

JOSE ORDA AND IMELDA LOZADA, PETITIONERS, VS. THE HONORABLE COURT OF APPEALS AND GIL GALANG, RESPONDENTS.

G.R. No. 92625. December 26, 1990

Ponente: GANCAYCO, J.

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GANCAYCO, J.:

The question presented in this case is whether or not the Court of Appeals may refer a petition for habeas corpus originally filed with it to the Regional Trial Court for a full-blown trial due to conflicting facts presented by the parties.

Originally, private respondent filed a petition for habeas corpus with the Regional Trial Court of San Pablo City to regain custody of his minor daughter, Joyce, who continued staying with her maternal grandparents, petitioners herein, her mother being already deceased at the initiation of the action. The case was eventually dismissed for lack of jurisdiction because petitioners, as defendants therein, had moved to Bataan and any writ of habeas corpus to be issued by the trial court may not be enforced against them.

Subsequently, private respondent, on the basis of his being the sole surviving parent of his daughter, filed a petition for habeas corpus with the respondent Court of Appeals docketed as CA-G.R. No. 13912-SP, an original action to compel petitioners to produce the body of minor Joyce Orda Galang and explain the basis of their custody. Petitioners herein filed their Opposition/Answer[1] alleging that private respondent abandoned his wife and child, had no source of livelihood and therefore could not support his daughter; they prayed that care and custody of the child be awarded them.

On 13 April 1988, respondent court issued its assailed decision, as follows:

The conflicting thesis (sic), however, of petitioner [private respondent herein] and respondents [petitioners herein] require a full-blown trial of the facts alleged by the parties. This could be shown by the initial discussions aforestated.

The records show that [private respondent] had already filed a similar petition before the Regional Trial Court, Fourth Judicial Region, Branch 31, San Pablo City, on November 23, 1987, in Special Proceedings No. SP-719 (87). However, the writ was returned unserved as [petitioners] ostensibly transferred their domicile at the Philippine Refugee Processing Center at Barrio Sabang, Morong, Bataan.

Inasmuch as [petitioners] have submitted to the jurisdiction of the Court by producing the body of the child, Joyce Orda Galang, and submitted their comments to the petition, the trial on the merits could now proceed to determine who of the parties are entitled to the custody of the child.

WHEREFORE, premises considered, this Court hereby decides to REMAND this case to the Regional Trial Court, Branch 31, San Pablo City, for trial on the merits as to which of the parties are legally entitled to the custody of the child, Joyce Orda Galang.

SO ORDERED.[2]

In conformity with the foregoing decision the Regional Trial Court of San Pablo City, the Hon. Napoleon R. Flojo presiding, before which private respondent filed his first action, ordered the reinstatement of Special Proceedings No. SP-719 (87) and scheduled the case for trial on the merits.[3] Upon examination of the records of said case, petitioners noted that only the order of dismissal of the same was in the expediente of the case. They brought this matter to the attention of the trial court which then issued an order dated 27 January 1989 directing the Chief, Archives Section of the Court of Appeals "to transmit to this Court the original record of case AC-G.R. No. SP-13912 (sic) immediately upon receipt of this Order." [4]

In reply, the respondent Court of Appeals advised the trial court that no records can be remanded because no expediente from the lower court was ever elevated. For this reason, petitioners filed with respondent court on 21 April 1989 a Motion for Clarification of its earlier decision alleging that CA-G.R. No. SP-13912 was an original action, not an appeal emanating from, or a special civil action to assail, a case filed with the trial court, hence no record of the case can be remanded because no expediente from the lower court was ever elevated to the Court of Appeals; that Special Proceedings No. SP-719 (87) was dismissed for lack of jurisdiction and the order of dismissal has long become final and, moreover, herein petitioners were never brought to the jurisdiction of the trial court in said special proceedings, so much so that they have not even presented an answer or opposition in said special proceedings; and that a reinstatement of Special Proceedings No. SP-719 (87), over which the trial court had lost jurisdiction, may not be justified by virtue of the order of the Court of Appeals to remand CA-G.R. No. 13912 for trial on the merits.[5]

The Court of Appeals[6] resolved this motion on 6 June 1989 as follows:

At the outset, it is necessary to point out that this Court entertained this petition for Habeas Corpus in the exercise of its original jurisdiction over such case. Said petition is in no way connected with the one dismissed by the lower court in SP-719 (87).

In their Motion for Clarification, [petitioners] appear to be confused by this Court's directive remanding the case to the lower court.

It should be noted that when this Court ordered the same, it did not mean the remanding of the records, but (the) referring (of) the case to the court a quo for appropriate action, it enjoying original and concurrent jurisdiction with this Court over habeas corpus cases (B.P. 129).

Judge Napoleon Flojo also appears to be mixed up as he issued an Order dated January 27, 1989, which inter alia required the Chief, Archives Section of this Court "to transmit" to the Regional Trial Court "the original record of case AC-G.R. No. SP No. 13912 immediately upon receipt of this order." (p. 106, Rollo) (sic) But no records can be transmitted back to the lower court simply because no records were elevated in that, as aforesaid, the case was filed here as an original action.

