

DOMINADOR S. ISIP, PETITIONER, VS. HON. HERMINIO CANLAS, U. S. VETERAN ADMINISTRATION, BANK OF THE PHILIPPINE ISLAND AND VICTORIA V. ISIP, RESPONDENTS.

Ponente: BARRIOS, J.

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BARRIOS, J.:

Alleging that these were rendered by the respondent Hon. Herminio Canlas, Presiding Judge of Branch 54 of the Regional Trial Court of Pampanga (or RTC) with grave abuse of discretion, the petitioner Dominador Isip (or Dominador) pleads that the Orders dated September 16, 2002 and November 28, 2002 issued in Sp. Proc. No. G-564, be set aside. The earlier Order denied Dominador's Motion to Substitute and be Appointed Personal Custodian of the Incompetent Ricardo B. Isip while the later Order denied his concomitant Motion for Reconsideration.

Ricardo B. Isip (or Ricardo), a U.S. Veteran was declared incompetent in January 1950 and placed under legal guardianship pursuant to Republic Act No. 390 or the Uniform Veterans Guardianship Act. His father Candido Isip was initially appointed as the guardian over the person of Ricardo, while the respondent Bank of the Philippine Islands (or BPI) was appointed as guardian of the estate.

Upon the death of Candido in January 1977, Abelardo Isip was appointed as the guardian in his place, but he died too in May 1992. Manuel Isip (or Manuel), Ricardo's half-brother, then moved for his appointment as the new guardian, and this was granted by the court a quo. The respondent Victoria V. Isip (or Victoria), Abelardo's widow, successfully assailed Manuel's appointment before this Court in CA-G.R. SP. No. 29095 where in the Decision dated March 30, 1993 Manuel's appointment was set aside and Victoria was appointed in his stead.

Time passed. Victoria has since turned about eighty (80) years of age, and was allegedly sickly and bedridden according to the petitioner Dominador Isip, another half-brother of Ricardo. Dominador thus asked for his appointment as guardian of Ricardo in Sp. Proc. No. G-564 heard before Hon. Canlas.

Victoria opposed this asseverating that she is still physically and mentally capable of discharging her functions, duties and obligations as guardian of Ricardo. Besides Dominador has only a meager income and does not even own a house, hence Ricardo cannot live comfortably in his care. Finally, the motion for substitution of guardian was premature as it was filed sans the required recommendation of the U.S. Department of Veterans Affairs.

After the ensuing trial, Hon. Canlas handed down the first assailed Order resolving:

WHEREFORE, premises considered, the Motion, dated June 13, 2000, is denied for lack of merit.

SO ORDERED. (p. 20, rollo)

A motion for its reconsideration was filed but this was denied in the Order dated November 28, 2002.

Failing a quo, Dominador has taken this recourse of certiorari, positing this sole issue of:

THAT THE RESPONDENT HONORABLE JUDGE HAVE ACTED WITH GRAVE ABUSE OF

DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DENYING THE MOTION TO SUBSTITUTE AND TO BE APPOINTED PERSONAL CUSTODIAN OF THE INCOMPETENT RICARDO B. ISIP AND IN DENYING THE MOTION FOR RECONSIDERATION OF THE PETITIONER. (p. 5, rollo)

Dominador asseverates that Victoria is no longer competent to act as Ricardo's guardian. Giving tit for tat, Victoria posits that she is still competent to discharge her function and on the other hand Dominador is not qualified to be Ricardo's guardian.

Indeed the petition alleges grave abuse of discretion on the part of Hon. Canlas in denying Dominador's appointment as guardian. But it is readily seen that the main thrust of the petition is the alleged error of Hon. Canlas in his factual findings and conclusion. What Dominador principally assails is the appreciation of evidence by Hon. Canlas.

It is well settled that a writ of certiorari may be issued only for the correction of errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction. The writ cannot be used for any other purpose, as its function is limited to keeping the inferior courts within the bounds of its jurisdiction (*Madrigal Transport, Inc. vs. Lapanday Holdings Corporation*, G. R. No. 156067, August 11, 2004). Where the issue in question involves or affects the wisdom and legal soundness of the decision – not jurisdiction of the court to render said decision – the same is beyond the province of a petition for certiorari. The supervisory jurisdiction of this court to issue a cert writ cannot be exercised in order to review the judgment of the lower court as to its intrinsic correctness, either upon the law or the facts of the case (*A.F. Sanchez Brokerage, Inc. vs. Court of Appeals*, G. R. No. 147079, December 21, 2004).

True, the rule against review of factual matters thru certiorari is not cast in stone, as obviously it admits of exceptions. But We find that the allegations of the petitioner are not sufficient grounds to qualify as abuse of discretion warranting the issuance of a writ of certiorari. Also, We have meticulously examined the records before Us in the light of the pleadings filed by the parties, and found no error of substance committed by Hon. Canlas to warrant an overthrow of the assailed Orders. Hon. Canlas has acted well within his discretion in denying the motion for substitution

As said, it is a sine qua non for the writ of certiorari to issue that there be grave abuse of discretion. By grave abuse of discretion is meant such capricious and whimsical exercise of judgment, or is equated to lack of jurisdiction. It must be shown that the discretion was exercised arbitrarily, or despotically, or whimsically (*Security Bank Corp. vs. Victorio*, G. R. No. 155099, August 31, 2005). In fine, it not having been shown that the assailed Orders were done with grave abuse of discretion –

WHEREFORE, the petition is DENIED DUE COURSE and DISMISSED.

SO ORDERED.

Guariña III and Romilla-Lontok, JJ., concur.

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