

REBECCO PANLILIO, ERLINDA PANLILIO AND JOSE MARCEL PANLILIO, PETITIONERS, VS. HON. JOSEFINA G. SALONGA, PRESIDING JUDGE OF RTC, MAKATI BRANCH 149 AND FE V. FEDERIS, RESPONDENTS.

G.R. No. 113087. June 27, 1994

Ponente: MELO, J.

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MELO, J.:

Through a supplication for a writ of habeas corpus initiated by the natural mother, the Honorable Josefina Guevara Salonga, Presiding Judge of Branch 149 of the Regional Trial Court of the National Capital Judicial Region stationed in Makati, was persuaded to accede to the requested writ albeit the grandparents of the minor child had been previously designated guardians ad litem by another coordinate court in Naic, Cavite. It is petitioners' submission in the recourse before us that the action pursued by the natural mother vis-a-vis the reaction thereto of the Makati court is punctuated with congenital and procedural infirmity.

Michael Lancelot F. Panlilio who was born on July 7, 1990, is said to be the natural child of petitioner Jose Marcel E. Panlilio and private respondent Fe V. Federis (p. 69, Rollo) while principal petitioners Rebecca and Erlinda Panlilio are the natural grandparents of the minor, being the parents of Jose Marcel E. Panlilio.

Owing to the so-called cruelty, moral depravity and gross neglect of private respondent, the grandparents felt obliged to exercise substitute parental authority over the minor which apprehension led to the initiation on December 14, 1993 of special proceedings geared towards securing their appointment as guardians ad litem of the ward (p. 87, Rollo). The Presiding Judge of Branch 15 of the Regional Trial Court stationed in Naic, Cavite, before whom the case was eventually raffled, issued an order on December 16, 1993 in the following tenor:

This is a verified petition for the deprivation of parental authority of the natural mother herein respondent Fe V. Federis. The petition is sufficient in form and substance.

WHEREFORE, the Court believes that it is to the best interest of the minor Michael Lancelot F. Panlilio, the natural grandson of petitioners, for Spouses Rebecca and Erlinda Panlilio who are presently in custody of the minor, to be appointed guardian ad litem pending determination of the merits of this case.

(p. 22, Rollo.)

On December 22, 1993, a petition for habeas corpus was submitted by private respondent and later assigned to Branch 149 of the Regional Trial Court in Makati. The natural mother's remedial measure tersely narrated how she was allegedly duped into permitting her son on one occasion to go with herein petitioners in Makati only to wait in vain on account of the vehement and persistent reluctance of petitioners to return the child despite repeated demands therefor (p. 56, Rollo). The Makati court immediately ordered the issuance of the writ of habeas corpus on December 23, 1993 in this manner:

Whereas, a duly verified petition has been filed in the above-entitled case by Fe V. Federis alleging that the

minor Michael Lancelot F. Panlilio is presently detained and restrained of his liberty by Sps. Rebecca and Erlinda Panlilio and Jose Marcel E. Panlilio and/or all persons having custody of the child.

NOW, therefore, pursuant to Sec. 6 of Rule 102 of the Rules of Court, you are commanded to take the body and person of Michael Lancelot F. Panlilio before this Court, Regional Trial Court, Branch 149, Makati, Metro Manila, and to make a return of the writ both to be done on December 27, 1993 at 9:30 in the morning, at which date and time the parties will be heard.

Witness the Hon. JOSEFINA GUEVARA SALONGA of this Court, this 23rd day of December, 1993, at Makati, Metro Manila

(p. 60, Rollo.)

which was supplemented on December 29, 1993 by a hold departure order of Michael Lancelot F. Panlilio until further orders (p. 62, Rollo).

In the meantime, herein petitioners moved to dismiss the habeas corpus petition on the basis of *litis pendentia* as well as lack of cause of action (p. 70, Rollo), while herein private respondent filed her own motion to dismiss in the Cavite custody case anchored on improper venue and the existence of a prejudicial question (p. 132, Rollo).