The [petitioners] have manifested in their motion that they were not given an opportunity to answer or at least comment on the petition. Now the same is in the lower court as directed in the decision sought to be clarified. Indeed, issues cannot be joined if the lower court will deprive the [petitioners] (of) their right to respond to the petition.

WHEREFORE, for the sake of clarity the dispositive portion of the decision dated April 13, 1988 is hereby MODIFIED to read as follows:

"WHEREFORE, premises considered, this Court hereby decides to REFER this case to the Regional Trial Court, Branch 31, San Pablo City, for trial on the merits as to which of the parties are legally entitled to the custody of the child, Joyce Orda Galang. FOR ISSUES TO BE JOINED, THE LOWER COURT IS HEREBY ORDERED TO REQUIRE THE [petitioners] TO ANSWER THE PETITION."

SO ORDERED. "[7]

Both parties filed separate motions for reconsideration of the foregoing resolution. Petitioners contended that respondent Court of Appeals had no authority to refer the case to the lower court for trial on the merits because said court, in the original habeas corpus case filed by private respondent, had never acquired jurisdiction over their persons. Further, that respondent court had no power to order a case docketed with the lower court without private respondent having paid the docketing fee and filing an appropriate pleading therein. Private respondent, on the other hand, also set forth similar contentions and prayed that trial on the merits be resumed by respondent Court.

The Court of Appeals[8] resolved both motions for reconsideration on 13 March 1990 as follows:

We entertain no doubt that [petitioners] had never been brought to the jurisdiction of the lower court in SP. PROC. NO. SP-719 (87) and agree with the claim that the Order of dismissal issued in said case had already become final and executory. But then, it must be pointed out again that with the filing of another petition for habeas corpus before this Court (docketed as AC [sic] G.R. SP No. 13912), an entirely new proceeding was commenced. Unlike the lower court in the previous habeas corpus case, this Court acquired jurisdiction over the persons of [petitioners] upon their filing of an Opposition/Answer on April 4, 1988 (p. 14, Rollo).

Section 9[1] in relation to Section 21 of Batas Pambansa Blg. 129 confers upon the Court of Appeals authority to try and decide habeas corpus cases concurrent with the Regional Trial Courts. Concurrent or coordinate jurisdiction has been defined as that which is possessed by a court together with another or others over the same subject matter. Clearly, therefore, Batas Pambansa Blg. 129 provides the basis for Us to refer AC (sic) G.R. SP No. 13912 to the lower court for trial on the merits. With the referral of AC (sic) G.R. SP NO. 13912, the jurisdiction which this Court acquired over the persons of [petitioners] was transferred to and conferred upon the Regional Trial Court, which necessarily must treat said case as a separate and distinct proceeding from the one it earlier dismissed. This means that the Regional Trial Court must assign the referred case a new number, but need not require the [private respondent] to remit the prescribed docketing fee inasmuch as the same had already been paid with this Court. What the parties need to do though is to reproduce the pleadings they filed in AC (sic) G.R. SP No. 13912 before the Regional Trial Court in order for issues to be joined therein.

Accordingly, the dispositive portion of the Decision dated April 13, 1988 is hereby further clarified to read thus:

"WHEREFORE, premises considered, this Court hereby decides to REFER this case to the Regional Trial Court, Branch 31, San Pablo City, for trial on the merits as to which of the parties are legally entitled to the custody of the child, Joyce Orda Galang. FOR THIS PURPOSE, THE PARTIES ARE DIRECTED TO REPRODUCE ALL THE PLEADINGS THEY FILED IN AC [sic] G.R. SP NO. 13912 BEFORE THE REGIONAL TRIAL COURT, UPON THE RECEIPT OF WHICH, SHALL ASSIGN THE CASE A NEW NUMBER WITHOUT REQUIRING [private respondent] TO PAY THE DOCKETING FEE."

SO ORDERED.[9]

In this special civil action for certiorari petitioners assign the following as errors committed by the Court of Appeals:

1. Respondent Court of Appeals erred, as it is without authority [to do so], in referring the original action for habeas corpus filed before it to the Regional Trial Court, Branch 31, San Pablo City, for trial on the merits to determine the issue as to which of the parties are legally entitled to the custody of the child, its reliance on Section 9[1] in relation to Section 21 of B.P. Blg. 21 being specious.

2. Respondent Court of Appeals erred in ordering the parties to the original action for habeas corpus filed before it to reproduce before the Regional Trial Court all the pleadings they filed in AC-G.R. SP No. 13912 (sic).

3. Respondent Court of Appeals erred, as it is without authority [to do so], in directing the Regional Trial Court, Branch 31, San Pablo City, to assign the case a new case number without requiring herein private respondent (as petitioner therein) to pay the docket fee therefor.[10]

There is merit in the contentions of petitioners.

Essentially, petitioners argue that the Court of Appeals has no power to issue the decision remanding the proceedings to the trial court and the two subsequent resolutions clarifying the same.

