

SECOND DIVISION

[G.R. No. 200104, June 19, 2019]

ILUMINADA C. BERNARDO, PETITIONER, V. ANA MARIE B. SORIANO, RESPONDENT.

D E C I S I O N

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari*^[1] (Petition) under Rule 45 of the Rules of Court filed by petitioner Iluminada C. Bernardo (Bernardo) against respondent Ana Marie B. Soriano (Soriano), assailing the Decision^[2] dated August 11, 2011 (assailed Decision) and Resolution^[3] dated January 6, 2012 (assailed Resolution) rendered by the Court of Appeals (CA) in CA-G.R. SP No. 118506.

The Facts and Antecedent Proceedings

The facts of the case are simple and straightforward. As narrated by the CA in its assailed Decision, and as culled from the records of the instant case, the essential facts and antecedent proceedings of the case are as follows:

[Bernardo] filed a Petition for Habeas Corpus^[4] praying that Evangeline Lawas, Head Social Worker of the Department of Social Welfare and Development in Mandaluyong City, be ordered to produce the person of her minor granddaughter, Stephanie Verniese B. Soriano [(Stephanie),] before the [Regional Trial Court of Mandaluyong City, Branch 209 (RTC)]. The case, entitled "*In the Matter of Petition for Habeas Corpus of Stephanie Verniese Soriano through her Grandmother, Iluminada C. Bernardo v. Evangeline Lawas, In Her Capacity as Head Social Worker, Department of Social Welfare and Development, Nayon ng Kabataan, Acacia Lane, Welfareville Compound, Mandaluyong City,*" was docketed as SP Proc. No. MC09-4159]. According to [Bernardo], Stephanie was being deprived and restrained of her liberty while under the custody of the DSWD, and despite demand by [Bernardo], the DSWD refused to release the minor under [Bernardo's] custody and care.

The [RTC] issued an Order dated 23 October 2009 stating therein that considering [Bernardo's] failure to prove that the DSWD's custody over the minor is illegal, the Petition filed was ordered to be converted into a case for custody.

[Soriano], the surviving parent of Stephanie, for her part, filed a Complaint-in-Intervention^[5] seeking to be granted custody of her child, and thus, the battle for the permanent custody of Stephanie between [Bernardo] and [Soriano] ensued.

The [RTC, through Presiding Judge Monique A. Quisumbing-Ignacio (Quisumbing), in its] Decision^[6] dated 05 August 2010, [issued a judgment and] upheld [Soriano's] right to parental custody and parental authority but ruled that, in the meantime, it will be for the best interest of the minor to stay with [Bernardo] for the school year 2009-2010 while studying at Notre Dame of Greater Manila. Thus, the [RTC] granted temporary custody of the minor to [Bernardo].

[Bernardo] filed a Motion for Reconsideration^[7] alleging therein that [Soriano] is unfit to take care of her child, who, allegedly, verbally maltreats Stephanie, among others. x x x

On 31 August 2010, the [RTC issued an Order^[8] denying] [Bernardo's] Motion for Reconsideration. [On the very same day, Soriano timely filed through registered mail her Comment (With Motion for Partial Reconsideration)^[9] dated August 27, 2010. In sum, Soriano asserted that the custody of Stephanie should be granted in her favor immediately and not only after school year 2009-2010.]

[The RTC's denial of Bernardo's Motion for Reconsideration on August 31, 2010] prompted [Bernardo] to file a Notice of Appeal^[10] on 08 September 2010. However, the [RTC], through the first assailed Order^[11] dated 09 September 2010 ruling therein that the assailed 05 August 2010 Decision and the 31 August 2010 Order denying the Motion for Reconsideration have not yet attained finality, and thus, may not be the subject of an appeal. [Hence, the Notice of Appeal of Bernardo was denied due course.] The [RTC] ratiocinated that [Soriano], who received a copy of the 05 August 2010 Decision on 13 August 2010, timely filed her Comment (with Motion for Partial Reconsideration) [dated] 27 August 2010. The dispositive portion of the said Order states:

WHEREFORE, premises considered, the Notice of Appeal dated 7 September 2010 is hereby DENIED DUE COURSE.

[Bernardo] is ORDERED to file her comment on the Comment (With Motion for Partial Reconsideration) dated 27 August 2010 within five (5) days from receipt hereof.

SO ORDERED.

Accordingly, the [RTC] rendered the second assailed Order^[12] dated 22 October 2010 granting [Soriano's] partial reconsideration and allowing the latter to take custody of her minor child immediately. The dispositive portion reads:

WHEREFORE, plaintiff-intervenor Ana Marie Bernardo Soriano's Motion for Partial Reconsideration dated 27 August 2010 is hereby GRANTED. Accordingly, Ana Marie Bernardo Soriano is hereby ALLOWED TO TAKE IMMEDIATE CUSTODY of the minor, STEPHANIE VERNIESE SORIANO from her grandmother, ILUMINADA C. BERNARDO.

