldered by his father.

On August 1, 2000, private respondent submitted her reply-affidavit.^[6] To prove petitioner's financial capacity to support Robby's education, she attached a notarized copy of the General Information Sheet (GIS) of the RNCD Development Corporation. It showed that petitioner owned P750,000 worth of paid-up corporate shares.

In his rejoinder-affidavit,^[7] petitioner maintained that his equity in the RNCD Development Corporation belonged in reality to his father. The shares were placed in his name only because he had no means to invest in the corporation. He could not use, withdraw, assign or alienate his shares. Moreover, the corporation was virtually dormant and petitioner did not receive any compensation as its secretary.

On August 15, 2000, the City Prosecutor of Lipa City issued his resolution^[8] dismissing the complaint for abandonment but finding probable cause to charge petitioner with neglect of child punishable under Article 59(4) of PD 603 in relation to Section 10(a)^[9] of RA 7610.^[10]

On August 25, 2000, an information was filed before Branch 85 of the Regional Trial Court of Lipa City for the crime of neglecting a minor child. It was docketed as

Before petitioner could be arraigned, however, he filed a petition for review of the City Prosecutor's resolution with the Secretary of Justice.

On January 3, 2002, public respondent dismissed the petition for review and affirmed the City Prosecutor's resolution.^[11] He found that petitioner's ostentatious and luxurious lifestyle constituted circumstantial evidence of his ample financial resources and high station in life. Petitioner did not deny allegations that he failed to send a single centavo for the education of his son. All the elements of the offense were therefore sufficiently established. Petitioner's claim that everything he had belonged to his father was a defense which should properly be raised only during trial.^[12]

Petitioner sought reconsideration but the same was denied.^[13] Hence, this petition.

Petitioner contends that public respondent acted with grave abuse of discretion in sustaining the City Prosecutor's resolution. He insists that there is no probable cause to justify his prosecution for neglect of a minor child. First, he is financially incapable to give support. One can only be charged with neglect if he has the means but refuses to give it. Second, Robby is not a neglected child. He has been given, albeit by private respondent who is the financially capable parent, the requisite education he is entitled to.

The petition is without merit.

The rule is that judicial review of the resolution of the Secretary of Justice is limited to a determination of whether it is tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.^[14] Courts are without power to substitute their judgment for that of the executive branch.^[15] They may only look into the question of whether such exercise has been made in grave abuse of discretion.^[16]

Grave abuse of discretion is such capricious and whimsical exercise of judgment which amounts to an excess or lack of jurisdiction.^[17] Where it is not shown that the findings complained of are wholly devoid of evidentiary support or that they are patently erroneous as to constitute serious abuse of discretion, the findings must be sustained.^[18]

The assailed resolutions of public respondent were supported by evidence on record and grounded in law. They were not issued in a capricious, whimsical or arbitrary manner. There is therefore no reason to countermand them.

Petitioner is charged with neglect of child punishable under Article 59(4) of PD 603 which provides that:

Art. 59. *Crimes.* - Criminal liability shall attach to any parent who:

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(4) Neglects the child by not giving him the education which the family's