

EXALTACION ZAFRA SARTE, PETITIONER, VS. HON. COURT OF APPEALS, JULIAN LUA, FRANCISCO UNABIA AND FELISA UNABIA, RESPONDENTS.

G.R. No. L-23976. March 30, 1970

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f33e0b98029b/>

FERNANDO, J.:

This is a petition for a review of a decision of respondent Court of Appeals dated October 31, 1964, setting aside in a certiorari proceeding an order of the Court of Juvenile & Domestic Relations of Manila, thus precluding the guardian designated therein, Exaltacion Zafra Sarte, petitioner before us, from assuming her functions as such during the pendency of an appeal against her appointment. The issue raised is therefore whether in attaching to such an order the quality of immediate enforceability, there was a grave abuse of discretion. Respondent Court answered in the affirmative. We are of a different mind. On the facts as found by it, which we are not a liberty to change, and in the light of an applicable doctrine, it would follow that such appointment as guardian being given effect forthwith is not offensive to what the law requires. Respondent Court cannot be sustained. We find for petitioner.

The background facts as set forth in the appealed decision follow: "From the record of this case we gather that on November 3, 1961, respondent Exaltacion Zafra-Sarte petitioned the Juvenile and Domestic Relations Court for the appointment of a legal guardian over the person and property of Remigia Zafra, whom said respondent herein alleged to be an incompetent person, afflicted with mental disorder and other ailments which rendered her incapable to take care of herself and to manage her property. In her verified petition, Exaltacion prayed for her appointment as the legal guardian of the person and property of Remigia, claiming that she is a niece of the latter, being a daughter of her (Remigia's) sister. Said petition was however opposed by Julian Lua, who claimed that he and Remigia Zafra have lived together as common-law husband and wife for more than 30 years, and by Francisco Unabia, who claimed that he is a half-brother of the alleged incompetent. The oppositors prayed that either of them be appointed legal guardian of Remigia, should she be found incompetent." [1]

What happened next was narrated thus in such decision: "At the conclusion of the trial, which forthwith followed after the issues had been joined, respondent Judge found Remigia to be really mentally deranged and for this reason appointed Exaltacion as legal guardian of the former's person and property in an order dated April 8, 1964 * * *. Copy of this order was served on the oppositors, who are now herein petitioners, on April 16, 1964. On April 22, 1964, Julian Lua and Francisco Unabia submitted their motion for reconsideration of that order of the respondent Judge, but on the same date, while such motion was still unresolved and before the period for appeal had expired, said respondent directed the issuance of the corresponding letters of guardianship, and as a matter of fact such letters were issued, after Exaltacion had submitted the required bond of P1, 000.00 and had taken her oath of office as legal guardian of the person and property of Remigia Zafra. And on May 2, 1964, herein petitioners were notified of the order of respondent Judge dated April 29, 1964, denying their action for reconsideration as oppositors in the guardianship proceedings. They then filed their notice of appeal and deposited

their appeal bond of P120.00 in cash, and on May 13, 1964, they also filed their Record on Appeal. On June 11, 1964, respondent Judge approved the record on appeal of the oppositors in that proceeding and directed the Clerk to elevate that case to this Court for review."^[2]

Thereafter, on April 27, 1964, before such motion for reconsideration was resolved, petitioner filed an urgent motion to enable her as such guardian to bring the ward to the hospital before the Court of Juvenile & Domestic Relations. As stated in the decision: "On May 15, 1964, respondent Judge favorably acted upon this motion, the opposition thereto of herein petitioners notwithstanding, and ordered them to transfer and surrender the person of the incompetent to Exaltacion Zafra-Sarte * * *. Incidentally, this last order of respondent Judge was issued after the oppositors in that guardianship proceeding had filed their notice of appeal, appeal bond and record on appeal. On May 19, 1964, herein petitioners filed a motion for reconsideration of said order of the court dated May 15, 1964, praying that the status quo as to the custody of Remigia Zafra, who is under the charge of Felisa Unabia, be maintained during the pendency of their appeal. This motion for reconsideration was denied by respondent Judge on June 11, 1964."^[3]

