IVY JOAN P. REYES-TABUJARA, PETITIONER, VS. HON. COURT OF APPEALS AND ERNESTO A. TABUJARA III, RESPONDENTS.

G.R. NO. 172813. July 20, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a Petition for Certiorari seeking the reversal of the Resolutions dated 2 June 2006 and 7 June 2006 rendered by the Court of Appeals in CA-G.R. SP No. 94699.[1] The 2 June 2006 Resolution restrained Judge Fatima Gonzales-Asdala, Pairing Judge of Quezon City Regional Trial Court (RTC), Branch 86, from enforcing her Order dated 31 May 2006 while the Resolution of 7 June 2006 set aside and nullified the Order she issued on 1 June 2006.

In her Petition, petitioner alleges that she and private respondent were married on 26 November 2000 at the Basilica of the Immaculate Conception, Intramuros, Manila. Their union was blessed with a son, Carlos Iñigo, who was born on 5 July 2002. Apparently, the couple's marital bliss was only short-lived for immediately after their wedding, their relationship was already beset by frequent squabbles which persisted even after the birth of their son. Despite their problems, petitioner and private respondent, together with their son, stayed at their conjugal home in Capitol Homes, Quezon City.

Since 11 March 2006, however, petitioner had been staying at her sister's house in Brixton Hills, Quezon City, because they were awaiting the arrival of their mother from abroad. On 14 March 2006, private respondent picked up Carlos Iñigo, who was with petitioner at that time. The following day, petitioner notified private respondent that she would fetch the child since she and her sister decided to go to San Fernando, Pampanga. Private respondent allegedly asked her to wait for him at their conjugal abode as he had something to give her. Thinking that private respondent was going to hand over to her the documents pertaining to their separation, petitioner acceded to his request. While waiting for private respondent, petitioner decided to bring her and Carlos Iñigo's clothes to the car so they could leave as soon as private respondent arrived. Much to petitioner's surprise, however, private respondent refused to allow her to take their child. When petitioner remonstrated, private respondent purportedly berated, insulted, and told her that she could no longer see their son without his permission. Petitioner also averred that when she tried to wrest Carlos Iñigo away from private respondent, the latter hit her several times and started choking her. Finally, private respondent boarded his car and sped away with their son in tow.

Petitioner then proceeded to the East Avenue Medical Center to have her injuries treated and also to Camp Karingal, Sikatuna Village, Quezon City, to report the matter.[2]

Since the 15 March 2006 incident, petitioner has never seen her son and has been barred by private respondent from going back to their conjugal home. Left with no recourse and prompted by her longing to see her son Carlos Iñigo, petitioner filed a Petition for Habeas Corpus with the RTC, Quezon City, to compel private respondent to produce their son before the court.[3] The Petition, docketed as Spec. Proc. No. Q-06-57984, was initially raffled

off to Branch 102 of RTC, Quezon City, which issued an Order dated 23 May 2006[4] the pertinent portion of which provides:

O R D E R

> Filed before this Court is a verified Petition for Habeas Corpus filed by IVY JOAN P. REYES-TABUJARA, through counsel, seeking for the production of the minor CARLOS IÑIGO R. TABUJARA, who is reportedly in the custody of the respondent Ernesto Tabujara III, residing at No. 72 Berlin Street, Capitol Homes, Quezon City.
>
> Finding the Petition to be sufficient in form and substance, the same is hereby given due course.
>
> ACCORDINGLY, the respondent Ernesto A. Tabujara III is hereby directed to produce the living person of the minor CARLOS IÑIGO R. TABUJARA, before the Court during the hearing of this Petition which for that purpose is hereby set on 25 May 2006 at 10:00 A.M., and to show cause why, as alleged, the subject minor has been allegedly restrained of his liberty and detained by him. Observance of the Order is a way of effecting the return of this writ, as required by law.[5]

On the scheduled hearing, private respondent appeared before the court without Carlos Iñigo. According to him, Carlos Iñigo was then vacationing at Tagaytay Highlands and that he did not have sufficient time to fetch the child for the hearing since he was informed of the court's order only on the evening of 24 March 2006.[6]

