

JOHANNA SOMBONG, PETITIONER, VS. COURT OF APPEALS AND MARIETTA NERI ALVIAR, LILIBETH NERI AND ALLPERSONS HOLDING THE SUBJECT CHILD ARABELA SOMBONG IN THEIR CUSTODY, RESPONDENTS.

G.R. No. 111876. January 31, 1996

Ponente: HERMOSISIMA, JR., J.

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HERMOSISIMA, JR., J.:

Every so' often two women claim to be the legitimate parent of the same child. One or the other, whether for financial gain or for sheer cupidity, should be an impostor. The court is consequently called upon to decide as to which of them should have the child's lawful custody. This is the very nature of this case. The child herein had considerably grown through the years that this controversy had unbearably lagged. The wisdom of the ages should be of some help, delicate as the case considerably is. The earliest recorded decision on the matter is extant in the Bible, I Kings 3. As it appears, King Solomon in all his glory resolved the controversy posed by two women claiming the same child:

"And the King said, Bring me a sword. And they brought a sword before the King.

"And the King said, Divide the living child in two, and give half to the one, and half to the other.

"Then spoke the woman whose the living child was unto the King, for her bowels yearned upon her son, and she said, O my Lord, give her the living child, and in no wise slay it. But the other said, Let it be neither mine nor thine, but divide it.

"Then the King answered and said, Give her the living child, and in no wise slay it: she is the mother thereof."
(1 Kings, Chapter 3, Verses 25-27)

King Solomon's wisdom, was inspired by God:

"And all Israel heard of the judgment which the King had judged; and they feared the King: for they saw that the wisdom of God was in him, to do judgment." (Ibid., Verse 28)

We do resolve the herein controversy inspired by God's own beloved King.

The Petition for Review on Certiorari before us seeks the reversal of the decision[1] of respondent Court of Appeals[2] which had reversed the decision[3] of the Regional Trial Court[4] which granted the Petition for Habeas Corpus filed by petitioner.

The following facts were developed by the evidence presented by the opposing parties:

Petitioner is the mother of Arabella O. Sombong who was born on April 23, 1987 in Signal Village, Taguig, Metro Manila.[5] Some time in November, 1987, Arabella, then only six months old, was brought to the Sir John Clinic, located at 121 First Avenue, Kalookan City, for relief of coughing fits and for treatment of colds.

Petitioner did not have enough money to pay the hospital bill in the amount of P300.00. Arabella could not be discharged, then, because of the petitioner's failure to pay the bill.

Petitioner surprisingly gave testimony to the effect that she allegedly paid the private respondents by installments in the total amount of P1,700.00, knowing for a fact that the sum payable was only P300.00. Despite such alleged payments, the owners of the clinic, Dra. Carmen Ty and her husband, Mr. Vicente Ty, allegedly refused to turn over Arabella to her. Petitioner claims that the reason for such a refusal was that she refused to go out on a date with Mr. Ty, who had been courting her. This allegedly gave Dra. Ty a reason to be jealous of her, making it difficult for everyone all around.

On the other hand and in contrast to her foregoing allegations, petitioner testified that she visited Arabella at the clinic only after two years, i.e., in 1989. This time, she did not go beyond berating the spouses Ty for their refusal to give Arabella to her. Three years thereafter, i.e., in 1992, petitioner again resurfaced to lay claim to her child. Her pleas allegedly fell on deaf ears.

Consequently, on May 21, 1992, petitioner filed a petition with the Regional Trial Court of Quezon City for the issuance of a Writ of Habeas Corpus against the spouses Ty. She alleged therein that Arabella was being unlawfully detained and imprisoned at No. 121, First Avenue, Grace Park, Kalookan City. The petition was denied due course and summarily dismissed,[6] without prejudice, on the ground of lack of jurisdiction, the alleged detention having been perpetrated in Kalookan City.

Petitioner, thereafter, filed a criminal complaint[7] with the Office of the City Prosecutor of Kalookan City against the spouses Ty. Dr. Ty, in her counter-affidavit, admitted that petitioner's child, Arabella, had for some time been in her custody. Arabella was discharged from the clinic in April, 1989, and was, in the presence of her clinic staff, turned over to someone who was properly identified to be the child's guardian.

