

**ARTURO RAFAEL, SR., AND ESPERANZA S. RAFAEL, PETITIONERS,
VS. HON. BENIGNO M. PUNO, PRESIDING JUDGE OF BRANCH IV,
COURT OF FIRST INSTANCE OF BULACAN, BALIUAG, BULACAN, AND
RICAR...**

G.R. No. L-44861. March 29, 1977

Ponente: FERNANDO, J.

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FERNANDO, J.:

It was the threat of an order of arrest being imple-mented, hanging over the heads of petitioner-spouses, persons of advanced age and of sickly constitutions,[1] arising from a contempt order that led to the filing of this suit for prohibition. The principal ground alleged is the lack of jurisdiction of respondent Judge. With the stamp of plausibility quite apparent on the face of the petition, this Court, in a resolution of October 26, 1976, issued a restraining order.

It was alleged that on October 13, 1976, petitioners, residents of Manila, received an order from respondent Judge, requiring them to appear on October 14, 1976, at 1:30 p.m. before Branch IV of the Court of First Instance of Bulacan, sitting at Baliuag, Bulacan, to produce the person of minor named Rommel Corpus, and to show cause why the Petition of Ricardo Corpus for custody of the said minor should not be granted.[2] As no court session was held in the afternoon of that day due to respondent Judge being indisposed, the Clerk of Court reset the incident for October 21, 1976, also at 1:30 p.m.[3] On that occasion, counsel for petitioner, Attorney Jose Ma. Abola entered his special appearance for the sole purpose of contesting the jurisdiction of the respondent Judge over the case and asked that he be given a period of twenty-four hours within which to file a written motion to dismiss based on lack of jurisdiction, with respondent Judge turning a deaf ear and instead dictating in open court an order for the arrest of the petitioners.[4] A motion for reconsideration made then and there was unavailing.[5]

Hence this petition anchored solidly on the crucial issue of lack of jurisdiction. Thus: "From the very Petition itself * * *, the subject minor and the respondents are residents of Manila. * * * The Notice of Hearing * * * and the Summons issued * * * were intended to be served and were actually served in Gagalangin, Tondo, Manila. Republic Act No. 296 (Judiciary Act of 1948), Sec. 44, states in part, the following: 'Sec. 44 -- Original Jurisdiction - The Court of First Instance shall have original jurisdiction: (h) said courts and their judges, or any of them, shall have the power to issue writs of * * * habeas corpus in their respective provinces and districts, in the manner provided in the Rules of Court.' Rule 102, Sec. 2, of the Rules of Court states the following: 'Sec. 2. Who may grant the Writ -- The Writ of Habeas Corpus may be granted by the Supreme Court * * *. It may also be granted by a Court of First Instance, or a judge thereof, on any day and at any time, and returnable before himself, enforceable only within his judicial district.'"[6] It was alleged further on this point that the province of Bulacan belongs to the Fifth Judicial District while the City of Manila appertains to the Sixth. The lack of jurisdiction, so it was contended, was quite apparent, with the result that the order for contempt is tainted by nullity.[7]

Solicitor General Estelito P. Mendoza,[8] was required by this Court, in a resolution of January 17, 1977, to

comment on behalf of respondent Judge. In compliance therewith, he did so on March 3, 1977, stating at the outset that "he could not sustain the position taken by respondent Judge in Special Proceedings No. 723-B for habeas corpus subject of the present petition, for the reasons hereinbelow presented." [9] On the decisive issue of jurisdiction, he first noted the applicable legal provisions and then proceeded as follows: "It is obvious from the aforequoted provisions of the law and rules that a writ of habeas corpus that may be issued by a Court of First Instance or a judge thereof is enforceable only within his judicial district and not outside it. In the case at bar, it appears from the petition for habeas corpus in Special Proceeding No. 723-B of the Court of First Instance of Bulacan, Baliuag Branch, that the respondents therein (petitioners herein) 'are residents of and with postal address at No. 2510 Int. 625, Tirso Cruz St., Galalangan, Tondo, Manila;' and that as a matter of fact, the Notice of Hearing dated October 12, 1976 (Annex 'C' of petition) and Summons dated October 13, 1976 (Annex 'D', id.) in said case, were likewise addressed to the same place. Since said respondents are thus residents of Manila, and, therefore, within the Sixth Judicial District (Sec. 49 of the Judiciary Act of 1948), then they are beyond the reach of the writ of habeas corpus that was issued against them by the respondent Court of First Instance of Bulacan, which is within the Fifth Judicial District (Sec. 49, id.)." [10] In the petitory part of his Comment, the Solicitor General manifested the absence of any "objection to the allowance of the instant petition." [11]

There is merit to the petition for prohibition. It is easily understandable then why the Solicitor General could not interpose any objection to the remedy sought being granted.