In the same hearing, petitioner's counsel moved for the consolidation of this case with that pending before the RTC, Quezon City, Branch 86, docketed as Civil Case No. Q-06-57760, for violation of Republic Act No. 9262 or the "Anti-Violence Against Women and Their Children Act of 2004." This motion was granted by the court.[7]

On 25 May 2006, petitioner filed with the RTC, Quezon City, Branch 86, an Urgent Ex-Parte Motion to Hear Writ of Habeas Corpus on 26 May 2006 at 8:30 A.M.[8]

Subsequently, Presiding Judge Teodoro Bay of the RTC, Quezon City, Branch 86, issued, in chambers, an Order dated 31 May 2006 resolving, among other things, the issuance of a writ of habeas corpus for the person of Carlos Iñigo -

> After considering the records of the three (3) cases consolidated before this Court,[9] the Court resolves as follows:
>
> - the child Carlos Iñigo R. Tabujara shall continue to be under the custody of the respondent Ernesto Tabujara III until the Court shall have resolved the issue of custody of said child. This is necessary to protect the child from emotional and psychological violence due to the misunderstanding now existing between his parents.
>
> - the Motion to Admit Amended Petition with Prayer for Temporary Protection Order is GRANTED. The Temporary Protection Order dated 19 April 2006 is hereby extended until the prayer for Permanent Protection is resolved.
>
> - the respondent Ernesto Tabujara III is hereby ordered to bring the child Carlos Iñigo Tabujara to this Court during the hearing of these cases on July 14, 2006 at 8:00 in the morning.
>
> - the motion for support pendente lite shall be resolved after sufficient details are presented to support said motion.
>
> - the respondent, as previously ordered, is directed to turn over the possession of one of the family's car to the petitioner.[10]

On 31 May 2006, petitioner filed an Urgent Ex-Parte Motion to Order Respondent to Comply with the Writ of

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Habeas Corpus with Urgent Motion for Partial Reconsideration of the Order dated 31 May 2006.[11] The Motion for partial reconsideration pertained to that portion of Judge Bay's Order granting private respondent continued custody over Carlos Iñigo in alleged violation of Article 213 of the Family Code stating:

> Art. 213. In case of separation of the parents, parental authority shall be exercised by the parent designated by the court. The court shall take into account all relevant considerations, especially the choice of the child over seven years of age, unless the parent chosen is unfit.
>
> No child under seven years of age shall be separated from the mother, unless the court finds compelling reasons to order otherwise.

This motion was referred by the branch clerk of court to Judge Fatima Gonzales-Asdala, Pairing Judge of Branch 86, because Judge Bay was to go on official leave effective 1 June 2006.

Acting on said Motion, Judge Gonzales-Asdala issued an Order dated 31 May 2006, to wit:

> WHEREFORE, Ernesto A. Tabujara III or any person or persons acting for and in his behalf and under his direction is hereby directed to produce the person of minor Carlos Iñigo R. Tabujara before the Session Hall, Branch 87, located at 114, Hall of Justice, Quezon City on June 1, 2006 at 9:00 o'clock in the morning. Failing which, the more coercive process of a Bench Warrant will be issued against said respondent, without prejudice to a declaration of contempt which may be due under the obtaining circumstances.[12]

As it turned out, private respondent failed to appear before Judge Gonzales-Asdala on 1 June 2006. Consequently, through the Order dated 1 June 2006, he was declared in contempt of court and a bench warrant for his arrest was issued.[13]

Aggrieved by the Order, respondent filed a Petition for Certiorari before the Court of Appeals praying for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin Judge Gonzales-Asdala from: issuing a bench warrant against private respondent; implementing her Order of 31 May 2006; requiring private respondent to turn over custody of Carlos Iñigo to petitioner; and taking further action on Civil Cases No. Q-06-57760, No. Q-06-57857,[14] and Spec. Proc. No. Q-06-57984.[15]

On 2 June 2006, the Court of Appeals issued a Resolution restraining the implementation of Judge Gonzales-Asdala's Order of 31 May 2006.

Later, another Resolution was issued by the Court of Appeals setting aside and nullifying the 1 June 2006 Order of Judge Gonzales-Asdala.