In the face of the refusal of the spouses Ty to turn over Arabella to her, she had sought the help of Barangay Captains Alfonso and Bautista of Kalookan City, Mayor Asistio of the same city, and even Congresswoman Hortensia L. Starke of Negros Occidental. Their efforts to help availed her nothing.

On September 4, 1992, the Office of the City Prosecutor of Kalookan City, on the basis of petitioner's complaint, filed an information[8] against the spouses Ty for Kidnapping and Illegal Detention of a Minor before the Regional Trial Court of Kalookan City.[9] On September 16, 1992, an order for the arrest of the spouses Ty was issued in the criminal case. Facing arrest, Dra. Ty disclosed the possibility that the child, Arabella, may be found at No. 23 Jesus Street, San Francisco del Monte, Quezon City. The agents of the National Bureau of Investigation went to said address and there found a female child who answered to the name of Cristina Grace Neri. Quite significantly, the evidence disclosed that the child, Cristina, had been living with respondent Marietta Neri Alviar since 1988. When she was just a baby, Cristina was abandoned by her parents at the Sir John Clinic. On April 18, 1988, Dr. Fe Mallonga, a dentist at the Sir John Clinic and niece of both Dra. Ty and respondent Alviar, called the latter up to discuss the possibility of turning over to her care one of the several abandoned babies at the said clinic. Respondent Alviar was told that this baby whose name was unknown had long been abandoned by her parents and appeared to be very small, very thin, and full of scabies. Taking pity on the baby, respondent Alviar and her mother, Maura Salacup Neri, decided to take care of her.

This baby was baptized at the Good Samaritan Church on April 30, 1988. Her Certificate of Baptism[10] indicates her name to be Cristina Grace S. Neri; her birthday to be April 30, 1987; her birthplace to be Quezon City; and her foster father and foster mother to be Cicero Neri and Maura Salacup, respectively. Respondent Alviar was invited by the National Bureau of Investigation for questioning on September 22, 1992 in the presence of Dra. Ty and petitioner. Cristina was also brought along by said respondent. At that confrontation, Dra. Ty could not be

sure that Cristina was indeed petitioner's child, Arabella. Neither could petitioner with all certainty say that Cristina was her long lost daughter.

On October 13, 1992, petitioner filed a petition for the issuance of a Writ of Habeas Corpus with the Regional Trial Court[11] of Quezon City. The trial court conducted a total of eight (8) hearings, for the period, from October 28, 1992 to December 11, 1992. On January 15, 1993, it rendered a decision granting the Petition for Habeas Corpus and ordering respondent Alviar to immediately deliver the person of Cristina Grace Neri to the petitioner, the court having found Cristina to be the petitioner's long lost child, Arabella.

The trial court, in justification of its conclusions, discussed that:

"On the issue of whether or not the minor child, in question, is the daughter of the petitioner, there seems to be no question, to the mind of this Court, that the petitioner, is, indeed, the mother of the child, registered by the name of Arabella O. Sombong, per her Certificate of Birth x x x and later caused to be baptized as Cristina Grace S. Nery (sic) x x x For, this child is the same child which was delivered by the Sir John Clinic at Kalookan City, owned by Dra. Carmen Ty, to Dra. Fe Mallonga and later given to the custody of the respondents. In fact, Dra. Carmen Ty, in her testimony admitted that the petitioner is the mother of Arabella xxx

On the question of whether or not the petitioner has the rightful custody of the minor child, in question, which is being withheld by the respondents from her, as will authorize the granting of the petition for habeas corpus x x x there is no question that the minor x x x is only about five (5) years old x x x it follows that the child must not be separated from the mother, who is the petitioner, unless, of course, this Court finds compelling reasons to order otherwise.

Heretofore, under the New Civil Code of the Philippines, the compelling reasons which may deprive the parents of their authority or suspend exercise thereof are stated. It was then provided in Article 332, supra, that:

'The courts may deprive the parents of their authority x x x if they should treat their children with excessive harshness x x x or abandon them. x x x' (Italics supplied by the RTC)

Unfortunately, the foregoing article, which was under Title XI, parental authority, was expressly repealed by Article 254 of the Family Code of the Philippines xxx

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It can be seen, therefore, that the words 'or abandoned them' mentioned in Article 332 of the New Civil Code x x x is (sic) no longer mentioned in the amending (of) Art. 231 of the Family Code of the Philippines.

