

**RODRIGO DE GUZMAN, JR. AND FLOCERFIDA DE GUZMAN,
PETITIONERS, VS. HON. WILLIAM B. VOLANTE, PRESIDING JUDGE,
BRANCH 16, REGIONAL TRIAL COURT, TABACO CITY, ALBAY, AND
EDEN BASCO-D...**

Ponente: DACUDAO, J.

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DACUDAO, J.:

Impugned in this petition for certiorari, as tainted with grave abuse of discretion, are the Order dated July 20, 2005 of the Regional Trial Court, Branch 16 (Family Court), Tabaco City, Albay denying the petitioners' Motion for the Production and Examination of Documents/Writings in Special Proceedings No. T-327 for "Custody of Minor," and the Order issued by the same court on August 25, 2005, holding that the resolution of said Motion for the Production and Examination of Documents/Writings had become moot and academic.

The factual antecedents:

On February 9, 2004, Eden Basco De Guzman[1] filed a petition before the Regional Trial Court of Tabaco City, Branch 16, for the custody of her 5-year old son, Andre Joseph De Guzman. Named respondents in the petition were Rodrigo L. De Guzman, Jr., the therein petitioner's husband, and Floцерfida De Guzman, the grandmother of Andre Joseph De Guzman. The case was docketed thereat as Special Proceeding No. T-327.[2]

To the petition, the therein defendants-respondents Rodrigo L. De Guzman, Jr. and Floцерfida De Guzman tendered their answer, setting up affirmative defenses, amongst which was that the action was barred by res judicata, or by prior judgment, or by estoppel and waiver; that therein petitioner was guilty of forum shopping; that therein petitioner was morally and financially incapable and incompetent to rear and take custody of the minor; that the court had no jurisdiction over the case; that therein defendant-respondent husband should retain custody of the boy Andre Joseph considering that there are "compelling reasons" to separate the child from therein petitioner, who has abandoned him to her own parents, and who, has besides cohabited with other men, resulting in the birth of another child, a girl, thereby "setting a bad example" for the boy Andre Joseph.[3]

On February 11, 2005, the respondent court issued a pre-trial order.[4]

On February 28, 2005, therein defendants-respondents filed a Motion for Production and Examination of Documents, Etcetera, thereunder praying that an order be issued requiring therein petitioner Eden Basco and/or Ronn Carmel Hospital, at Caloocan City, to produce in court the medical, hospital and nurses records, including the clinical history of birth of therein petitioner's alleged other child, a baby girl, who was reportedly born in said hospital in September, 2003; as well as the records or documents regarding therein petitioner Eden Basco's caesarian operation in the same hospital, and to allow therein defendants-respondents to inspect or examine said documents.[5]

On April 8, 2005, therein petitioner filed her comment on, or opposition to,[6] the Motion for Production and Examination of Documents/Writings.

But in the interregnum, the presentation of herein defendants-respondent's evidence was completed on May 20, 2005.[7]

On July 20, 2005, the respondent court issued the first questioned Order[8] denying, for lack of merit, the therein defendants-respondents' Motion for Production and Examination of Document/ Writings.

On August 9, 2005 therein defendants-respondents moved for reconsideration[9] thereon.

In between, or on August 16, 2005, pending resolution of the said defendants-respondents' motion for reconsideration, the latter were declared to have waived their right to present their evidence, for failure of said defendants-respondents and their counsel to appear in court, despite notice. Thus:

“When this case was called for presentation of evidence for the defendants, the defendants Rodrigo de Guzman, Jr. and Flocerfida de Guzman failed to appear in court despite due notice. Their counsels on record, Attys. Romeo B. Gonzaga and Orlando Lambino, likewise failed to appear despite due notice. As a result, the defendants were not able to present their evidence.

“Upon motion of the plaintiff, said defendants are deemed to have waived their right to present evidence and this case is now considered submitted for decision.

“SO ORDERED.

“GIVEN IN OPEN COURT this 16th day of August, 2005 at Tabaco City.

“(SGD.) WILLIAM B. VOLANTE

“Judge”[10]

Some nine (9) days later, or on August 25, 2005, the respondent court issued the second impugned Order, thus:

“Pending before the Court is a Motion for Reconsideration filed by respondents Rodrigo L. De Guzman, Jr. and Flocerfida De Guzman, thru collaborating counsel, Atty. Orlando Lambino, seeking to set aside the Order dated July 20, 2005.

“A perusal of the records will show that during the scheduled hearing for the reception of the defendants' evidence on August 16, 2005, the abovenamed respondents, as well as lead counsel Atty. Romeo B. Gonzaga failed to appear in Court despite due notice. Consequently, the said respondents were not able to present their evidence to rebut the evidence presented by the petitioner.