Hence, this Petition for Certiorari raising the following grounds:

> JUDGE FATIMA GONZALES-GONZALES-ASDALA ACTED WITHIN BOUNDS OF JURISDICTION IN ISSUING THE ORDER DATED 31 MAY 2006, AS WELL AS THE ORDER AND BENCH WARRANTS ISSUED ON JUNE 1, 2006 IN HER CAPACITY AS PAIRING JUDGE OF BRANCH 86 IN THE ABSENCE OF ITS PRESIDING JUDGE.
>
> THE ORDER OF MAY 31, 2006 HAS ALREADY BEEN IMPLEMENTED BEFORE THE ISSUANCE OF SUBJECT TRO ON JUNE 2, 2006, THUS, THE TRO IS ALREADY MOOT AND ACADEMIC
>
> SIMILARLY, THE ORDER OF JUNE 1, 2006 AND BENCH WARRANT HAVE ALREADY BEEN ISSUED AND SERVED UPON PRIVATE RESPONDENT ON 1 JUNE 2006 OR EVEN BEFORE THE TRO WAS ISSUED BY RESPONDENT COURT.
>
> THE MATTER OF THE HABEAS CORPUS HAS BEEN SQUARELY RAISED BEFORE RESPONDENT COURT IN SUBJECT PETITION, AND RESPONDENT COURT ACTED WITH GRAVE ABUSE OF

DISCRETION AND MANIFEST PARTIALITY IN DENYING HEREIN PETITIONER'S MOTION TO PRODUCE THE 4-YEAR OLD MINOR BEFORE THE RESPONDENT COURT.

THE WRIT OF HABEAS CORPUS MUST BE IMMEDIATELY EFFECTED SINCE PETITIONER IS ENTITLED TO SOLE CUSTODY OF THE MINOR WHO CANNOT BE SEPARATED FROM HER UNDER ART. 213 OF THE FAMILY CODE.

Petitioner contends that the subject Petition filed before the Court of Appeals shows that Judge Gonzales-Asdala was impleaded in her capacity as Presiding Judge of Branch 87 when in fact, she issued the 31 May 2006 and 1 June 2006 Orders when she was acting as the Pairing Judge of Branch 86. Private respondent's ploy, petitioner argues, has misled the Court of Appeals into believing that Judge Gonzales-Asdala's Orders violated the rule proscribing the interference by a court with the processes of another court of co-equal jurisdiction.

Also, petitioner maintains that the temporary restraining order issued by the Court of Appeals had already been rendered moot by the incidents which occurred prior to their issuance. For one, the hearing on 1 June 2006 took place as scheduled thereby rendering useless the 2 June 2006 Resolution of the Court of Appeals. Similarly, the 7 June 2006 Resolution of the Court of Appeals enjoining the issuance of the bench warrant became inutile as the bench warrant for arrest was not only issued by Judge Gonzales-Asdala but said warrant was actually served upon private respondent on 1 June 2006.[16]

Petitioner also claims that private respondent violated Article 213 of the Family Code when he prevented petitioner from having access to their conjugal abode and by forcibly separating her from Carlos Iñigo beginning 15 March 2006.

In addition, petitioner takes exception to the ruling of Judge Bay giving private respondent continued custody over Carlos Iñigo. Petitioner argues that said Order not only contravenes Article 213 of the Family Code but the same is also utterly lacking in any legal and factual bases.

Lastly, in an attempt to bolster her claim that she should have custody over Carlos Iñigo, petitioner cites the Court of Appeals' Resolution dated 4 July 2003[17] granting private respondent a mere visitorial right to their son. This Resolution was issued by the Court of Appeals in connection with CA-G.R. SP. No. 77707.[18]

In his Comment, private respondent argues that the Court of Appeals committed no grave abuse of discretion in issuing the assailed Resolutions. He contends that Judge Gonzales-Asdala, as the Pairing Judge of Quezon City RTC, Branch 86, has the authority "to step into and take action in a case only when the presiding judge is on leave, absent, incapacitated, or otherwise unavailable."[19] In this case, however, she exceeded such authority when she issued her 31 May 2006 Order considering that Judge Bay, the Presiding Judge was yet to go on leave on 1 June 2006. It was therefore improper for her to take over the consolidated cases involving the parties herein since Judge Bay was still performing his duty on 31 May 2006.

