

IN THE MATTER OF APPLICATION FOR THE ISSUANCE OF A WRIT OF HABEAS CORPUS

G.R. No. 154598. August 16, 2004

Ponente: CORONA, J.

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CORONA, J.:

This is a petition to review, under Rule 45 of the Rules of Court, the July 5, 2002 resolution[1] of the Court of Appeals, Sixteenth Division, in CA G.R. SP No. 70501 dismissing the petition for habeas corpus on the grounds of lack of jurisdiction and lack of substance. The dispositive portion[2] read:

WHEREFORE, the Court DISMISSES the petition for habeas corpus on the grounds that: a) this Court has no jurisdiction over the subject matter of the petition; and b) the petition is not sufficient in substance.

Petitioner, an American, and respondent, a Filipino, were married on August 28, 1998 in the Catholic Evangelical Church at United Nations Avenue, Manila. A year later, respondent gave birth to a baby girl whom they named Sequeira Jennifer Delle Francisco Thornton.

However, after three years, respondent grew restless and bored as a plain housewife. She wanted to return to her old job as a “guest relations officer” in a nightclub, with the freedom to go out with her friends. In fact, whenever petitioner was out of the country, respondent was also often out with her friends, leaving her daughter in the care of the househelp.

Petitioner admonished respondent about her irresponsibility but she continued her carefree ways. On December 7, 2001, respondent left the family home with her daughter Sequiera without notifying her husband. She told the servants that she was bringing Sequiera to Purok Marikit, Sta. Clara, Lamitan, Basilan Province.

Petitioner filed a petition for habeas corpus in the designated Family Court in Makati City but this was dismissed, presumably because of the allegation that the child was in Basilan. Petitioner then went to Basilan to ascertain the whereabouts of respondent and their daughter. However, he did not find them there and the barangay office of Sta. Clara, Lamitan, Basilan, issued a certification[3] that respondent was no longer residing there.

Petitioner gave up his search when he got hold of respondent’s cellular phone bills showing calls from different places such as Cavite, Nueva Ecija, Metro Manila and other provinces. Petitioner then filed another petition for habeas corpus, this time in the Court of Appeals which could issue a writ of habeas corpus enforceable in the entire country.

However, the petition was denied by the Court of Appeals on the ground that it did not have jurisdiction over the case. It ruled that since RA 8369 (The Family Courts Act of 1997) gave family courts exclusive original jurisdiction over petitions for habeas corpus, it impliedly repealed RA 7902 (An Act Expanding the Jurisdiction of the Court of Appeals) and Batas Pambansa 129 (The Judiciary Reorganization Act of 1980):

Under Sec. 9 (1), BP 129 (1981) the Intermediate Appellate Court (now Court of Appeals) has jurisdiction to issue a writ of habeas corpus whether or not in aid of its appellate jurisdiction. This conferment of jurisdiction

was re-stated in Sec. 1, RA 7902 (1995), an act expanding the jurisdiction of this Court. This jurisdiction finds its procedural expression in Sec. 1, Rule 102 of the Rules of Court.

In 1997, RA 8369 otherwise known as Family Courts Act was enacted. It provides:

Sec. 5. Jurisdiction of Family Court. – The Family Courts shall have exclusive original jurisdiction to hear and decide the following cases:

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b. Petition for guardianship, custody of children, habeas corpus in relation to the latter.

The vital question is, did RA 8369 impliedly repeal BP 129 and RA 7902 insofar as the jurisdiction of this Court to issue writ of habeas corpus in custody of minor cases is concerned? The simple answer is, yes, it did, because there is no other meaning of the word “exclusive” than to constitute the Family Court as the sole court which can issue said writ. If a court other than the Family Court also possesses the same competence, then the jurisdiction of the former is not exclusive but concurrent – and such an interpretation is contrary to the simple and clear wording of RA 8369.

Petitioner argues that unless this Court assumes jurisdiction over a petition for habeas corpus involving custody of minors, a respondent can easily evade the service of a writ of habeas corpus on him or her by just moving out of the region over which the Regional Trial Court issuing the writ has territorial jurisdiction. That may be so but then jurisdiction is conferred by law. In the absence of a law conferring such jurisdiction in this Court, it cannot exercise it even if it is demanded by expediency or necessity.

Whether RA 8369 is a good or unwise law is not within the authority of this Court – or any court for that matter – to determine. The enactment of a law on jurisdiction is within the exclusive domain of the legislature. When there is a perceived defect in the law, the remedy is not to be sought from the courts but only from the legislature.

The only issue before us therefore is whether the Court of Appeals has jurisdiction to issue writs of habeas corpus in cases involving custody of minors in the light of the provision in RA 8369 giving family courts exclusive original jurisdiction over such petitions.