The assailed decision and the two resolutions of the Court of Appeals are not supported by law and the Rules of Court. The provisions of the Judiciary Reorganization Act (B.P. Blg. 129) cited by the respondent Court of Appeals in its resolution dated 13 March 1990 are not in point. Sections 9(1) and 21 thereof merely provide that the Court of Appeals and Regional Trial Courts, respectively, exercise original jurisdiction to issue writs of habeas corpus, among others. While recognizing the concurrent original jurisdiction of both courts over habeas corpus cases as special proceedings, these provisions are not authority for remanding or referring to the latter original actions filed with the former.

On the contrary, the Court of Appeals is specifically given the power to receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original jurisdiction.[11] Furthermore, under the Supreme Court Resolution dated 11 January 1983 implementing B.P. Blg. 129 pending the corresponding thorough revision of the Rules of Court, the Court of Appeals is authorized to conduct a trial or hearing to receive evidence and for the purpose shall observe the procedure prescribed for the trial courts.[12] Clearly, the Court of Appeals should not have remanded or referred the petition for a writ of habeas corpus to the trial court.

Finally, the questioned decision and resolutions go against the Revised Internal Rules of the Court of Appeals.[13] Under Rule 6, Section 2(c) (5) thereof, the proper procedure is as follows:

RULE 6

PROCEDURE IN SPECIAL CASES

xxx xxx xxx

SEC. 2. Special Civil Action. -- Original verified petitions for certiorari, prohibition, mandamus, habeas corpus, quo warranto and other writs may be filed in the Court of Appeals. x x x

xxx xxx xxx

c. Judicial Action. -- The Court may either deny due course or dismiss the petition outright, or require the private respondent or respondents to comment on the petition, or give due course thereto.

xxx xxx xxx

(5) If it appears that there is need for reception of evidence, the Division to which the Justice to whom the case is assigned for study and report belongs shall conduct the hearing. The Division shall have the power to perform any acts to resolve the factual issues raised in the case. (Emphasis supplied.)

Attention is also directed to the fact that the foregoing provision is silent as to whether or not the hearing may be

delegated, unlike that of the provision on annulment of judgments, Section 1(c) (3) of the same Rule, where, on motion of the parties, referral of any of the issues to a Commissioner is allowed in accordance with Rule 33 of the Rules of Court.

Under the foregoing disquisition, the Court of Appeals was in error in ordering the remand and later on the referral of the original petition for habeas corpus filed with it to the Regional Trial Court. What respondent court should have done was to conduct the reception of evidence and pass upon the merits of the conflicting allegations of the parties insofar as the petition for a writ of habeas corpus is concerned.

While We agree with the conclusion reached by respondent court that the case requires a full-blown trial of the facts, the same should be done in the context of the special proceedings for custody of minors under Rule 99 of the Rules of Court, and not a remand or referral of the original action for a writ of habeas corpus filed with the respondent court. Parenthetically, the proper venue in this action is the place where the petitioner therein resides.[14] Petitioners' third assigned error is disposed of accordingly.

WHEREFORE, the petition for certiorari is hereby GRANTED. The assailed decision and resolutions of the respondent Court of Appeals are SET ASIDE and a new one is rendered DISMISSING the petition for habeas corpus WITHOUT PREJUDICE to the filing by private respondent of the appropriate special proceedings to gain custody of his minor child. Let copies of this decision be furnished all Members of the respondent Court of Appeals. No costs.

SO ORDERED.

Narvasa, (Chairman), Cruz, Griño-Aquino, and Medialdea, JJ., concur.

[1] Pages 35-43, Rollo.

[2] Pages 45-46, Rollo. The decision was penned by Justice Manuel C. Herrera and concurred in by Justices Jose A.R. Melo and Jorge S. Imperial comprising the Fifth Division.

[3] See Annex F, page 47, Rollo.

[4] See Annex G, page 48, Rollo.

[5] See Annex H, pages 49-51, Rollo.

[6] Through the Sixteenth Division composed of Justices Manuel C. Herrera, Chairman and ponente, Eduardo R. Bengzon and Alicia V. Sempio Diy.

[7] Annex A, pages 25-26, Rollo.

[8] Through the Thirteenth Division composed of Justices Manuel C. Herrera, Chairman and ponente, Eduardo R. Bengzon and Jainal D. Rasul.

[9] See Annex B, pages 29-30, Rollo.

[10] Pages 15-16, Rollo.

[11] Section 9, second paragraph, B. P. Blg. 129, as amended by E. O. No. 33, s. 1986.

[12] Section D, paragraph no. 15, Resolution of the Court En Banc, dated January 11, 1983, Providing for the Interim or Transitional Rules and Guidelines Relative to the Implementation of the Judiciary Reorganization Act of 1981 (B.P. Blg. 129).

[13] Approved by the Supreme Court En Banc in a resolution dated 20 October 1988.

[14] Section 1. See also Regalado, Remedial Law Compendium, v. 2, 6th revised ed., p. 115.

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