It is clear x x x that under the law presently controlling, abandonment is no longer considered a compelling reason upon the basis of which the Court may separate the child below seven (7) years old from the mother.

Conceivably, however, in paragraph 6 of Article 231, supra, the effects of culpable negligence on the part of the parent may be considered by this Court in suspending petitioner's parental authority over her daughter, in question x x x

The question, therefore, is whether there is culpable negligence on the part of the petitioner so that her parental authority over her child, in question, may at least be suspended by this Court.

This Court is not persuaded that the petitioner is guilty of culpable negligence vis-a-vis her daughter, in question, upon the bases of the facts adduced. For, there is no question that from April, 1988 she kept on demanding from Dra. Carmen Ty x x x the return of her child to her but the latter refused even to see her or to talk to her. Neither did Vicente Ty, the husband of Dra. Carmen Ty, respond to her entreaties to return her daughter.

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Besides, in the interim, while petitioner was looking for her daughter, she made representations for her recovery with Barangay Captains Alfonso and Bautista, and Mayor Asistio, all of Kalookan City, as well as with Congresswoman Hortensia L. Starke to intervene in her behalf.

It cannot be said, therefore, no matter how remotely, that the petitioner was negligent, nay culpably, in her efforts for the recovery of her daughter.

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Certainly, the respondents have no right to the parental authority of the child, superior to that of the petitioner as they are not her parents. They have, therefore, no right to the custody of petitioner's daughter. The Sir John Clinic, or Dra. Carmen Ty, have (sic) no right to deliver the child, in question, to Dra. Fe Mallonga. Neither had the latter the right and the authority to gave (sic) the child to the respondents, whose custody of petitioner's daughter is, consequently, illegal."[12]

Herein private respondents filed an appeal from the decision of the Regional Trial Court to the Court of Appeals. The Appellate Court took cognizance of the following issues: (1) The propriety of the habeas corpus proceeding vis-a-vis the problem respecting the identity of the child subject of said proceeding; (2) If indeed petitioner be the mother of the child in question, what the effect would proof of abandonment be under the circumstances of the case; and (3) Will the question of the child's welfare be the paramount consideration in this case which involves child custody.

The Court of Appeals reversed and set aside the decision of the trial court, ruling as it did that:

"x x x the lower court erred in sweepingly concluding that petitioner's child Arabella Sombong and respondents' foster child Cristina Neri are one and the same person to warrant the issuance of the writ. x x x

As clearly stated in the facts of this case, not even petitioner herself could recognize her own child when respondents' foster child Cristina Neri was presented to her before the NBI and respondent court. Dr. Carmen Ty at the NBI investigation could not also ascertain whether or not Cristina Neri and petitioner's missing child are one and the same person.

Before the lower court, petitioner-appellee presented two physicians from the Sir John Clinic, namely, Dr. Carmen Ty and Dr. Angelina Trono to identify the child in question. But both witnesses could not positively declare that Cristina Neri is the same missing child Arabella Sombong of petitioner. Dr. Trono even declared in court that there were other babies left in the clinic and that she could not be certain which baby was given to respondents (pp. 48-49, tsn, Nov. 10, 1992). x x x Petitioner, herself, could not identify her own child, prompting the respondent court to call for child Cristina Neri to come forward near the bench for comparison of her physical features with that of her alleged mother, the petitioner (p. 32, tsn, Nov. 5, 1992). After a comparison of petitioner and Cristina Neri's physical features, the lower court found no similarity and to which petitioner agreed claiming that said child looked like her sister-in-law (p. 33, id.) When the lower court instructed petitioner to bring said sister-in-law in the next hearing, petitioner stated they were not on good terms (p. 34, id.) No one, therefore, up to this time has come forward to testify as a witness in order to positively identify respondents' child Cristina Neri to be one and the same as petitioner's missing child, Arabella Sombong.

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The issuance of a writ of habeas corpus does not lie in this case considering that petitioner is not entitled to the custody of Cristina Neri because she is not the mother of the said child, and does not have the right to have custody over said child.

