



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

EDUARDO T. ABAD,

Petitioner,

G.R. No. 191993

Present:

LEONARDO-DE CASTRO, J.,  
*Acting Chairperson,*

BERSAMIN,  
VILLARAMA, JR.,  
PEREZ,\* and  
REYES, JJ.

- versus -

LEONARDO BIASON and  
GABRIEL A. MAGNO,

Respondents.

Promulgated:

DEC 05 2012

X-----X

RESOLUTION

REYES, J.:

Before this Court is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>1</sup> dated August 28, 2009 and Resolution<sup>2</sup> dated April 19, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 90145.

\* Acting member per Special Order No. 1385 dated December 4, 2012 *vice* Chief Justice Maria Lourdes P. A. Sereno.

<sup>1</sup> Penned by Associate Justice Amelita G. Tolentino, with Associate Justices Estela M. Perlas-Bernabe (now member of this Court) and Stephen C. Cruz, concurring; *rollo*, pp. 37-51.

<sup>2</sup> Id. at 52-53.

The facts show that on March 19, 2007, petitioner Eduardo Abad (Abad) filed a petition for guardianship over the person and properties of Maura B. Abad (Maura) with the Regional Trial Court (RTC), Dagupan City, Branch 42, which was docketed as Sp. Proc. No. 2007-0050-D. In support thereof, Abad alleged that he maintains residence at No. 14 B St. Paul Street, Horseshoe Village, Quezon City and that he is Maura's nephew. He averred that Maura, who is single, more than ninety (90) years old and a resident of Rizal Street, Poblacion, Mangaldan, Pangasinan, is in dire need of a guardian who will look after her and her business affairs. Due to her advanced age, Maura is already sickly and can no longer manage to take care of herself and her properties unassisted thus becoming an easy prey of deceit and exploitation.<sup>3</sup>

Finding the petition sufficient in form and substance, the RTC gave due course to the same and scheduled it for hearing. When the petition was called for hearing on April 27, 2007, nobody entered an opposition and Abad was allowed to present evidence *ex parte*. After Abad formally offered his evidence and the case was submitted for decision, Atty. Gabriel Magno filed a Motion for Leave to Intervene, together with an Opposition-in-Intervention. Subsequently, on June 14, 2007, Leonardo Biason (Biason) filed a Motion for Leave to File Opposition to the Petition and attached therewith his Opposition to the Appointment of Eduardo Abad as Guardian of the Person and Properties of Maura B. Abad. Specifically, Biason alleged that he is also a nephew of Maura and that he was not notified of the pendency of the petition for the appointment of the latter's guardian. He vehemently opposed the appointment of Abad as Maura's guardian as he cannot possibly perform his duties as such since he resides in Quezon City while Maura maintains her abode in Mangaldan, Pangasinan. Biason prayed that he be appointed as Maura's guardian since he was previously granted by the latter with a power of attorney to manage her properties.<sup>4</sup>

---

<sup>3</sup> Id. at 38.

<sup>4</sup> Id. at 39-40.

On September 26, 2007, the RTC rendered a Decision,<sup>5</sup> denying Abad's petition and appointing Biason as Maura's guardian. The RTC disposed thus:

WHEREFORE, the petition is hereby denied. Petitioner Eduardo T. Abad is found to be disqualified to act as guardian of incompetent Maura B. Abad. Oppositor Leonardo A. Biason is established by this Court to be in a better position to be the guardian of said incompetent Maura B. Abad.

The Court hereby fixes the guardianship bond at [P]500,000.00 and the letters of guardianship shall be issued only upon the submission of the bond, conditioned on the following provisions of the Rule 94[,] Section 1, of the 1997 Rules of Civil Procedure:

- a. To make and return to the Court within three (3) months true and complete inventory of all the estate, real and personal, of his ward which shall come to his possession or knowledge or to the possession or knowledge of any other person for him;
- b. To faithfully execute the duties of his trust, to manage and dispose of the estate according to these rules for the best interests of the ward, and to provide for the proper care, custody x x x of the ward;
- c. To render a true and just account of all the estate of the ward in his hands, and of all proceeds or interest derived therefrom, and of the management and disposition of the same, at the time designated by these rules and such other times as the court directs, and at the expiration of his trust to settle his accounts with the court and deliver and pay over all the estate, effects, and moneys remaining in his hands, or due from him on such settlement, to the person lawfully entitled thereto;
- d. To perform all orders of the court by him to be performed.

SO ORDERED.<sup>6</sup>

Unyielding, Abad filed a motion for reconsideration of the foregoing decision but the RTC denied the same in an Order dated December 11, 2007.