When petitioners' motion to dismiss was submitted for resolution on January 7, 1994, the Makati judge hearing the habeas corpus case supposedly made a verbal order to produce the body of the minor child on January 10, 1994 which prompted herein petitioners to forthwith file the petition at bench (p. 2, Rollo).

Following the filing of said petition which had a corollary plea for issuance of a restraining order, this Court resolved to:

. . . ISSUE the TEMPORARY RESTRAINING ORDER prayed for, restraining the implementation of the verbal orders of respondent Judge made in open court on January 7, 1994 in Sp. Proc. No. 3711, of the Regional Trial Court of Makati, Branch 149 and from conducting further proceedings in the case, effective today and until further orders from this Court. (Feliciano, Jr., no part)

(p. 26, Rollo.)

Petitioners are of the fundamental impression that their appointment as guardians ad litem by the Cavite court was rendered illusory by private respondent's expedient act of filing in Makati a petition for, and issuance of the writ of, habeas corpus. Suggestion is made that private respondent's maneuver is tantamount to the abhorred practice of shopping for a friendly forum. Even then, petitioners are confident that their momentary custody of the ward by virtue of a lawful court order bars the issuance of the writ of habeas corpus due to the proscription under Section 4, Rule 102 of the Revised Rules of Court which pertinently provides:

SEC. 4. When writ not allowed or discharged authorized.

If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or by virtue of a judgment or order of a court of record, and that the court of judge had jurisdiction to issue the process, render judgment, or make the order, the writ shall not be allowed. . .

By contrast, private respondent harps on certain perceived flaws on procedural matters starting from the filing of the petition for termination of her parental authority in Cavite up to the promulgation of the order appointing petitioners as guardians ad litem. Moreover, private respondent emphasizes the salient features of the Family Code with particular reference to the exercise of parental authority by the mother over her own illegitimate child and the general caveat that no child under 7 years of age shall be separated from the mother except when the court finds compelling reasons to order otherwise. At any rate, she maintains that petitioners' appointment as guardians

ad litem poses no obstacle to her own recourse designed to regain custody of her child via a habeas corpus petition.

We perceive merit in the petition.

The doctrine of judicial stability or non--interference in the regular orders or judgments of a co-equal court, as an accepted axiom in adjective law, serves as an insurmountable barrier to the competencia of the Makati court to entertain the habeas corpus case on account of the previous assumption of jurisdiction by the Cavite court, and the designation of petitioners as guardians ad litem of the ward. Indeed, the policy of peaceful co-existence among courts of the same judicial plane, so to speak, was aptly described in *Republic vs. Reyes* (155 SCRA 313 [1987]), thus:

. . . the doctrine of non--interference has been regarded as an elementary principle of higher importance in the administration of justice that the judgment of a court of competent jurisdiction may not be opened, modified, or vacated by any court of concurrent jurisdiction (30-A Am Jur 605). As this Court ruled in the case of *Mas vs. Dumara-og*, 12 SCRA 34 [1964], a Judge of a branch of one should not annul the order of a judge of another branch of the same court. Any branch even if it be in the same judicial district that attempts to annul a judgment of a branch of the CFI either exceeds its jurisdiction (*Cabigo vs. Del Rosario*, 44 Phil. 84 [1949]) or acts with grave abuse of discretion amounting to lack of jurisdiction (*PNB vs. Javellana*, 92 Phil. 525 [1952]). Thus, in the case of *Parco vs. Ca*, 111 SCRA 262, this Court held that the various branches of the Court of First Instance being co-equal cannot interfere with the respective cases of each branch, much less a branch's order or judgment.