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We do not agree with the lower court that the ground of abandonment of a child has been repealed by Art. 231 of the Family Code for abandonment can also be included under the phrase 'cases which have resulted from culpable negligence of the parent' (par. 2, Art. 231 of the Family Code). What can be the worst culpable negligence of a parent than abandoning her own child. This court does not believe petitioner-appellee's explanation that she had been negotiating for the discharge of her child for the past five years. That was too long a time for negotiation when she could have filed immediately a complaint with the authorities or the courts x x x

As to the issue of the welfare of the child, petitioner-appellee's capability to give her child the basic needs and guidance in life appear (sic) to be bleak. Before the lower court petitioner-appellee filed a motion to litigate as pauper as she had no fixed income. She also admitted that she had no stable job, and she had been separated from a man previously married to another woman. She also confessed that she planned to go abroad and leave her other child Johannes to the care of the nuns. The child Arabella Sombong wherever she is certainly does not face a bright prospect with petitioner-appellee."^[13]

This prompted the petitioner to file this petition.

We do not find the petition to be meritorious.

While we sympathize with the plight of petitioner who has been separated from her daughter for more than eight years, we cannot grant her the relief she is seeking, because the evidence in this case does not support a finding that the child, Cristina, is in truth and in fact her child, Arabella; neither is there sufficient evidence to support the finding that private respondents' custody of Cristina is so illegal as to warrant the grant of a Writ of Habeas Corpus. In general, the purpose of the writ of habeas corpus is to determine whether or not a particular person is legally held. A prime specification of an application for a writ of habeas corpus, in fact, is an actual and effective, and not merely nominal or moral, illegal restraint of liberty. "The writ of habeas corpus was devised and exists as a speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom. A prime specification of an application for a writ of habeas corpus is restraint of liberty. The essential object and purpose of the writ of habeas corpus is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient."^[14]

Fundamentally, in order to justify the grant of the writ of habeas corpus, the restraint of liberty must be in the nature of an illegal and involuntary deprivation of freedom of action. This is the basic requisite under the first part of Section 1, Rule 102, of the Revised Rules of Court, which provides that "except as otherwise expressly provided by law, the writ of habeas corpus shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty."

In the second part of the same provision, however, Habeas Corpus may be resorted to in cases where "the rightful custody of any person is withheld from the person entitled thereto." Thus, although the Writ of Habeas Corpus ought not to be issued if the restraint is voluntary, we have held time and again that the said writ is the proper legal remedy to enable parents to regain the custody of a minor child even if the latter be in the custody of a third person of her own free will."^[15]

It may even be said that in custody cases involving minors, the question of illegal and involuntary restraint of liberty is not the underlying rationale for the availability of the writ as a remedy; rather, the writ of habeas corpus is prosecuted for the purpose of determining the right of custody over a child.

The controversy does not involve the question of personal freedom, because an infant is presumed to be in the

custody of someone until he attains majority age. In passing on the writ in a child custody case, the court deals with a matter of an equitable nature. Not bound by any mere legal right of parent or guardian, the court gives his or her claim to the custody of the child due weight as a claim founded on human nature and considered generally equitable and just. Therefore, these cases are decided, not on the legal right of the petitioner to be relieved from unlawful imprisonment or detention, as in the case of adults, but on the court's view of the best interests of those whose welfare requires that they be in custody of one person or another. Hence, the court is not bound to deliver a child into the custody of any claimant or of any person, but should, in the consideration of the facts, leave it in such custody as its welfare at the time appears to require. In short, the child's welfare is the supreme consideration.

Considering that the child's welfare is an all-important factor in custody cases, the Child and Youth Welfare Code¹⁶ unequivocally provides that in all questions regarding the care and custody, among others, of the child, his welfare shall be the paramount consideration.^[17] In the same vein, the Family Code authorizes the courts to, if the welfare of the child so demands, deprive the parents concerned of parental authority over the child or adopt such measures as may be proper under the circumstances.^[18]

The foregoing principles considered, the grant of the writ in the instant case will all depend on the concurrence of the following requisites: (1) that the petitioner has the right of custody over the minor; (2) that the rightful custody of the minor is being withheld from the petitioner by the respondent; and (3) that it is to the best interest of the minor concerned to be in the custody of petitioner and not that of the respondent.

Not all of these requisites exist in this case. The dismissal of this petition is thus warranted.

I

As to the question of identity.