SO ORDERED.

[Bernardo] filed her Motion for Reconsideration^[13] [dated November 22, 2010,] seeking a reconsideration of the [RTC's] 09 September 2010 and 22 October 2010 Orders. However, it was denied through the third assailed Order^[14] dated 31 January 2011. [Thus, on March 15, 2011, Bernardo filed a **Petition for Certiorari**^[15] (*Certiorari* Petition) under Rule 65 of the Rules of Court, seeking the annulment and setting aside, on the ground of grave abuse of discretion amounting to lack or excess of jurisdiction, the RTC's Orders denying due course to Bernardo's Notice of Appeal.]^[16]

The Ruling of the CA

In the assailed Decision, the CA denied Bernardo's *Certiorari* Petition.

In sum, the CA held that because Soriano seasonably filed her own Motion for Partial Reconsideration of the RTC's Decision dated August 5, 2010, the said Decision of the RTC is not an appealable judgment despite the denial of Bernardo's Motion for Reconsideration. The CA believed that Bernardo's Notice of Appeal was premature owing to the pendency of Soriano's Motion for Partial Reconsideration:

At a quick glance, it will seem that the Order dated 31 August 2010 denying [Bernardo's] Motion for Reconsideration, on the issue of permanent custody, left nothing else for the court to do. However, it must be emphasized that the said Order was issued before the court a quo received [Soriano's] Comment (With Motion for Partial Reconsideration) which was filed via registered mail on the very same day, 31 August 2010. As with [Bernardo], [Soriano] had an equal right to file a motion for reconsideration of the [RTC's] Decision within the proper reglementary period. x x x ^[17]

The RTC's Decision cannot yet be considered a judgment that may be appealed due to the filing of Soriano's Motion for Partial Reconsideration because, as explained by the CA:

x x x **Unlike a 'final judgment or order, which is appealable, as above pointed out, an 'interlocutory order may not be questioned on appeal except only as part of an appeal that may eventually be taken from the final judgment rendered in the case.** x x x

Simply stated a final order contemplates one in which there is nothing more for the court to do in order to resolve the case. x x x

Thus, when the said Comment (With Motion for Partial Reconsideration) was filed, there remains something left for the court to do; to thresh out the issue of whether or not to reverse the temporary custody given to [Bernardo].^[18]

In other words, the CA held that despite the RTC's Decision being a judgment on the merits of the case and despite the RTC having already disposed Bernardo's Motion for Reconsideration of such Decision, the pendency of Soriano's Motion for Partial

Reconsideration warranted the treatment of the RTC's Decision as an interlocutory order and not a final judgment that can be appealed, as there was still something left for the RTC to do, which was to decide the Motion for Partial Reconsideration.

On September 2, 2011, Bernardo filed a Motion for Reconsideration^[19] dated August 31, 2011. The CA denied the same in the assailed Resolution.

Hence, the instant appeal.

Soriano filed her Comment^[20] dated June 6, 2012, to which Bernardo responded to with her Reply^[21] dated October 22, 2012.

Issue

Stripped to its core, the sole issue to be decided by the Court in the instant case is whether the CA erred in denying Bernardo's *Certiorari* Petition, holding that the RTC did not commit grave abuse of discretion when the latter denied Bernardo's Notice of Appeal due course due to the pendency of Soriano's Motion for Partial Reconsideration.

The Court's Ruling

The Court resolves to deny the instant Petition.

According to Section 1, Rule 41 of the Rules of Court, an appeal may be taken from a judgment or final order that completely disposes of the case, or of a particular matter therein when declared by these Rules to be appealable.

Further, according to Section 2(a) of the same Rule, the appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its original jurisdiction shall be taken by filing a notice of appeal with the court which rendered the judgment or final order appealed from and serving a copy thereof upon the adverse party.

In connection with the foregoing, Section 5 of the same Rule states that the notice of appeal shall indicate the parties to the appeal, specify the judgment or final order or part thereof appealed from, specify the court to which the appeal is being taken, and state the material dates showing the timeliness of the appeal.

With respect to the period for filing the notice of appeal, the appeal shall be taken within 15 days from notice of the judgment or final order appealed from. The period of appeal shall be interrupted by a timely motion for new trial or reconsideration. No motion for extension of time to file a motion for new trial or reconsideration shall be allowed.^[22] When a motion for new trial or reconsideration was filed by the party, which was subsequently denied by the court, there is a fresh period of fifteen (15) days within which to file the notice of appeal, counted from receipt of the order dismissing a motion for a new trial or motion for reconsideration.^[23]

A party's appeal by notice of appeal is deemed perfected as to him upon the filing of the notice of appeal in due time.^[24]

Applying the foregoing to the instant case, it is not disputed that the RTC rendered its Decision dated August 5, 2010, which resolved the merits of the Custody case, upholding Soriano's right to parental custody and parental authority, albeit ruling