Abad filed an appeal to the CA. He argued that the RTC erred in disqualifying him from being appointed as Maura's guardian despite the fact that he has all the qualifications stated under the Rules. That he was not a resident of Mangaldan, Pangasinan should not be a ground for his

---

<sup>5</sup> Id. at 83-86.

<sup>6</sup> Id. at 85-86.

disqualification as he had actively and efficiently managed the affairs and properties of his aunt even if he is residing in Metro Manila. Moreover, he was expressly chosen by Maura to be her guardian.<sup>7</sup>

Abad further averred that no hearing was conducted to determine the qualifications of Biason prior to his appointment as guardian. He claimed that the RTC also overlooked Maura's express objection to Biason's appointment.<sup>8</sup>

On August 28, 2009, the CA issued a Decision,<sup>9</sup> affirming the decision of the RTC, the pertinent portions of which read:

The petitioner-appellant may have been correct in arguing that there is no legal requirement that the guardian must be residing in the same dwelling place or municipality as that of the ward or incompetent, and that the *Vancil vs. Belmes* case cited by the court *a quo* which held that "courts should not appoint as guardians persons who are not within the jurisdiction of our courts" pertains to persons who are not residents of the country.

However, we do not find that the court *a quo*, by deciding to appoint the oppositor-appellee as guardian, has fallen into grievous error.

For one, the oppositor-appellee, like petitioner-appellant, is also a relative, a nephew of the incompetent. There are no vices of character which have been established as to disqualify him from being appointed as a guardian.

X X X X

Anent the claim of the petitioner-appellant that he has been expressly chosen by her aunt to be her guardian as evidenced by her testimony, although it could be given weight, the same could not be heavily relied upon, especially considering the alleged mental state of the incompetent due to her advanced age.

X X X X

**WHEREFORE**, premises considered, the instant petition is **DISMISSED** for lack of merit. The assailed decision of the Regional Trial Court of Dagupan City, Branch 42 is **AFFIRMED IN TOTO**.

**SO ORDERED.**<sup>10</sup>

---

<sup>7</sup> Id. at 43.

<sup>8</sup> Ibid.

<sup>9</sup> Supra note 1.

<sup>10</sup> Id. at 47-48, 50; citation omitted.

Dissatisfied, Abad filed a motion for reconsideration but the CA denied the same in a Resolution<sup>11</sup> dated April 19, 2010, the dispositive portion of which reads:

WHEREFORE, premises considered, the Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.<sup>12</sup>

On June 7, 2010, Abad filed a Petition for Review on *Certiorari* with this Court. Subsequently, Maura filed a Motion for Leave to Intervene,<sup>13</sup> together with a Petition-in-Intervention.<sup>14</sup>

The instant petition raises the following assignment of errors:

#### I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DENIED THE PETITIONER'S APPEAL AND AFFIRMED THE TRIAL COURT'S DECISION DESPITE VERY CLEAR VIOLATIONS OF DUE PROCESS, DISREGARD OF THE RULES, AND IRREGULARITIES IN THE APPOINTMENT OF RESPONDENT BIASON AS GUARDIAN;

#### II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT DENIED THE PETITIONER'S APPEAL AND ERRONEOUSLY UPHELD RESPONDENT BIASON'S APPOINTMENT AS GUARDIAN BASED ON SOLE GROUND OF RESIDENCE, AND FAILED TO CONSIDER THE REQUIREMENTS AND QUALIFICATIONS PRESCRIBED BY THE SUPREME COURT FOR THE APPOINTMENT OF GUARDIAN.<sup>15</sup>

Abad contends that that CA erred in affirming the RTC's decision despite the fact that it did not hold any hearing to determine whether Biason possessed all the qualifications for a guardian as provided by law. Further,

---

<sup>11</sup> Supra note 2.

<sup>12</sup> Id. at 53.

<sup>13</sup> Id. at 68-70.

<sup>14</sup> Id. at 71-80.

<sup>15</sup> Id. at 21.

he was not given the opportunity to submit evidence to controvert Biason's appointment.<sup>16</sup>

Abad also bewails his disqualification as guardian on the sole basis of his residence. He emphasizes that it is not a requirement for a guardian to be a resident of the same locality as the ward, or to be living with the latter under the same roof in order to qualify for the appointment. The more significant considerations are that the person to be appointed must be of good moral character and must have the capability and sound judgment in order that he may be able to take care of the ward and prudently manage his assets.<sup>17</sup>

Unfortunately, pending the resolution of the instant petition, Biason died. On May 11, 2012, Maura filed a Manifestation and Motion,<sup>18</sup> informing this Court that Biason passed away on April 3, 2012 at SDS Medical Center, Marikina City due to multiple organ failure, septic shock, community acquired pneumonia high risk, prostate CA with metastasis, and attached a copy of his Death Certificate.<sup>19</sup> Maura averred that Biason's death rendered moot and academic the issues raised in the petition. She thus prayed that the petition be dismissed and the guardianship be terminated.