In his comment, the Solicitor General points out that Section 20 of the Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Custody of Minors (A.M. No. 03-04-04-SC, effective May 15, 2003) has rendered the issue moot. Section 20 of the rule provides that a petition for habeas corpus may be filed in the Supreme Court,[4] Court of Appeals, or with any of its members and, if so granted, the writ shall be enforceable anywhere in the Philippines.[5]

The petition is granted.

The Court of Appeals should take cognizance of the case since there is nothing in RA 8369 that revoked its jurisdiction to issue writs of habeas corpus involving the custody of minors.

The Court of Appeals opines that RA 8369 impliedly repealed RA 7902 and BP 129 since, by giving family courts exclusive jurisdiction over habeas corpus cases, the lawmakers intended it to be the sole court which can issue writs of habeas corpus. To the court a quo, the word “exclusive” apparently cannot be construed any other way.

We disagree with the CA’s reasoning because it will result in an iniquitous situation, leaving individuals like petitioner without legal recourse in obtaining custody of their children. Individuals who do not know the whereabouts of minors they are looking for would be helpless since they cannot seek redress from family courts whose writs are enforceable only in their respective territorial jurisdictions. Thus, if a minor is being transferred

from one place to another, which seems to be the case here, the petitioner in a habeas corpus case will be left without legal remedy. This lack of recourse could not have been the intention of the lawmakers when they passed the Family Courts Act of 1997. As observed by the Solicitor General:

Under the Family Courts Act of 1997, the avowed policy of the State is to “protect the rights and promote the welfare of children.” The creation of the Family Court is geared towards addressing three major issues regarding children’s welfare cases, as expressed by the legislators during the deliberations for the law. The legislative intent behind giving Family Courts exclusive and original jurisdiction over such cases was to avoid further clogging of regular court dockets, ensure greater sensitivity and specialization in view of the nature of the case and the parties, as well as to guarantee that the privacy of the children party to the case remains protected.

The primordial consideration is the welfare and best interests of the child. We rule therefore that RA 8369 did not divest the Court of Appeals and the Supreme Court of their jurisdiction over habeas corpus cases involving the custody of minors. Again, to quote the Solicitor General:

To allow the Court of Appeals to exercise jurisdiction over the petition for habeas corpus involving a minor child whose whereabouts are uncertain and transient will not result in one of the situations that the legislature seeks to avoid. First, the welfare of the child is paramount. Second, the ex parte nature of habeas corpus proceedings will not result in disruption of the child’s privacy and emotional well-being; whereas to deprive the appellate court of jurisdiction will result in the evil sought to be avoided by the legislature: the child’s welfare and well being will be prejudiced.

This is not the first time that this Court construed the word “exclusive” as not foreclosing resort to another jurisdiction. As correctly cited by the Solicitor General, in *Floresca vs. Philex Mining Corporation*,^[6] the heirs of miners killed in a work-related accident were allowed to file suit in the regular courts even if, under the Workmen’s Compensation Act, the Workmen’s Compensation Commissioner had exclusive jurisdiction over such cases.

We agree with the observations of the Solicitor General that:

While *Floresca* involved a cause of action different from the case at bar, it supports petitioner’s submission that the word “exclusive” in the Family Courts Act of 1997 may not connote automatic foreclosure of the jurisdiction of other courts over habeas corpus cases involving minors. In the same manner that the remedies in the *Floresca* case were selective, the jurisdiction of the Court of Appeals and Family Court in the case at bar is concurrent. The Family Court can issue writs of habeas corpus enforceable only within its territorial jurisdiction. On the other hand, in cases where the territorial jurisdiction for the enforcement of the writ cannot be determined with certainty, the Court of Appeals can issue the same writ enforceable throughout the Philippines, as provided in Sec. 2, Rule 102 of the Revised Rules of Court, thus:

The Writ of Habeas Corpus may be granted by the Supreme Court, or any member thereof, on any day and at any time, or by the Court of Appeals or any member thereof in the instances authorized by law, and if so granted it shall be enforceable anywhere in the Philippines, and may be made returnable before the court or any member thereof, or before a Court of First Instance, or any judge thereof for hearing and decision on the merits. It may also be granted by a Court of First Instance, or a judge thereof, on any day and at any time, and returnable before himself, enforceable only within his judicial district. (Emphasis supplied)

In ruling that the Commissioner’s “exclusive” jurisdiction did not foreclose resort to the regular courts for damages, this Court, in the same *Floresca* case, said that it was merely applying and giving effect to the constitutional guarantees of social justice in the 1935 and 1973 Constitutions and implemented by the Civil Code. It also applied the well-established rule that what is controlling is the spirit and intent, not the letter, of the law:

“Idolatrous reverence” for the law sacrifices the human being. The spirit of the law insures man’s survival and

ennobles him. In the words of Shakespeare, “the letter of the law killeth; its spirit giveth life.”

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It is therefore patent that giving effect to the social justice guarantees of the Constitution, as implemented by the provisions of the New Civil Code, is not an exercise of the power of law-making, but is rendering obedience to the mandates of the fundamental law and the implementing legislation aforementioned.