Private respondent also disputes petitioner's assertion that the acts sought to be restrained by the Court of Appeals' Resolutions were already fait accompli. According to him, the fact that Judge Gonzales-Asdala's Orders of 31 May and 1 June 2006 were served upon his counsel does not mean that these were successfully implemented. He avers that, in fact, one of the grounds of his Petition for Certiorari before the Court of Appeals was the undue haste with which these Orders were successively issued thereby depriving him of substantial and procedural due process.[20] As the party aggrieved, private respondent insists that he has the right to question Judge Gonzales-Asdala's Orders before a higher court.

In addition, private respondent asserts that petitioner is guilty of forum shopping. He points out that in petitioner's original complaint in Civil Case No. Q-06-57760, she prayed that she be granted the "sole custody and charge" of

Carlos Iñigo[21] but this was denied by Judge Bay in his Order dated 19 April 2006.[22] Later, petitioner filed a Petition for Habeas Corpus before the Quezon City RTC where she again raised the issue relating to the custody of Carlos Iñigo. Private respondent insists that petitioner is clearly trying to circumvent the rule against forum shopping by seeking to regain custody over Carlos Iñigo in the habeas corpus case " a relief that was already denied her by Judge Bay in Civil Case No. Q-06-57760.

Private respondent is also of the view that jurisdiction over the petition for habeas corpus properly lies with the RTC of Quezon City, Branch 86, which has acquired prior jurisdiction over the matter. He points out that Judge Bay had even scheduled the hearing of the consolidated cases on 14 July 2006 at which time he is supposed to bring Carlos Iñigo to the court.

Preliminarily, we shall address the procedural infirmity obtaining in this Petition.

Petitioner herself admits that the present Petition was filed without her first seeking the reconsideration of the two assailed Resolutions of the Court of Appeals. She contends, however, that there were instances in the past when this Court allowed the filing of a petition for certiorari sans prior recourse to a motion for reconsideration citing the cases of Candido v. Camacho[23] and Metro Transit Organization, Inc. v. Court of Appeals.[24]

In the case of Candido, this Court held that:

> We have ruled that "(a) prior motion for reconsideration is not indispensable for commencement of certiorari proceedings if the errors sought to be corrected in such proceedings had been duly heard and passed upon or were similar to the issues already resolved by the tribunal or agency below. Accordingly, the Court has excused the non-filing of a motion for reconsideration when such motion would be basically pro-forma in nature and content, and where x x x the questions raised are essentially legal in nature." In the case at bar, the parties have argued their positions and have been duly heard by the RTC before it issued the assailed injunction order. Moreover, as the issues involved therein are essentially legal, the filing of motion for reconsideration assailing the RTC's injunction order may be properly dispensed with.[25]

In Metro Transit Organization, Inc., we declared the general rule to be "that a motion for reconsideration is indispensable before resort to the special civil action for certiorari to afford the court or tribunal the opportunity to correct its error, if any."[26] The rule however allows the following exceptions:

> (a) where the order is a patent of nullity, as where the court a quo has no jurisdiction;
>
> (b) where the questions raised in the certiorari proceedings have been duly raised and passed upon by the lower court, or are the same as those raised and passed upon in the lower court;
>
> (c) where there is an urgent necessity for the resolution of the question and any further delay would prejudice the interests of the Government or of the petitioner or the subject matter of the action is perishable;
>
> (d) where, under the circumstances, a motion for reconsideration would be useless;
>
> (e) where petitioner was deprived of due process and there is extreme urgency for relief;
>
> (f) where, in a criminal case, relief from an order of arrest is urgent and the granting of such relief by the trial court is improbable;
>
> (g) where the proceedings in the lower court are a nullity for lack of due process;
>
> (h) where the proceedings was ex parte or in which the petitioner had no opportunity to object; and
>
> (i) where the issue raised is one purely of law or where public interest is involved.[27]

An examination of the records reveals the measures that the parties herein have undertaken to have custody of

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their only child. Thus, while petitioner has continuously pressed on to regain custody of Carlos Iñigo, private respondent has been steadfast in ensuring that the minor child stays with him. If only to protect Carlos Iñigo from the ill-effects of this virtual tug-of-war between his parents, and to allow the Court of Appeals to proceed with the resolution of the Petition for Certiorari filed by private respondent, this Court deems it proper to give due course to this Petition. We believe that the urgent necessity for the resolution of this Petition is for the benefit of the minor Carlos Iñigo and not so much to protect the interest of any of the parties herein.