1. A recent decision, *National Sugar Workers Union v. La Carlota Sugar Central*, [12] restated the authoritative doctrine. This excerpt from the opinion therein rendered is relevant: "As far back as 1904 in *Repide v. Peterson*, the power of a court to punish a person for a refusal to comply with its order is conditioned on its possession of jurisdiction. Stated in other words, to quote from *Chanco v. Madrilejos*, 'the order must be in accordance with law.' Emphatically, it was asserted therein: 'The court has no authority to punish for disobedience or resistance of an order which was made without authority.' Shortly after liberation, in *Angel Jose Realty Corporation v. Galao*, it was again ruled: 'Before contempt could be committed, it is a prerequisite that the order, issued by the court which was violated be a valid and legal one. Without a lawful order having been issued, no contempt of court could be committed.' There was a restatement thereof in the following words of former Chief Justice Bengzon in *Estrada v. Santiago*: 'It follows that these proceeding for contempt may not now continue, because the petitioners could not be punished for disobeying orders found to be without sufficient legal foundation.'" [13]

2. There is pertinence likewise to the following observation made in the Comment of the Solicitor General: "It is not disputed that petitioners did not produce the body of the minor child Rommel Rafael Corpus before the respondent court on October 14, 1976 although said Court had ordered them to do so. Had the trial court the jurisdiction to enforce the writ outside of the judicial district, such failure on the part of petitioners, it is respectfully submitted, could have been properly considered as a direct contempt which could be punished summarily by respondent court." [14] In the leading case of *Villavicencio v. Lukban*, [15] Justice Malcolm, after noting that the Supreme Court's order to produce the persons of petitioners was met with "half-hearted effort" [16] by respondent City Mayor and his subordinates, resulting in none of the parties "being brought before the court" [17] on the day named, stated categorically: "The court, at the time the return to its first order was made, would have been warranted summarily in finding the respondents guilty of contempt of court, and in sending them to jail until they obeyed the order. Their excuses for the non-production of the persons were far from sufficient. The authorities cited herein pertaining to somewhat similar facts all tend to indicate with what exactitude a habeas corpus writ must be fulfilled." [18] What saved petitioners in this suit for prohibition from such a dire fate is the lack of jurisdiction of respondent Judge. For the rule of law to be operative, it is essential that all government officials should act only within the limits of their competence. Such a truism should ever be borne in mind by members of the bench, the guardians of legal norms and principles. Counsel for private respondent would have

been well-advised to have looked into the matter further before filing his application for a writ before a court devoid of jurisdiction. As it turned out, his efforts went for naught. Lastly, as for counsel for petitioners, a written motion on such an issue, instead of mere oral representation, might have averted the need to resort to this Tribunal.

WHEREFORE, the writ of prohibition is granted, and respondent Judge ordered not to act further on Special Proceeding No. 723-B pending in his court except for the purpose of dismissing the same.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Petition, 6.

[2] Ibid, 2.

[3] Ibid, 3.

[4] Ibid.

[5] Ibid.

[6] Ibid, 4.

[7] Ibid, 5.

[8] He was assisted by Assistant Solicitor-General Ruben E. Agpalo and Solicitor Amado D. Aquino

[9] Comment, 1.

[10] Ibid, 5.

[11] Ibid, 7.

[12] L-23569, May 25, 1972, 45 SCRA 104.

[13] Ibid, 110. Repide is reported in 3 Phil. 276; Chanco, handed down in 1907, in 9 Phil. 356; Angel Jose Realty, decided in 1946, in 76 Phil. 201; Estrada, promulgated in 1963, in 7 SCRA 486. Four other cases were referred to starting from Segarra v. Maronilla, Jr., 108 Phil. 1086 (1960) to Republic Commodities Corp. v. Oca, L-24995, May 27, 1970, 33 SCRA 24.

[14] Comment, 5-6.

[15] 39 Phil. 778 (1919).

[16] Ibid, 795.

[17] Ibid, 796.

[18] Ibid.

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