On the allegation that now respondents Julian Lua, the common-law husband and her half-brother, respondent Francisco Unabia as well as her half-sister, respondent Felisa Unabia, had no other speedy and adequate remedy in the ordinary course of law to prevent the immediate execution of the order by the Court of Juvenile & Domestic Relations, a special civil action for certiorari was filed by them with respondent Court of Appeals. They were, able to obtain a writ of preliminary injunction restraining the enforcement of the aforesaid order complained of. As noted in the brief for petitioner: "Upon the facts above-stated, the Court of Appeals annulled and set aside the order issued by the trial court on May 15, 1964, in Special Proceeding No. 03773, and the writ of preliminary injunction issued on July 14, 1964 was ordered stayed until such time the Court of Appeals shall have the opportunity to review the merits of the aforesaid order appointing Exaltacion Zafra-Sarte (herein petitioner) as legal guardian of the person and property of Remigia Zafra."^[4]

After a motion for the reconsideration of the above decision of October 31, 1964 was denied, the present petition for review was filed before us. As noted at the outset, we reverse respondent Court of Appeals.

Petitioner would impress on us that the issue as to the power of respondent Court to suspend the effectivity of an order appointing a guardian in the event of an appeal therefrom was decided in *Mercader v. Wislizenus*.^[5] To maintain such an assertion, she quoted an excerpt from our opinion in that case thus: "The order declaring the incompetency and appointing a guardian was good, until reversed or set aside; and authorized the guardian, in spite of the appeal, to do whatever was necessary under the direction of the Court, to protect the property of the incompetent." The above citation does impart more than a semblance of plausibility to her contention it does support her stand.

It is to be admitted that the excerpt on which petitioner would pin her hopes resulted from the realization of this Court that if it were not thus there was the fear, not without basis, that the property of the person adjudged incompetent could be frittered away during the pendency of such appeal or converted to the use of designing persons. The above consideration does not detract from the general principle announced that such appointment of a guardian should be considered good until reversed or set aside on appeal. No such weighty and persuasive reason that would call for a different ruling may be discussed from the facts as found by the Court of Appeals. The above statement from the opinion of Justice Moreland is thus impressed with a force sufficient to give more than legal color to what was ordered by the Court of Juvenile and Domestic Relations of Manila. For it to yield deference to such a pronouncement by this Court cannot certainly earn the stigma of a grave abuse of discretion.

Why did respondent Court view the matter otherwise? It relied on two California decisions, one promulgated in

1911, Coburn v. Hynes[6] and another in 1917 O'Donnell v. Sixth Judicial District.[7] They speak to the effect that upon the filing of an appeal, the guardian appointed was automatically precluded from exercising her functions. As correctly noted in the brief for petitioner the holding of each of the above cases to that effect is predicated on relevant statutory provisions of the State of California. As a matter of fact, such a doctrine goes back to an 1892 pronouncement of the California Supreme Court.[8] Respondent Court should have displayed less receptivity to the persuasive force of the above doctrine. It might have been otherwise if there were no Mercader ruling. As it is, respondent Court was not justified in setting aside the order sought to be assailed in a certiorari proceeding made in reliance on a decision of this court.

WHEREFORE, the decision of respondent Court of Appeals of October 21, 1964 is reversed with costs against private respondents.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Castro, Teehankee, Barredo, and Villamor, JJ., concur.
Makalintal, J., took no part.

[1] Decision, Brief for Petitioner, p. II.

[2] Ibid., pp. II-III.

[3] Ibid., p. IV.

[4] Brief for Petitioner, pp. 4-5.

[5] 34 Phil. 846 849 (1916).

[6] 120 Pac. 26.

[7] 165 Pac. 759.

[8] In re Woods 29 Pac. 1108.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.