In this case, we do not agree with petitioner's argument that the questioned Resolutions of the Court of Appeals have already become moot. To reiterate, Judge Gonzales-Asdala was enjoined by said 2 June 2006 Resolution from performing the following:

> (1) implementation and/or issuance of a bench warrant of arrest of petitioner;
> (2) implementation of the Order of respondent Judge dated 31 May 2006;
> (3) requiring petitioner to turn over custody of his minor son Carlos Iñigo Tabujara to private respondent (petitioner herein);
> (4) taking further action and trying Civil Cases Nos. Q-06-57760, Q-06-57857, and Spec. Proc. No. Q-06-57984.[28]

The general rule contemplates that injunction is only proper to restrain acts being committed or about to be committed. Nevertheless, consummated acts which are continuing in nature may still be enjoined by a temporary restraining order.[29]

In this case, it appears from the sheriff's return dated 5 June 2006[30] that Judge Gonzales-Asdala's Order of 1 June 2006 was indeed served upon private respondent at his office in Makati City, as well as at his father's house in UP Diliman, Quezon City, and yet it is not shown that his arrest had been implemented. Clearly then, the Resolutions of the Court of Appeals had not become useless as alleged by petitioner.

Even assuming that, as petitioner insists, the issuance of the bench warrant for the arrest of private respondent and the conduct of the 1 June 2006 hearing may no longer be restrained still, the remainder of the acts sought to be enjoined remain the proper subjects of the temporary restraining order issued on 2 June 2006. Thus, said Resolution was still able to restrain Judge Gonzales-Asdala from compelling private respondent to turn over custody of Carlos Iñigo to petitioner and from taking any further action with respect to the consolidated cases before the RTC, Quezon City, Branch 86. For these, petitioner's contention regarding the mootness of the impugned Resolutions does not deserve merit.

As regards the issue of whether the Court of Appeals committed grave abuse of discretion in issuing the impugned Resolutions, we rule in the negative.

It is settled doctrine that grave abuse of discretion is present "when there is a capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, such as where the power is exercised in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross so as to amount to an evasion of positive duty or to a virtual refusal to perform the duty enjoined or to act at all in contemplation of law."[31]

In this case, we perceive no grave abuse of discretion on the part of the Court of Appeals. The assailed Resolutions were not issued whimsically nor capriciously. As alleged in the Petition before the Court of Appeals, Judge Gonzales-Asdala was poised to find private respondent in contempt of court and to issue a bench warrant for his arrest should he fail to comply with her Order dated 31 May 2006. Bearing in mind that the validity of said Order has yet to be resolved by the Court of Appeals, it was only proper that the temporary restraining order was issued; otherwise, private respondent would have suffered irreparable injury should the Court of Appeals decide not to sustain the validity of the 31 May 2006 Order.

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Petitioner also prays that we direct the Court of Appeals to effect the writ of habeas corpus issued by the RTC, Quezon City, Branch 102, by ordering private respondent to immediately produce the minor child Carlos Iñigo either before the Court of Appeals itself or the RTC, Quezon City, Branch 86.

This, we cannot do.

It is worthy to recall here the rule with regard to jurisdiction over habeas corpus cases which this Court had the opportunity to clarify through In the Matter of Application for the Issuance of a Writ of Habeas Corpus Richard Brian Thornton for and in behalf of the minor child Sequeira Jennifer Delle Francisco Thornton v. Adelfa Francisco Thornton.[32] In said case, we declared that both this Court and the Court of Appeals still retain their jurisdiction over habeas corpus cases despite the passage of Republic Act No. 8369[33] " the law conferring upon family courts the exclusive jurisdiction over habeas corpus cases, thus:

> 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. x x x
>
> x x x x
>
> 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. x x x[34] (Emphasis supplied.)

