IN THE MATTER OF THE PETITION FOR HABEAS CORPUS OF POTENCIANO ILUSORIO, ERLINDA K. ILUSORIO, PETITIONER, VS. ERLINDA K. ILUSORIO-BILDNER SYLVIA K. ILUSORIO-YAP, JOHN DOES AND JA...

G.R. No. 139789. July 19, 2001

Ponente: PARDO, J.

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PARDO, J.:

Once again we see the sad tale of a prominent family shattered by conflicts on expectancy in fabled fortune.

On March 11, 1999, Erlinda K. Ilusorio, the matriarch who was so lovingly inseparable from her husband some years ago, filed a petition with the Court of Appeals[1] for habeas corpus to have custody of her husband in consortium.

On April 5, 1999, the Court of Appeals promulgated its decision dismissing the petition for lack of unlawful restraint or detention of the subject, Potenciano Ilusorio.

Thus, on October 11, 1999, Erlinda K. Ilusorio filed with the Supreme Court an appeal via certiorari pursuing her desire to have custody of her husband Potenciano Ilusorio.[2] This case was consolidated with another case[3] filed by Potenciano Ilusorio and his children, Erlinda I. Bildner and Sylvia K. Ilusorio appealing from the order giving visitation rights to his wife, asserting that he never refused to see her.

On May 12, 2000, we dismissed the petition for habeas corpus[4] for lack of merit, and granted the petition[5] to nullify the Court of Appeals' ruling[6] giving visitation rights to Erlinda K. Ilusorio.[7]

What is now before the Court is Erlinda' s motion to reconsider the decision.[8]

On September 20, 2000, we set the case for preliminary conference on October 11, 2000, at 10:00 a. m., without requiring the mandatory presence of the parties.

In that conference, the Court laid down the issues to be resolved, to wit:

> (a)
>
> To determine the propriety of a physical and medical examination of petitioner Potenciano Ilusorio;
>
> (b)
>
> Whether the same is relevant; and
>
> (c)
>
> If relevant, how the Court will conduct the same.[9]

The parties extensively discussed the issues. The Court, in its resolution, enjoined the parties and their lawyers to

initiate steps towards an amicable settlement of the case through mediation and other means.

On November 29, 2000, the Court noted the manifestation and compliance of the parties with the resolution of October 11, 2000.[10]

On January 31, 2001, the Court denied Erlinda Ilusorio's manifestation and motion praying that Potenciano Ilusorio be produced before the Court and be medically examined by a team of medical experts appointed by the Court.[11]

On March 27, 2001, we denied with finality Erlinda' s motion to reconsider the Court's order of January 31, 2001.[12]

The issues raised by Erlinda K. Ilusorio in her motion for reconsideration are mere reiterations of her arguments that have been resolved in the decision.

Nevertheless, for emphasis, we shall discuss the issues thus:

First. Erlinda K. Ilusorio claimed that she was not compelling Potenciano to live with her in consortium and that Potenciano' s mental state was not an issue. However, the very root cause of the entire petition is her desire to have her husband's custody.[13] Clearly, Erlinda cannot now deny that she wanted Potenciano Ilusorio to live with her.

Second. One reason why Erlinda K. Ilusorio sought custody of her husband was that respondents Lin and Sylvia were illegally restraining Potenciano Ilusorio to fraudulently deprive her of property rights out of pure greed.[14] She claimed that her two children were using their sick and frail father to sign away Potenciano and Erlinda' s property to companies controlled by Lin and Sylvia. She also argued that since Potenciano retired as director and officer of Baguio Country Club and Philippine Oversees Telecommunications, she would logically assume his position and control. Yet, Lin and Sylvia were the ones controlling the corporations.[15]

The fact of illegal restraint has not been proved during the hearing at the Court of Appeals on March 23, 1999.[16] Potenciano himself declared that he was not prevented by his children from seeing anybody and that he had no objection to seeing his wife and other children whom he loved.