Petitioner does not have the right of custody over the minor Cristina because, by the evidence disclosed before the court a quo, Cristina has not been shown to be petitioner's daughter, Arabella. The evidence adduced before the trial court does not warrant the conclusion that Arabella is the same person as Cristina. It will be remembered that, in habeas corpus proceedings, the question of identity is relevant and material, subject to the usual presumptions including those as to identity of person.¹⁹ These presumptions may yield, however, to the evidence proffered by the parties.

"Identity may be thought of as a quality of a person or thing, - the quality of sameness with another person or thing. The essential assumption is that two persons or things are first thought of as existing, and that then the one is alleged, because of common features, to be the same as the other."^[20]

Evidence must necessarily be adduced to prove that two persons, initially thought of to be distinct and separate from each other, are indeed one and the same. The process is both logical and analytical.

"x x x it operates by comparing common marks found to exist in the two supposed separate objects of thought, with reference to the possibility of their being the same. It follows that its force depends on the necessariness of the association between the mark and a single object. Where a certain circumstance, feature, or mark, may commonly be found associated with a large number of objects, the presence of that feature or mark in two supposed objects is little indication of their identity, because x x x the other conceivable hypotheses are so numerous, i.e., the objects that possess that mark are numerous and therefore any two of them possessing it may well be different. But where the objects possessing the mark are only one or a few, and the mark is found in two supposed instances, the chances of two being different are 'nil' or are comparatively small.

Hence, in the process of identification of two supposed objects, by a common mark, the force of the inference depends on the degree of necessariness of association of that mark with a single object.

For simplicity's sake, the evidential circumstance may thus be spoken of as 'a mark.' But in practice it rarely occurs that the evidential mark is a single circumstance. The evidencing feature is usually a group of circumstances, which as a whole constitute a feature capable of being associated with a single object. Rarely can one circumstance alone be so inherently peculiar to a single object. It is by adding circumstance to circumstance that we obtain a composite feature or mark which as a whole cannot be supposed to be associated with more than a single object.

The process of constructing an inference of identity thus consists usually in adding together a number of circumstances, each of which by itself might be a feature of many objects, but all of which together make it more probable that they co-exist in a single object only. Each additional circumstance reduces the chances of there being more than one object so associated."^[21]

In the instant case, the testimonial and circumstantial proof establishes the individual and separate existence of petitioner's child, Arabella, from that of private respondents' foster child, Cristina.

We note, among others, that Dr. Trono, who is petitioner's own witness, testified in court that, together with Arabella, there were several babies left in the clinic and so she could not be certain whether it was Arabella or some other baby that was given to private respondents. Petitioner's own evidence shows that, after the confinement of Arabella in the clinic in 1987, she saw her daughter again only in 1989 when she visited the clinic. This corroborates the testimony of petitioner's own witness, Dra. Ty, that Arabella was physically confined in the clinic from November, 1987 to April, 1989. This testimony tallies with her assertion in her counter-affidavit to the effect that Arabella was in the custody of the hospital until April, 1989. All this, when juxtaposed with the unwavering declaration of private respondents that they obtained custody of Cristina in April, 1988 and had her baptized at the Good Samaritan Church on April 30, 1988, leads to the conclusion that Cristina is not Arabella.

Significantly, Justice. Lourdes K. Tayao-Jagueros, herself a mother and the ponente of the herein assailed decision, set the case for hearing on August 30, 1993 primarily for the purpose of observing petitioner's demeanor towards the minor Cristina. She made the following personal but relevant manifestation:

"The undersigned ponente as a mother herself of four children, wanted to see how petitioner as an alleged mother of a missing child supposedly in the person of Cristina Neri would react on seeing again her long lost child. The petitioner appeared in the scheduled hearing of this case late, and she walked inside the courtroom looking for a seat without even stopping at her alleged daughter's seat; without even casting a glance on said child, and without even that tearful embrace which characterizes the reunion of a loving mother with her missing dear child. Throughout the proceedings, the undersigned ponente noticed no signs of endearment and affection expected of a mother who had been deprived of the embrace of her little child for many years. The conclusion or finding of undersigned ponente as a mother, herself, that petitioner-appellee is not the mother of Cristina Neri has been given support by aforestated observation x x x."^[22]

The process of constructing an inference of identity having earlier been explained to consist of adding one circumstance to another in order to obtain a composite feature or mark which as a whole cannot be supposed to be associated with more than a single object, the reverse is also true, i.e., when one circumstance is added to another, and the result is a fortification of the corporeality of each of the two objects the identity of which is being sought to be established, the nexus of circumstances correspondingly multiply the chances of there being more than one object so associated. This is the situation that confronts us in this case, and so the inevitable but sad conclusion that we must make is that petitioner has no right of custody over the minor Cristina, because Cristina is not identical with her missing daughter, Arabella.

