

DANIEL V. ESTACIO, PETITIONER, VS. THE PROVINCIAL WARDEN OF RIZAL, RESPONDENT.

G.R. No. 46873. November 07, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This is a petition for habeas corpus filed by Daniel V. Estacio against the provincial warden of Rizal, praying, for the reasons therein stated, that judgment be rendered declaring that the Court of First Instance of Rizal is without jurisdiction to order his arrest and directing his immediate release.

On October 25, 1937, the Court of First Instance of Rizal rendered a decision in civil case No. 6782, entitled, Felisa S. Marcelo vs. Daniel V. Estacio, sentencing the latter to pay to the plaintiff a monthly allowance of P30 from May 18, 1937. From that judgment the defendant therein and petitioner herein, Daniel V. Estacio, appealed. On August 23, 1938, after the approval and elevation of the bill of exceptions to the Court of Appeals, the trial court issued an order requiring said Daniel V. Estacio to comply with said judgment by depositing with the office of the clerk of the said court, within three days, the monthly sum of P30, corresponding to the months of October 1937 to July, 1938, inclusive, and ordering that, should he fail to do so, an order of arrest be issued for his confinement until he should comply with said order. Pursuant to the said order, the clerk of the Court of First Instance of Rizal issued the corresponding warrant of arrest against the defendant therein and the petitioner herein, Daniel V. Estacio, who was held in confinement.

As we have stated in our decision in G. R. No. 46626 (Nov. 7, 1939), wherein Felisa S. Marcelo is the plaintiff and appellee and Daniel V. Estacio is the defendant and appellant, the trial court, after approving the bill of exceptions filed by the therein defendant and herein petitioner, Daniel V. Estacio, and ordering its elevation to the Court of Appeals, was divested of its jurisdiction to continue taking cognizance of the case, and in issuing its order of August 23, 1938, it acted without jurisdiction or authority, and the said order was null and void and produced no legal effect. The clerk of the Court of First Instance of Rizal, in issuing the order of arrest, and the provincial warden of Rizal, in receiving the person of the said defendant in the provincial jail, acted without any legal authority; wherefore, the confinement of the said defendant is illegal.

In view of the foregoing considerations, we are of the opinion and so hold, that the Court of First Instance of Rizal, in issuing the order of execution of the judgment rendered by it whereby it ordered the defendant husband to pay to the plaintiff wife an allowance for support after the approval of the bill of exceptions filed to perfect the appeal taken by the said defendant from the said judgment and the elevation thereof to the Court of Appeals, acted without jurisdiction, and the clerk of said court, in issuing the corresponding warrant of arrest and detention, and the provincial warden of Rizal, in receiving and confining the person of the defendant, acted without legal authority; wherefore, the said confinement is illegal.

Wherefore, we affirm our resolution entered on September 1, 1939, whereby, granting the present petition for habeas corpus, we order the provincial warden of Pasig, Rizal, to forthwith release the petitioner Daniel V.

Estacio upon receipt of said order, without special pronouncement as to the costs.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ.,concur.

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