

SOCORRO SANCHEZ DE STRONG, PETITIONER AND APPELLEE, VS. WILLIAM BEISHIR, RESPONDENT AND APPELLANT.

G.R. No. 30366. August 15, 1929

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

This application for habeas corpus in favor of Rose and Emma Strong, 11 and 10 years old, respectively, was filed by Socorro Sanchez de Strong, their mother, against William Beishir.

On January 29, 1928, the applicant subscribed a document (Exhibit 1), in favor of the American Guardian Association, a charitable institution organized in accordance with Act No. 3094, which reads as follows:

"Feeling that the welfare of the said children will be promoted by placing them under the guardianship of the American Guardian Association, I do hereby voluntarily and unconditionally surrender them to the care and custody of the American Guardian Association in accordance with the provisions of Act No. 3094 of the Philippine Legislature, and I pledge not to interfere with the custody or management of said children in any way, or encourage or allow any one else to do so, and I hereby expressly authorize and empower the American Guardian Association to consent to the adoption of said children, in the same manner and without notice to me as if I personally gave such consent at time of adoption."

The applicant alleges that she signed this document not only without being aware of its contents but after being misinformed of the same. But the evidence does not sustain this allegation. Both the notary public who certified it and the subscribing witnesses asserted that the document was read to the applicant before she signed it, and that she was correctly informed of its contents.

On July 12, 1928, the board of directors of the American Guardian Association adopted the following resolution in regard to these two minors:

"Resolved that the circumstances in the case of Rose and Emma Strong, legal wards of the American Guardian Association, are such as to justify recommendation on the part of this Board of Directors that they be turned over to Mr. and Mrs. W. Beishir for purposes of legal adoption, it being the belief of this Board that Mr. and Mrs. Beishir are most desirable people to have the future care of these little girls in their hands."

Subsequently, Mr. and Mrs. Beishir applied to the proper court for the adoption of these minors and the application is now pending.

In accordance with the facts stated, and with Act No. 3094, the American Guardian Association legally assumed the care and custody of these minors, who are at present under the legal care and custody of the respondent, having been provisionally placed in his power for their adoption.

By virtue of instrument Exhibit 1, the applicant's rights as natural mother of the minors ceased and passed to the American Guardian Association. The reason alleged by the court below in its judgment for holding that the rights and duties of the patria potestas cannot be renounced, is incorrect. Both the Civil Code and the Code of Civil

Procedure in dealing with cases of adoption, and said Act No. 3094, itself, authorize the renunciation of the patria potestas and the rights to the care and custody of infants, such renunciation being the basis for the purposes of said laws.

Wherefore, it is held that habeas corpus will not lie, and, the minors having been placed in the applicant's power, it is ordered that they be restored to the care and custody of the respondent. So ordered.

Johnson, Street, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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