Erlinda highlighted that her husband suffered from various ailments. Thus, Potenciano Ilusorio did not have the mental capacity to decide for himself. Hence, Erlinda argued that Potenciano be brought before the Supreme Court so that we could determine his mental state.

We were not convinced that Potenciano Ilusorio was mentally incapacitated to choose whether to see his wife or not. Again, this is a question of fact that has been decided in the Court of Appeals.

As to whether the children were in fact taking control of the corporations, these are matters that may be threshed out in a separate proceeding, irrelevant in habeas corpus.

Third. Petitioner failed to sufficiently convince the Court why we should not rely on the facts found by the Court of Appeals. Erlinda claimed that the facts mentioned in the decision were erroneous and incomplete. We see no reason why the High Court of the land need go to such length. The hornbook doctrine states that findings of fact of the lower courts are conclusive on the Supreme Court.[17] We emphasize, it is not for the Court to weigh evidence all over again.[18] Although there are exceptions to the rule,[19] Erlinda failed to show that this is an exceptional instance.

Fourth. Erlinda states that Article XII of the 1987 Constitution and Articles 68 and 69 of the Family Code support her position that as spouses, they (Potenciano and Erlinda) are duty bound to live together and care for each other.

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We agree.

The law provides that the husband and the wife are obliged to live together, observe mutual love, respect and fidelity.[20] The sanction therefor is the "spontaneous, mutual affection between husband and wife and not any legal mandate or court order" to enforce consortium.[21]

Obviously, there was absence of empathy between spouses Erlinda and Potenciano, having separated from bed and board since 1972. We defined empathy as a shared feeling between husband and wife experienced not only by having spontaneous sexual intimacy but a deep sense of spiritual communion. Marital union is a two-way process.

Marriage is definitely for two loving adults who view the relationship with "amor gignit amorem" respect, sacrifice and a continuing commitment to togetherness, conscious of its value as a sublime social institution.[22]

On June 28, 2001, Potenciano Ilusorio gave his soul to the Almighty, his Creator and Supreme Judge. Let his soul rest in peace and his survivors continue the much prolonged fracas ex aequo et bono.

IN VIEW WHEREOF, we DENY Erlinda's motion for reconsideration. At any rate, the case has been rendered moot by the death of subject.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Ynares-Santiago, JJ., concur.

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[1] Docketed as CA-G.R. SP No. 51689.

[2] Docketed as G. R. No. 139789.

[3] G.R. No.139808.

[4] G.R. No. 139789.

[5] G.R. No. 139808.

[6] In CA-G.R. SP No.51689, promulgated on April 5, 1999.

[7] Decision, Rollo of G.R. No. 139808, pp. 290-A-290-J.

[8] Promulgated on May 12, 2000.

[9] Rollo of G.R. No. 139808, p. 409.

[10] Rollo of G.R. No. 139808, p. 438.

[11] Rollo of G.R. No. 139808, p. 453-A.

[12] Rollo of G.R. No. 139808, p. 596.

[13] Rollo of G.R. No. 139789, p. 24.

[14] Rollo of G.R. No. 139808, p. 311

[15] Rollo of G.R. No. 139789, p. 560.

[16] Court of Appeals Decision in CA-G.R. SP No. 51689, Rollo of G.R. No. 139789, pp. 29-38.

[17] Omandam vs. Court of Appeals, G.R. No. 128750, January 18, 2001.

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[18] Co vs. Court of Appeals, 317 Phil. 230, 238 [1995]; Gobonseng, Jr. vs. Court of Appeals, 316 Phil. 570 [1995].

[19] Romago Electric Co. vs. Court of Appeals, G.R. No. 125947, June 8, 2000; Halili vs. Court of Appeals, 287 SCRA 465 [1998]; Bautista vs. Mangaldan Rural Bank, Inc., 230 SCRA 16 [1994].

[20] Art. 68, Family Code.

[21] Tsoi vs. Lao-Tsoi, 334 Phil. 294 [1997], citing Cuaderno vs. Cuaderno, 120 Phil. 1298 [1964].

[22] Tsoi vs. Court of Appeals, supra, Note 21.

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