

## THIRD DIVISION

[ G.R. No. 210636, July 28, 2014 ]

**MA. HAZELINA A. TUJAN-MILITANTE IN BEHALF OF THE MINOR  
CRISELDA M. CADA, PETITIONER, VS. RAQUEL M. CADA-  
DEAPERA, RESPONDENT.**

### D E C I S I O N

**VELASCO JR., J.:**

#### **Nature of the Case**

Before Us is a petition for review on certiorari under Rule 45 of the Rules of Court with prayer for injunctive relief seeking the reversal of the Court of Appeals (CA) Decision<sup>[1]</sup> dated May 17, 2013 as well as its Resolution dated December 27, 2013 in CA-G.R. SP No. 123759. In the main, petitioner questions the jurisdiction of the Regional Trial Court, Branch 130 in Caloocan City (RTC-Caloocan) to hear and decide a special civil action for habeas corpus in relation to the custody of a minor residing in Quezon City.

#### **The Facts**

On March 24, 2011, respondent Raquel M. Cada-Deapera filed before the RTC-Caloocan a verified petition for writ of habeas corpus, docketed as Special Civil Action Case No. C-4344. In the said petition, respondent demanded the immediate issuance of the special writ, directing petitioner Ma. Hazelina Tujan-Militante to produce before the court respondent's biological daughter, minor Criselda M. Cada (Criselda), and to return to her the custody over the child. Additionally, respondent indicated that petitioner has three (3) known addresses where she can be served with summons and other court processes, to wit: (1) 24 Bangkal St., Amparo Village, Novaliches, Caloocan City; (2) 118B K9 Street, Kamias, Quezon City; and (3) her office at the Ombudsman-Office of the Special Prosecutor, 5<sup>th</sup> Floor, Sandiganbayan, Centennial Building, Commonwealth Avenue cor. Batasan Road, Quezon City.<sup>[2]</sup>

The next day, on March 25, 2011, the RTC-Caloocan issued a writ of habeas corpus, ordering petitioner to bring the child to court on March 28, 2011. Despite diligent efforts and several attempts, however, the Sheriff was unsuccessful in personally serving petitioner copies of the habeas corpus petition and of the writ. Instead, on March 29, 2011, the Sheriff left copies of the court processes at petitioner's Caloocan residence, as witnessed by respondent's counsel and *barangay* officials.<sup>[3]</sup> Nevertheless, petitioner failed to appear at the scheduled hearings before the RTC-Caloocan.

Meanwhile, on March 31, 2011, petitioner filed a Petition for Guardianship over the person of Criselda before the RTC, Branch 89 in Quezon City (RTC-Quezon City).

Respondent filed a Motion to Dismiss the petition for guardianship on the ground of *litis pendentia*, among others. Thereafter, or on June 3, 2011, respondent filed a criminal case for kidnapping before the Office of the City Prosecutor – Quezon City against petitioner and her counsel.

On July 12, 2011, the RTC-Quezon City granted respondent's motion and dismissed the guardianship case due to the pendency of the *habeas corpus* petition before RTC-Calooan.<sup>[4]</sup> The *fallo* of the Order reads:

**WHEREFORE**, in view of the foregoing, the subject motion is hereby **GRANTED**. Accordingly, the case is hereby **DISMISSED**.

**SO ORDERED.**<sup>[5]</sup>

Then, on August 4, 2011, Raquel moved for the ex parte issuance of an alias writ of habeas corpus before the RTC-Calooan, which was granted by the trial court on August 8, 2011. On even date, the court directed the Sheriff to serve the alias writ upon petitioner at the Office of the Assistant City Prosecutor of Quezon City on August 10, 2011.<sup>[6]</sup> In compliance, the Sheriff served petitioner the August 8, 2011 Order as well as the Alias Writ during the preliminary investigation of the kidnapping case.<sup>[7]</sup>

Following this development, petitioner, by way of special appearance, moved for the quashal of the writ and prayed before the RTC Calooan for the dismissal of the habeas corpus petition,<sup>[8]</sup> claiming, among others, that she was not personally served with summons. Thus, as argued by petitioner, jurisdiction over her and Criselda's person was not acquired by the RTC-Calooan.

### **Ruling of the Trial Court**

On January 20, 2012, the RTC-Calooan issued an Order denying petitioner's omnibus motion, citing *Saulo v. Brig. Gen. Cruz*,<sup>[9]</sup> where the Court held that a writ of habeas corpus, being an extraordinary process requiring immediate proceeding and action, plays a role somewhat comparable to a summons in ordinary civil actions, in that, by service of said writ, the Court acquires jurisdiction over the person of the respondent, as petitioner herein.<sup>[10]</sup>

Moreover, personal service, the RTC said, does not necessarily require that service be made exclusively at petitioner's given address, for service may be made elsewhere or wherever she may be found for as long as she was handed a copy of the court process in person by anyone authorized by law. Since the sheriff was able to personally serve petitioner a copy of the writ, albeit in Quezon City, the RTC-Calooan validly acquired jurisdiction over her person.<sup>[11]</sup> The dispositive portion of the Order reads:

WHEREFORE, premises considered, the Very Urgent Motion (Motion to Quash Alias Writ; Motion to Dismiss) filed by respondent Ma. Hazelina Tujan-Militante dated August 11, 2011 is hereby DENIED for lack of

merit.

In the meantime, respondent Ma. Hazelina Tujan-Militante is hereby directed to appear and bring Criselda Martinez Cada before this Court on February 10, 2012 at 8:30 o'clock in the morning.

SO ORDERED.<sup>[12]</sup>

Aggrieved, petitioner, via certiorari to the CA, assailed the issued Order.

### **Ruling of the Court of Appeals**

Over a year later, the CA, in the challenged Decision dated May 17, 2013,<sup>[13]</sup> dismissed the petition for certiorari in the following wise:

**WHEREFORE**, the instant petition is hereby **DISMISSED** for lack of merit. The Regional Trial Court, Branch 130 of Caloocan City is **DIRECTED** to proceed with due dispatch in Spec. Proc. Case No. C-4344 for *Habeas Corpus*, giving utmost consideration to the best interest of the now nearly 14-year old child.

**SO ORDERED.**<sup>[14]</sup>

In so ruling, the CA held that jurisdiction was properly laid when respondent filed the habeas corpus petition before the designated Family Court in Caloocan City.<sup>[15]</sup> It also relied on the certification issued by the *punong barangay* of Brgy. 179, Caloocan City, stating that petitioner is a bona fide resident thereof, as well as the medical certificate issued by Criselda's doctor on April 1, 2011, indicating that her address is "Amparo Village, KC."<sup>[16]</sup> Anent the RTC-Caloocan's jurisdiction, the appellate court ruled that service of summons is not required under Section 20 of A.M. No. 03-04-04-SC, otherwise known as the *Rules on Custody of Minors and Habeas Corpus in Relation to Custody of Minors*. According to the CA, the rules on summons contemplated in ordinary civil actions have no place in petitions for the issuance of a writ of habeas corpus, it being a special proceeding.<sup>[17]</sup>

Petitioner sought reconsideration of the above Decision but the same was denied by the CA in its December 27, 2013 Resolution.

Hence, this Petition.

### **The Issues**

At the core of this controversy is the issue of whether or not the RTC-Caloocan has jurisdiction over the habeas corpus petition filed by respondent and, assuming arguendo it does, whether or not it validly acquired jurisdiction over petitioner and the person of Criselda. Likewise pivotal is the enforceability of the writ issued by RTC-Caloocan in Quezon City where petitioner was served a copy thereof.