It is clear from the foregoing that the trial court, the Court of Appeals, and this Court have concurrent jurisdiction over habeas corpus cases. As the Petition for Habeas Corpus was filed by petitioner before the trial court, the latter has acquired jurisdiction over the petition to the exclusion of all others. To hold otherwise would be to risk instances where courts of concurrent jurisdiction might have conflicting orders.[35] And, jurisdiction once acquired by a court is not lost upon the instance of the parties but continues until the case is terminated.[36]

In view of this, we hold that petitioner's motion for the production of the minor Carlos Iñigo should be resolved by the trial court. We cannot act on said motion without overstepping the boundary laid down by the law with respect to jurisdiction over habeas corpus cases. Parenthetically, Judge Bay had already acted on a similar motion filed by petitioner[37] and had, in fact, set the hearing of the consolidated cases on 14 July 2006 during which time private respondent should present Carlos Iñigo before the trial court.[38]

Anent the alleged violation of Article 213 of the Family Code, suffice it to state here that this issue is still the subject of a Motion for Reconsideration pending before the trial court.

WHEREFORE, premises considered, the instant Petition for Certiorari is hereby DIMISSED. The assailed Resolution of the Court of Appeals dated 2 June 2006, restraining the execution of Judge Fatima Gonzales-Asdala's Order dated 31 May 2006, and the Court of Appeals' Resolution dated 7 June 2006 setting aside and nullifying Judge Gonzales-Asdala's 1 June 2006 Order, are hereby AFFIRMED. No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1] Penned by Associate Justice Arturo G. Tayag with Associate Justices Jose L. Sabio and Japar B. Dimaampao, concurring.

[2] Rollo, pp. 120-121.

[3] Id. at 50-54.

[4] Id. at 56.

[5] Id.

[6] Id. at 59.

[7] Id. at 60.

[8] Id. at 61-65.

[9]In the Petition before this Court, it is alleged that there were already two pending cases before the RTC, Quezon City, Branch 86 involving the parties herein. One is for the application for the temporary protection order and the other is the petition for declaration of nullity of marriage.

[10]Rollo, pp. 67-68.

[11] Id. at 69-75.

[12] Id. at 78-79.

[13] Id. at 80-82.

[14] For the Declaration of Nullity of Marriage.

[15] Rollo, pp. 84-99.

[16]Id. at 83.

[17] Id. at 116-117.

[18] In Re: Petition for Habeas Corpus of Carlos Iñigo R. Tabujara (minor), Atty. Ernesto A. Tabujara III v. Ivy Joan R. Tabujara and Jennifer R. Barredo; Rollo, pp. 116-117.

[19] Id. at 147.

[20] Id. at 151.

[21] Id. at 169.

[22] Id. at 47-49.

[23] 424 Phil. 291 (2002).

[24] 440 Phil. 743 (2002).

[25] Candido v. Camacho, supra note 23 at 298.

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[26] Metro Transit Organization, Inc. v. Court of Appeals, supra note 24 at 751.

[27] Id.

[28] Rollo, p. 33.

[29] Florenz D. Regalado, REMEDIAL LAW COMPENDIUM, Vol. I, p. 647.

[30] Rollo, p. 83.

[31] Chua Huat v. Court of Appeals, G.R. No. 53851, 9 July 1991, 199 SCRA 1, 18.

[32] G.R. No. 154598, 16 August 2004, 436 SCRA 550.

[33] The Family Courts Act of 1997.

[34] In the Matter of Application for the Issuance of a Writ of Habeas Corpus Richard Brian Thornton for and in behalf of the minor child Sequeira Jennifer Delle Francisco Thornton v. Adelfa Francisco Thornton, supra note 32 at 555.

[35] Ong Ching Kian Chung v. China National Cereals Oil and Food Stuffs Import and Export, 388 Phil. 1064, 1077 (2000); Templo v. Dela Cruz, G.R. No. L-37393-94, 23 October 1974, 60 SCRA 295.

[36] Deltaventures Resources, Inc. v. Cabato, 384 Phil. 252, 259-260 (2000).

[37] Rollo, pp. 61-65.

[38] Id. at 66-68.

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