

## SECOND DIVISION

[ G.R. No. 116773, January 16, 1997 ]

**TERESITA SAGALA-ESLAO, PETITIONER, VS. COURT OF APPEALS  
AND MARIA PAZ CORDERO-OUYE, RESPONDENTS.**

### DECISION

**TORRES, JR., J.:**

Children begin by loving their parents. After a time they judge them. Rarely, if ever, do they forgive them.<sup>[1]</sup> Indeed, parenthood is a riddle of no mean proportions except for its mission. Thus, a mother's concern for her child's custody is undying - such is a mother's love.

The right of the mother to the custody of her daughter is the issue in the case at bar.

In this petition for review, Teresita Sagala-Eslao seeks the reversal of the Court of Appeals decision<sup>[2]</sup> dated March 25, 1994, which affirmed the trial court's judgment granting the petition of Maria Paz Cordero-Ouye to recover the custody of her minor daughter from her mother-in-law, Teresita Sagala-Eslao.

As found by the Court of Appeals, the facts of the case are as follows:

"From the evidence, it appears that on June 22, 1984, petitioner Maria Paz Cordero-Ouye and Reynaldo Eslao were married;<sup>[3]</sup> after their marriage, the couple stayed with respondent Teresita Eslao, mother of the husband, at 1825, Road 14, Fabie Estate, Paco, Manila; that out of their marriage, two children were begotten, namely, Leslie Eslao who was born on February 23, 1986 and Angelica Eslao who was born on April 20, 1987;<sup>[4]</sup> in the meantime, Leslie was entrusted to the care and custody of petitioner's mother in Sta. Ana, Pampanga, while Angelica stayed with her parents at respondent's house; on August 6, 1990, petitioner's husband Reynaldo Eslao died;<sup>[5]</sup> petitioner intended to bring Angelica with her to Pampanga but the respondent prevailed upon her to entrust the custody of Angelica to her, respondent reasoning out that her son just died and to assuage her grief therefor, she needed the company of the child to at least compensate for the loss of her late son. In the meantime, the petitioner returned to her mother's house in Pampanga where she stayed with Leslie.

"Subsequently, petitioner was introduced by her auntie to Dr. James Manabu-Ouye, a Japanese-American, who is an orthodontist practicing in the United States; their acquaintance blossomed into a meaningful relationship where on March 18, 1992, the petitioner and Dr. James Ouye decided to get married; less than ten months thereafter, or on January

15, 1993, the petitioner migrated to San Francisco, California, USA, to join her new husband. At present, the petitioner is a trainee at the Union Bank in San Francisco, while her husband is a progressive practitioner of his profession who owns three cars, a dental clinic and earns US\$5,000 a month. On June 24, 1993, the petitioner returned to the Philippines to be reunited with her children and bring them to the United States; the petitioner then informed the respondent about her desire to take custody of Angelica and explained that her present husband, Dr. James Ouye, expressed his willingness to adopt Leslie and Angelica and to provide for their support and education; however, respondent resisted the idea by way of explaining that the child was entrusted to her when she was ten days old and accused the petitioner of having abandoned Angelica. Because of the adamant attitude of the respondent, the petitioner then sought the assistance of a lawyer, Atty. Mariano de Joya, Jr., who wrote a letter to the respondent demanding for the return of the custody of Angelica to her natural mother<sup>[6]</sup> and when the demand remain[ed] unheeded, the petitioner instituted the present action.”<sup>[7]</sup> Misdda

After the trial on the merits, the lower court rendered its decision, the dispositive portion of which reads:

“WHEREFORE, finding the petition to be meritorious, the Court grants the same and let the corresponding writ issue. As a corollary, respondent Teresita Sagala-Eslao or anyone acting under her behalf is hereby directed to cause the immediate transfer of the custody of the minor Angelica Cordero Eslao, to her natural mother, petitioner Maria Paz Cordero-Ouye.

“No pronouncement as to costs.

“SO ORDERED.”

On appeal, the respondent court affirmed in full the decision of the trial court.

Hence, the instant petition by the minor’s paternal grandmother, contending that the Court of Appeals erred:

## **I**

IN RULING THAT PRIVATE RESPONDENT MARIA PAZ CORDERO-OUYE, DID NOT ABANDON MINOR, ANGELICA ESLAO, TO THE CARE AND CUSTODY OF THE PETITIONER TERESITA SAGALA-ESLAO. Misdda

## **II**

IN RULING THAT THERE WAS NO COMPELLING REASON TO SEPARATE MINOR, ANGELICA ESLAO, FROM PRIVATE RESPONDENT MARIA PAZ CORDERO-OUYE, IN FAVOR OF PETITIONER TERESITA SAGALA-ESLAO.

## **III**

IN NOT FINDING THAT PETITIONER TERESITA SAGALA-ESLAO, IS FIT TO BE GIVEN THE CUSTODY OF MINOR, ANGELICA ESLAO.SdaÓadsc

The petition is without merit.

Being interrelated, the issues shall be discussed jointly.

Petitioner argues that she would be deserving to take care of Angelica; that she had managed to raise 12 children of her own herself; that she has the financial means to carry out her plans for Angelica; that she maintains a store which earns a net income of about P500 a day, she gets P900 a month as pension for the death of her husband, she rents out rooms in her house which she owns, for which she earns a total of P6,000 a month, and that from her gross income of roughly P21,000, she spends about P10,000 for the maintenance of her house.SdaÓadsc

Despite the foregoing, however, and petitioner's "genuine desire to remain with said child, that would qualify her to have custody of Angelica," the trial court's disquisition, in consonance with the provision that the child's welfare is always the paramount consideration in all questions concerning his care and custody<sup>[8]</sup> convinced this Court to decide in favor of private respondent, thus:

"On the other hand, the side of the petitioner must also be presented here. In this case, we see a picture of a real and natural mother who is -

'x x x legitimately, anxiously, and desperately trying to get back her child in order to fill the void in her heart and existence. She wants to make up for what she has failed to do for her boy during the period when she was financially unable to help him and when she could not have him in her house because of the objection of the father. Now that she has her own home and is in a better financial condition, she wants her child back, and we repeat that she has not and has never given him up definitely or with any idea of permanence.'<sup>[9]</sup>

"The petitioner herein is married to an Orthodontist who has a lucrative practice of his profession in San Francisco, California, USA. The petitioner and her present husband have a home of their own and they have three cars. The petitioner's husband is willing to adopt the petitioner's children. If the children will be with their mother, the probability is that they will be afforded a bright future. Contrast this situation with the one prevailing in the respondent's [grandmother's] house. As admitted by the respondent, four of the rooms in her house are being rented to other persons with each room occupied by 4 to 5 persons. Added to these persons are the respondent's 2 sons, Samuel and Alfredo, and their respective families (ibid., p. 54) and one can just visualize the kind of atmosphere pervading thereat. And to aggravate the situation, the house has only 2 toilets and 3 faucets. Finally, considering that in all controversies involving the custody of minors, the foremost criterion is the physical and moral well being of the child taking into account the respective resources and social and moral situations of the contending parties (Union III vs. Mariano,