

IN THE MATTER OF APPLICATION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS,

Ponente: SADANG, J.

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SADANG, J.:

This is a petition for habeas corpus filed on November 3, 2014 by petitioner Ylord Jay A. Pedral, in behalf of the minor child, Lordelaine Kyle M. Pedral (hereafter, Kyle). against respondents Elsa Magpantay Salarzon (Elsa), Arvin Wendel Salarzon, Emily Regino Gonzales, Eduardo Gonzales, Vincent Regino, and Mila Magpantay Regino.

Petitioner alleges that: Kyle is his daughter, out of wedlock, with Elsa; in 2006, he and Elsa separated; Elsa went to Canada to work; Ylord took care of Kyle and they lived in Baguio City with his mother; in April 2010, Elsa asked Ylord if she can spend time with Kyle in Pateros, he agreed and gave Elsa up to May 1, 2010 to do so; thereafter, Ylord tried to contact Elsa by cellular phone and, unable to do so, he sought the assistance of the Department of Social Welfare and Development and the police; Ylord could not find Elsa as she had changed her address many times; in May 2010, Ylord filed a petition for habeas corpus in the Court of Appeals (CA), naming Elsa and her relatives as respondents; in a Resolution dated May 31, 2010, the CA issued the writ; considering that Elsa was in Canada on the date of hearing of the petition on June 16, 2010, the CA (Special Former Special Fifth Division) issued a Resolution on June 22, 2010 giving temporary custody of Kyle to Ylord until the arrival of Elsa, granting respondents visitorial rights, and considering the case closed and terminated; on her arrival in the Philippines, Elsa filed a motion for the issuance of an order to Ylord for him to comply with the June 22, 2010 Resolution; Ylord brought Kyle to the CA at the hearing on November 20, 2013 during which Elsa sought immediate custody of the child as she was staying in the Philippines for good; on November 29, 2013, the CA (Fifth Division) issued a Resolution directing Ylord to comply with the June 22, 2010 resolution, hence, Elsa took custody of Kyle on June 5, 2014; thereafter, Elsa again left the Philippines, prompting Ylord to check on Kyle but he could not find her; Ylord finally learned that Kyle was staying with Elsa's husband, Alvin Wendel Salarzon, in Cuantacla, Cabugao, Ilocos Sur and that in September 2014 Kyle was sent to Maddela, Quirino to live with Elsa's mother, Mila Regino, and the other respondents.

On November 18, 2014, this Court issued a Resolution[1] granting the issuance of the writ of habeas corpus and setting the case for hearing on November 27, 2014.

On November 27, 2014, Atty. Joseph Eufemio, Investigation Agent II of the National Bureau of Investigation, filed a Return[2] of the writ.

At the hearing on November 27, 2014, Kyle was present in court, together with her mother, Elsa. Petitioner was also present. Elsa was represented by Atty. Ronald Narag while Ylord was assisted by Atty. Ma. Aimee Baldo. Upon the manifestation of the parties that there is a possibility of an amicable settlement on the custody of Kyle, they were given up to December 14, 2014 within which to submit a compromise agreement.[3]

On December 12, 2014, the parties filed a Joint Motion for Approval of Compromise Agreement. A copy of the

Compromise Agreement was attached to the motion and reads, thus

COMPROMISE AGREEMENT

This compromise agreement and settlement agreement is made by and between YLORD JAY A. PEDRAL (Ylord) of P6 Zamora, Cabarroguis, Quirino, Quirino Province 3400, and ELSA MAGPANTAY SALARZON (Elsa) of Cuantacla, Cabugao, Ilocus Sur.

The parties stipulate to the following:

- An open line of communication shall be maintained between Ylord and his child, Lordelaine Kyle M. Pedral (Kyle). Kyle shall have her own contact number/mobile phone, through which she can be reached by her father with facility.
- The Pedral family is free to visit Kyle anytime.
- The Pedrals can invite and temporarily take Kyle during special occasions, especially when her paternal grandfather visits the Philippines.
- Ylord can temporarily take Kyle during weekends, starting from class dismissal on Fridays, until Sundays, which can extend even until Mondays, if there are no classes. This, however, is subject to Kyle's school activities on the mentioned days.
- Ylord can temporarily take Kyle, on alternating weeks, i.e., one week will be spent with Ylord, while the next week shall be spent with Elsa, during summer vacation, including Holy Week.
- During Christmas holidays, the parties shall have their respective turns of spending time with Kyle, i.e., if Kyle's Christmas shall be spent with Elsa, New Year's celebration shall be spent with Ylord, and vice versa.
- Whenever it is Ylord's turn to temporarily take Kyle, the child shall be brought to the fixed place which the parties agree on. Ylord, in turn, undertakes to return Kyle upon expiration of time stipulated by the parties.
- The parties agree that Kyle shall be under the supervision of Elsa, not her stepfather. Kyle shall not be left alone with the latter. In case Elsa is temporarily and briefly not around the house, Kyle shall be under the supervision of her maternal/paternal grandmother.
- It is understood that if Elsa leaves the Philippines, Ylord, as the father, must be given custody of his daughter.
- A complaint/information of acts of child abuse [committed on Kyle] against Elsa, her husband, or their other relatives shall, consequently, bring Ylord to seek permanent custody of his daughter.
- The Pedrals shall open a bank account under Kyle's name so as to augment financial assistance to the child.
- This agreement was the result of a negotiated settlement by the parties, binding them both.

December 10, 2014 (Sgd.) YLORD JAY A. PEDRAL

December 10, 2014 (Sgd.) ATTY. MA. AIMEE E. BALDO

December 10, 2014 (Sgd.) ELSA MAGPANTAY SALARZON

December 10, 2014 (Sgd.) ATTY. RONALD C. NARAG

WHEREFORE, finding that the foregoing COMPROMISE AGREEMENT is not contrary to law, morals, good customs, public order or public policy, it is hereby APPROVED and JUDGMENT is hereby rendered on the basis thereof. The parties are DIRECTED to comply strictly with the terms and conditions of the Compromise Agreement under pain of contempt.

SO ORDERED.

Librea-Leagogo, J., Chairperson, and Diamante, JJ., concur.

[1] Rollo, pp. 42-46

[2] Id., pp. 68-69

[3] See Resolution dated December 4, 2014, id., pp. 96-97

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