(pp. 324-325)

Consequently, even as the appointment of principal petitioners is still subject to the outcome of the case lodged before the Cavite court, not to mention the possible courses of action which private respondent may pursue in said case to vindicate custody of her child, it cannot be gainsaid that the immediate assumption of authority by the Makati court, although possibly motivated by a noble goal, is tantamount to defeating the very essence of the order emanating from the Cavite court. While habeas corpus is the proper remedy to regain custody of minor children as enunciated in *Salvana and Saliendra vs. Gaela* (55 Phil. 680 [1931]; 5-B, *Francisco*, Revised Rules of Court, 1970 ed., p. 694) yet this principle is understood to presuppose that there is no other previous case whose issue is necessarily interwoven with the nature of a habeas corpus proceeding. Verily, the existence of an anterior suit, such as the termination of private respondent's parental authority in the Cavite court, coupled with the order appointing principal petitioners as guardians ad litem of the ward, is sufficient to momentarily stave off private respondent's short-cut and subtle attempt to regain custody of her son at another forum, by reason of the corollary principle that initial acquisition of jurisdiction by a court of concurrent jurisdiction divests another of its own jurisdiction (*Valdez vs. Lucero*, 43 OG, No. 11, 2835; 1 *Francisco* Revised Rules of Court, 1973 ed., p. 115; *St. Anne Medical Center vs. Panel*, 176 SCRA 755; 761 [1989]). Justice Paras, in *Lee vs. Presiding Judge, MTC of Legaspi City, Branch I* (145 SCRA 408 [1986]), echoed oft-repeated truisms:

It has been held that "even in cases of concurrent jurisdiction, it is, also, axiomatic that the court first acquiring jurisdiction excludes the other courts" (*Laquian vs. Baltazar*, 31 SCRA 552, 556 [1970], please see cases cited therein).

In addition, it is a familiar principle that when a court of competent jurisdiction acquires jurisdiction over the subject matter of a case, its authority continues, subject only to the appellate authority, until the matter is finally and completely disposed of, and that no court of co-ordinate authority is at liberty to interfere with its action. This doctrine is applicable to civil cases, to criminal prosecutions, and to courts-martial. The principle is essential to the proper and orderly administration of the laws; and while its observance might be required on the grounds of judicial comity and courtesy, it does not rest upon such considerations exclusively, but is

enforced, to prevent unseemly, expensive, and dangerous conflicts of jurisdiction and of the process. (14 Am, Jur. 435-436, cited in Francisco, Vicente, Revised Rules of Court, pp. 57-58, Vol. I, 1965 ed.).

(p. 416)

And certainly, given the propensity of the Makati court to intrude and render nugatory an order or decision of another co-equal court, certiorari is the appropriate relief against deviation from the doctrine of judicial comity (Annotation on Judicial Interference by One Court in the Actuations of Another Co-equal Court, 99 SCRA 84; 89).

Of course, we are not unmindful of private respondent's protestations on the manner the order of petitioners' appointment as guardian ad litem was effected but her insinuations on this score should be first addressed to, and resolved by, the Cavite court, not to mention the availability of appeal therefrom in the event an unfavorable decision is finally made. Not to be ignored too, is private respondent's reliance on Articles 176 and Article 213 of the Family Code, with reference to the parental authority of the mother over her illegitimate child and the general proscription that no child under 7 years shall be separated from the mother except under certain cases. Again, these matters would be relevant in and capable of resolution in the case filed in Cavite, but may not now be utilized by herein private respondent to assail the authority of the Cavite court for the simple, nay, obvious reason that these considerations are matters of defense which may be availed of by private respondent to ward off the suit for termination of her parental authority.

WHEREFORE, the petition is hereby granted and the Honorable Josefina G. Salonga, Presiding Judge of Branch 149 of the Regional Trial Court of Makati is hereby directed to dismiss the habeas corpus case. The temporary restraining order issued by this Court on January 12, 1994 is hereby made permanent.

SO ORDERED.

Bidin, Romero, and Vitug, JJ., concur.

Feliciano, J., (Chairman), no part.v

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