II

Private respondents
not unlawfully
withholding custody.

Since we hold that petitioner has not been established by evidence to be entitled to the custody of the minor Cristina on account of mistaken identity, it cannot be said that private respondents are unlawfully withholding from petitioner the rightful custody over Cristina. At this juncture, we need not inquire into the validity of the mode by which private respondents acquired custodial rights over the minor, Cristina. This matter is not ripe for adjudication in this instant petition for habeas corpus.

III

Private respondents
have the interest of
the child Cristina at heart.

We find that private respondents are financially, physically and spiritually in a better position to take care of the child, Cristina. They have the best interest of Cristina at heart. On the other hand, it is not to the best interest of the minor, Cristina, to be placed in the custody of petitioner, had the petitioner's custody rights over Cristina been established. The Court of Appeals gave the reason:

"As to the issue of the welfare of the child, petitioner-appellee's capability to give her child the basic needs and guidance in life appear (sic) to be bleak. Before the lower court petitioner-appellee filed a motion to litigate as pauper as she had no fixed income. She also admitted that she had no stable job, and she had been separated from a man previously married to another woman. She also confessed that she planned to go abroad and leave her other child Johannes to the care of the nuns. The child Arabella Sombong wherever she is certainly does not face a bright prospect with petitioner-appellee." [23]

In the light of the foregoing premises, we are constrained to rule that Habeas Corpus does not lie to afford petitioner the relief she seeks.

WHEREFORE, the appealed decision of the Court of Appeals in CA-G.R. SP No. 30574 is AFFIRMED IN TOTO. Costs against petitioner.

SO ORDERED.

Padilla (Chairman), Bellosillo, Vitug, and Kapunan, JJ., concur.

[1] Decision in CA-G.R. SP No. 30574 penned by Associate Justice Lourdes K. Tayao-Jaguros and promulgated on August 31, 1993; Rollo, pp. 30-41.

[2] Sixth Division with members, Presiding Justice Nathanael P. de Pano, Jr. and Associate Justices Asaali S. Isnani and Lourdas K. Tayao-Jaguros.

[3] Decision in Sp. Proc. No. Q-92-13700 penned by Judge Rodolfo A. Ortiz and promulgated on January 28, 1993, Rollo, pp. 42-51.

[4] Regional Trial Court of Quezon City, Branch 89.

[5] Certified Xerox Copy of the Certification of Live Birth of Arabella O. Sombong, dated April 7, 1992, issued by the Office of the Local Civil Registrar of Taguig, Metro Manila; Rollo, p. 52.

- [6] Order of the Regional Trial Court of Quezon City dated May 22, 1992.
- [7] I.S.No. 18-1506.
- [8] Docketed as Crim. Case No. C-40946.
- [9] Branch 123.
- [10] True Copy of the Certificate of Baptism of Cristina Grace S. Nery; Rollo, p. 55.
- [11] Branch 89.
- [12] Decision of the RTC of Quezon City in Sp. Proc. No. Q-092-13700, pp. 5-10; Rollo, pp. 46-51.
- [13] Decision of the Court of Appeals, pp. 6-11; Rollo, pp. 35,37-41.
- [14] Villavicencio v. Lukban, 39 Phil. 778.
- [15] Salvana v. Gaela, 55 Phil. 680.
- [16] Presidential Decree No. 603, as amended.
- [17] Id., Article 8.
- [18] Family Code of the Philippines, Article 231.
- [19] Section 192, 39 A C.J.S., p. 99.
- [20] Wigmore, John Henry, Evidence in Trials at Common Law, Vol. 2, 1990 Edition, p. 385.
- [21] Ibid., pp. 384-3 86.
- [22] Decision of the Court of Appeals, p. 11; Rollo, p. 35.
- [23] 23 Decision, supra, pp. 10-11; Rollo, pp. 41, 35.

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