Language is rarely so free from ambiguity as to be incapable of being used in more than one sense. Sometimes, what the legislature actually had in mind is not accurately reflected in the language of a statute, and its literal interpretation may render it meaningless, lead to absurdity, injustice or contradiction.[7] In the case at bar, a literal interpretation of the word “exclusive” will result in grave injustice and negate the policy “to protect the rights and promote the welfare of children”[8] under the Constitution and the United Nations Convention on the Rights of the Child. This mandate must prevail over legal technicalities and serve as the guiding principle in construing the provisions of RA 8369.

Moreover, settled is the rule in statutory construction that implied repeals are not favored:

The two laws must be absolutely incompatible, and a clear finding thereof must surface, before the inference of implied repeal may be drawn. The rule is expressed in the maxim, *interpretare et concordare legibus est optimus interpretandi*, i.e., every statute must be so interpreted and brought into accord with other laws as to form a uniform system of jurisprudence. The fundament is that the legislature should be presumed to have known the existing laws on the subject and not have enacted conflicting statutes. Hence, all doubts must be resolved against any implied repeal, and all efforts should be exerted in order to harmonize and give effect to all laws on the subject.”[9]

The provisions of RA 8369 reveal no manifest intent to revoke the jurisdiction of the Court of Appeals and Supreme Court to issue writs of habeas corpus relating to the custody of minors. Further, it cannot be said that the provisions of RA 8369, RA 7092 and BP 129 are absolutely incompatible since RA 8369 does not prohibit the Court of Appeals and the Supreme Court from issuing writs of habeas corpus in cases involving the custody of minors. Thus, the provisions of RA 8369 must be read in harmony with RA 7029 and BP 129 that family courts have concurrent jurisdiction with the Court of Appeals and the Supreme Court in petitions for habeas corpus where the custody of minors is at issue.

In any case, whatever uncertainty there was has been settled with the adoption of A.M. No. 03-03-04-SC Re: Rule on Custody of Minors and Writ of Habeas Corpus in Relation to Custody of Minors. Section 20 of the rule provides that:

Section 20. Petition for writ of habeas corpus. - A verified petition for a writ of habeas corpus involving custody of minors shall be filed with the Family Court. The writ shall be enforceable within its judicial region to which the Family Court belongs.

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The petition may likewise be filed with the Supreme Court, Court of Appeals, or with any of its members and, if so granted, the writ shall be enforceable anywhere in the Philippines. The writ may be made returnable to a Family Court or to any regular court within the region where the petitioner resides or where the minor may be found for hearing and decision on the merits. (Emphasis Ours)

From the foregoing, there is no doubt that the Court of Appeals and Supreme Court have concurrent jurisdiction with family courts in habeas corpus cases where the custody of minors is involved.

One final note. Requiring the serving officer to search for the child all over the country is not an unreasonable

availment of a remedy which the Court of Appeals cited as a ground for dismissing the petition. As explained by the Solicitor General:[10]

That the serving officer will have to “search for the child all over the country” does not represent an insurmountable or unreasonable obstacle, since such a task is no more different from or difficult than the duty of the peace officer in effecting a warrant of arrest, since the latter is likewise enforceable anywhere within the Philippines.

WHEREFORE, the petition is hereby GRANTED. The petition for habeas corpus in CA-G.R.-SP-No. 70501 is hereby REINSTATED and REMANDED to the Court of Appeals, Sixteenth Division.

SO ORDERED.

Panganiban, (Chairman), and Carpio-Morales, JJ., concur.
Sandoval-Gutierrez, J., on leave.

[1] Penned by Associate Justice Hilarion A. Aquino and concurred in by Associate Justices Edgardo P. Cruz and Regalado E. Maambong.

[2] CA Decision, p. 3.

[3] Rollo, p. 49.

[4] Article VIII. Section 5. “The Supreme Court shall have the following powers:

(1) Exercise original jurisdiction... over petitions for... habeas corpus.

xxx xxx xxx.”

[5] Section 20. Petition for writ of habeas corpus. – A verified petition for a writ of habeas corpus involving custody of minors shall be filed with the Family Court. The writ shall be enforceable within its judicial region to which the Family Courts belong.

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The petition may likewise be filed with the Supreme Court, Court of Appeals or with any of its members and, if so granted, the writ shall be enforceable anywhere in the Philippines. The writ may be returnable to a Family Court or any regular court within the region where the petitioner resides or where the minor may be found for hearing and decision on the merits.

[6] 136 SCRA 141 [1985].

[7] Agpalo Statutory Constitution, 1986, p. 98.

[8] SEC. 2. State and National Policies.- The State shall protect the rights and promote the welfare of children in keeping with the mandate of the Constitution and the precepts of the United Nations Convention on the Rights of the Child. xxx

[9] Republic vs. Marcopper Mining, 335 SCRA 386 [2000].

[10] Ibid. at 120.

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