“Hence, on motion of the petitioner, the said respondents were deemed to have waived their right to present evidence and the instant petition for custody of minor considered submitted for decision pursuant to the Order of August 16, 2005.

“It has been observed though by the Court that Atty. Lambino had been filing pleadings after pleadings without the knowledge and conformity of Atty. Gonzaga. As a result of the poor coordination between Attys. Lambino and Gonzaga, the rights and interest of the herein respondents were not properly safeguarded.

“Accordingly, the instant motion for reconsideration has already become moot and academic.

“SO ORDERED.

“Given this 25th day of August, 2005 at Tabaco City.

“(SGD.) WILLIAM B. VOLANTE

“Judge”[11]

Imputing to both dispositions grave abuse of discretion, amounting to lack or excess of jurisdiction, therein

defendants-respondents, now the petitioners herein, instituted the instant petition for certiorari, and in support thereof, now contend that:

- THE DENIAL OF THE PETITIONERS' MOTION FOR THE PRODUCTION AND EXAMINATION OF DOCUMENTS AND WRITINGS CONSTITUTES AS AN ACT OF SUPPRESSION OR UNDUE LIMITATION OF THE PETITIONERS' RIGHT TO AVAIL OF THE MODES OF DISCOVERY, AND TO SUBSTANTIATE THEIR DEFENSE, AND OF THEIR RIGHT TO DUE PROCESS AND EQUAL PROTECTION OF THE LAWS, DESPITE "GOOD CAUSE" SUPPORTING THE MOTION;
- THE ORDER DENYING THE PETITIONERS' MOTION FOR PRODUCTION AND EXAMINATION OF DOCUMENTS, AND OF THE MOTION FOR RECONSIDERATION IS BEREFT OF ANY FACTUAL OR LEGAL BASIS AMOUNTING TO VIRTUAL REFUSAL OF THE PUBLIC RESPONDENT TO PERFORM HIS BOUNDEN DUTY.[12]

There is merit in this petition, which, we are treating, however, as a specie of mandamus.

It is quite apparent, if not altogether manifest, that the respondent court has missed its way in the maze of passionate recriminations that bristled in the pleadings traded by the parties inter se. Respondent court failed to squarely confront, or simply evaded, the basic issue presented before it for resolution: the propriety of petitioners' motion for the production and examination of the documents mentioned in the motion. Whether its action, or inaction – in failing to squarely confront, or in simply evading – the said issue, is advertent or inadvertent, deliberate or unintentional, or because it did not fully, or correctly, or clearly apprehend, or comprehend or understand the import, thrust, or meaning of the basic issue that clamors for resolution – we cannot say with certitude— because we cannot divine or read its mind. But one thing is reasonably sure and certain: it left the issue twisting in the wind – totally unresolved. Which, of course, does not conduce well to the ideal of a sane, speedy and rational administration of justice, which every court of law is expected or tasked to promote and undertake. In the context of these premises, we, therefore, treat the petition at bench more as a specie of mandamus under Section 3, Rule 65 of the Revised Rules of Court,[13] which, going by its material averments and its petititory portion, or prayer, exhibits the essential earmarks or characteristics of one.

WHEREFORE, we hereby resolved to REMAND this case to the court below for further proceedings, treating the present petition as a petition for mandamus under Section 3, Rule 65 of the Revised Rules, with instruction to that court to categorically and clearly address and resolve, with reasonable dispatch, one way or another, the aforestated basic issue posed in therein defendants-respondents', now the herein petitioners' motion for production of documents, etcetera, dated February 28, 2005. Without costs in this instance.

SO ORDERED.

Carandang and Arevalo-Zenarosa, JJ., concur.

[1] On October 6, 2003, the Regional Trial Court, of Valenzuela City, Metro Manila, Branch 172, issued an Order in Special Proceeding No. 51-V-03 where Eden Basco De Guzman, as petitioner, in the petition for Habeas Corpus of Minor Andre Joseph De Guzman, and respondent, Rodrigo L. de Guzman, Jr. had come to an agreement that said petition be withdrawn without prejudice and that the petitioner be allowed to visit Andre Joseph De Guzman at anytime; Rollo, p. 18

[2] Annex "A", Rollo, p. 13.

[3] Annex "B", Id., p. 19.

[4] Rollo, p. 5.

[5] Annex “F”, Rollo, p. 29.

[6] Annex “G”, Id., p. 32.

[7] Rollo, p. 6.

[8] Annex “C”, Rollo, p. 24.

[9] Annex “H,” Rollo, p. 35.

[10] Annex “D”, Rollo, p. 26.

[11] Annex “E”, Id., p. 28.

[12] Rollo, p. 6.

[13] SECTION 3. Petition for mandamus. - When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled, and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

See also: *Lupisan v. Alfonso and Arguieta*, 78 Phil. 842, 845 (1947).

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