On June 20, 2012, this Court issued a Resolution,<sup>20</sup> requiring Abad to comment on the manifestation filed by Maura. Pursuant to the Resolution, Abad filed his Comment<sup>21</sup> on August 9, 2012 and expressed his acquiescence to Maura's motion to dismiss the petition. He asseverated that the issues raised in the petition pertain to the irregularity in the appointment of Biason as guardian which he believed had been rendered moot and academic by the latter's death. He also supported Maura's prayer for the termination of the guardianship by asseverating that her act of filing of a

---

<sup>16</sup> Id. at 22-23.

<sup>17</sup> Id. at 29.

<sup>18</sup> Id. at 254-255.

<sup>19</sup> Id. at 256.

<sup>20</sup> Id. at 260.

<sup>21</sup> Id. at 261-262.

petition-in-intervention is indicative of the fact that she is of sound mind and that she can competently manage her business affairs.

We find Maura's motion meritorious.

An issue or a case becomes moot and academic when it ceases to present a justiciable controversy, so that a determination of the issue would be without practical use and value. In such cases, there is no actual substantial relief to which the petitioner would be entitled and which would be negated by the dismissal of the petition.<sup>22</sup>

In his petition, Abad prayed for the nullification of the CA Decision dated August 28, 2009 and Resolution dated April 19, 2010, which dismissed his appeal from the Decision dated September 26, 2007 of the RTC and denied his motion for reconsideration, respectively. Basically, he was challenging Biason's qualifications and the procedure by which the RTC appointed him as guardian for Maura. However, with Biason's demise, it has become impractical and futile to proceed with resolving the merits of the petition. It is a well-established rule that the relationship of guardian and ward is necessarily terminated by the death of either the guardian or the ward.<sup>23</sup> The supervening event of death rendered it pointless to delve into the propriety of Biason's appointment since the juridical tie between him and Maura has already been dissolved. The petition, regardless of its disposition, will not afford Abad, or anyone else for that matter, any substantial relief.

Moreover, Abad, in his Comment, shared Maura's belief that the petition has lost its purpose and even consented to Maura's prayer for the dismissal of the petition.

---

<sup>22</sup> *Roxas v. Tipon*, G.R. No. 160641, June 20, 2012, citing *Romero II v. Estrada*, G.R. No. 174105, April 2, 2009, 583 SCRA 396, 404.


<sup>23</sup> *Cañiza v. CA*, 335 Phil. 1107, 1120 (1997), citing Francisco, *The Revised Rules of Court in the Phils.*, Vol. V-B, 1970 Ed., citing 25 Am. Jur. 37.

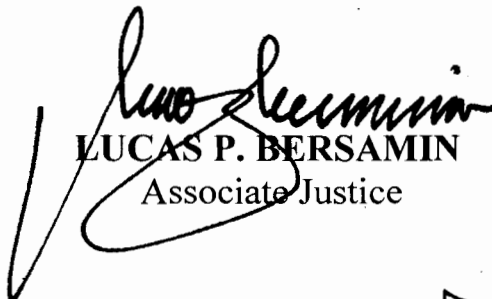
**WHEREFORE**, in consideration of the foregoing disquisitions, the petition is hereby **DISMISSED**.

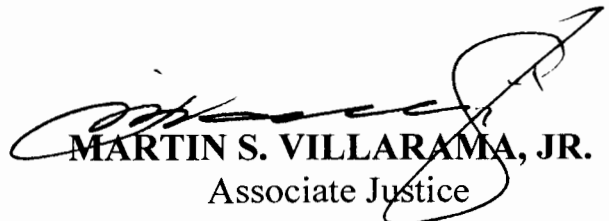
**SO ORDERED.**

  
**BIENVENIDO L. REYES**  
Associate Justice

**WE CONCUR:**

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

**ATTESTATION**

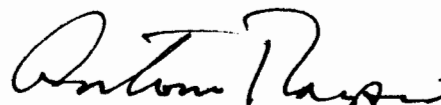
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**TERESITA J. LEONARDO-DE CASTRO**  
Acting Chairperson



## CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

A handwritten signature in black ink, appearing to read "Antonio T. Carpio", written in a cursive style.

**ANTONIO T. CARPIO**

Acting Chief Justice