



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

**IN THE MATTER OF THE PETITION UDK No. 14817
FOR HABEAS CORPUS OF MINOR
SHANG KO VINGSON YU**

**SHIRLY VINGSON @ SHIRLY
VINGSON DEMAISIP,**

Petitioner,

Present:

- versus -

VELASCO, JR., J., *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, JJ.

JOVY CABCABAN,

Respondent.

Promulgated:

January 13, 2014

X -----X

DECISION

ABAD, J.:

Petitioner Shirley Vingson (Shirly) alleged that Shang Ko Vingson Yu (Shang Ko),¹ her 14-year-old daughter, ran away from home on September 23, 2011. On November 2, 2011 Shirley went to the police station in Bacolod City upon receipt of information that Shang Ko was in the custody of respondent Jovy Cabcaban (Cabcaban), a police officer in that station. Since Cabcaban refused to release Shang Ko to her, Shirley sought the help of the National Bureau of Investigation (NBI) to rescue her child. An NBI agent, Arnel Pura (Pura), informed Shirley that Shang Ko was no longer with Cabcaban but was staying with a private organization called Calvary Kids. Pura told her, however, that the child was fine and had been attending school.

¹ In a police blotter, however, the minor signed her name as Shangco Vingson, *rollo*, p. 60.

This prompted petitioner Shirly to file a petition for *habeas corpus* against respondent Cabcaban and the unnamed officers of Calvary Kids before the Court of Appeals (CA) rather than the Regional Trial Court of Bacolod City citing as reason several threats against her life in that city.

In a Resolution dated December 18, 2012,² the CA resolved in CA-G.R. SP 07261 to deny the petition for its failure to clearly allege who has custody of Shang Ko. According to the CA, *habeas corpus* may not be used as a means of obtaining evidence on the whereabouts of a person or as a means of finding out who has specifically abducted or caused the disappearance of such person.³ The CA denied petitioner Shirly's motion for reconsideration on January 8, 2013, hence, this petition for review.

In her Comment,⁴ respondent Cabcaban claimed that on September 28, 2011 police officers found Shang Ko crying outside a church. When queried, the latter refused to give any information about herself. Thus, they indorsed her case to the Bacolod City Police Women and Children Protection Desk that Cabcaban headed. After the initial interview, Cabcaban referred Shang Ko to *Balay Pasilungan*, a temporary shelter for abused women and children.

Respondent Cabcaban further claimed that on the next day, a social worker sat with the minor who said that her mother Shirly had been abusive in treating her. She narrated that on September 27, 2011 Shirly instructed another daughter to give Shang Ko ₱280.00 and take her to the pier to board a boat going to Iloilo City.⁵ Shang Ko was told to look for a job there and to never come back to Bacolod City. Since she had nowhere to go when she arrived in Iloilo City, Shang Ko decided to return to Bacolod City with the money given her. She went to her best friend's house but was turned away for fear of Shirly. She called her sister so that she and her boyfriend could get her but they, too, turned her down.⁶

Respondent Cabcaban also claimed that Shang Ko pleaded with the police and the social worker not to return her to her mother. As a result, the Bacolod City Police filed a complaint⁷ against petitioner Shirly for violation of Republic Act 7610 or the Special Protection of Children Against Abuse, Exploitation, and Discrimination Act. The police sent notice to Shirly inviting her to a conference but she refused to receive such notice. Two days later, however, she came and spoke to Cabcaban, pointing out that Shang Ko had been a difficult child with a tendency to steal. From their

² CA-G.R. SP 07261, penned by Justice Gabriel T. Ingles with the concurrence of Justices Pampio A. Abarintos and Pedro B. Corales, *rollo*, pp. 14-16.

³ *Martinez v. Dir. Gen. Mendoza*, 530 Phil. 627, 635 (2006).

⁴ *Rollo*, pp. 55-58.

⁵ Ferry tickets attached, *id.* at 62.

⁶ Police blotter, *id.* at 60; Sworn Statement of Shangco Vingson, *id.* at 79-83.

⁷ BCPO WCCD Case NR: 2013-078, *id.* at 78.

conversation, Cabcaban surmised that Shirley did not want to take her daughter back, having offered to pay for her daily expenses at the shelter.

Respondent Cabcaban said that on October 29, 2011 she decided to turn over Shang Ko to the Calvary Kids, a private organization that gave sanctuary and schooling to abandoned and abused children.⁸ On November 2, 2011 petitioner Shirley showed up at the police station asking for her daughter. Cabcaban told her that Shang Ko was in a sanctuary for abandoned children and that the police officer had to first coordinate with it before she can disclose where Shang Ko was. But Shirley was adamant and threatened her with a lawsuit. Cabcaban claimed that Shang Ko's father was a Taiwanese and that Shirley wanted the child back to use her as leverage for getting financial support from him.

Respondent Cabcaban further claimed that one year later, NBI agents led by Pura went to the police station to verify Shirley's complaint that Cabcaban had kidnapped Shang Ko. Cabcaban accompanied the NBI agents to Calvary Kids to talk to the institution's social worker, school principal, and director. They provided the NBI agents with the child's original case study report⁹ and told them that it was not in Shang Ko's best interest to return her to her mother who abused and maltreated her. Shang Ko herself told the NBI that she would rather stay at Calvary Kids because she was afraid of what would happen to her if she returned home.¹⁰ As proof, Shang Ko wrote a letter stating that, contrary to her mother's malicious insinuations, Cabcaban actually helped her when she had nowhere to go after her family refused to take her back.¹¹

Under Section 1, Rule 102 of the Rules of Court, the writ of *habeas corpus* is available, not only in cases of illegal confinement or detention by which any person is deprived of his liberty, but also in cases involving the rightful custody over a minor.¹² The general rule is that parents should have custody over their minor children. But the State has the right to intervene where the parents, rather than care for such children, treat them cruelly and abusively, impairing their growth and well-being and leaving them emotional scars that they carry throughout their lives unless they are liberated from such parents and properly counseled.

Since this case presents factual issues and since the parties are all residents of Bacolod City, it would be best that such issues be resolved by a Family Court in that city. Meantime, considering the presumption that the police authorities acted regularly in placing Shang Ko in the custody of

⁸ Calvary Kids Voluntary Commitment Form, id. at 68.

⁹ Id. at 88-95.

¹⁰ Calvary Kids Case Study Update, id. at 72-74.

¹¹ Id. at 76.


¹² *Bagtas v. Santos*, G.R. No. 166682, November 27, 2009, 606 SCRA 101, 111.

Calvary Kids, the Court believes that she should remain there pending hearing and adjudication of this custody case. Besides, she herself has expressed preference to stay in that place.


WHEREFORE, the Court **SETS ASIDE** the Court of Appeals Resolutions in CA-G.R. SP 07261 dated December 18, 2012 and January 8, 2013 and **ORDERS** this custody case forwarded to the Family Court of Bacolod City for hearing and adjudication as the evidence warrants. Meantime, until such court orders otherwise, let the minor Shang Ko Vingson remain in the custody of Calvary Kids of Bacolod City.

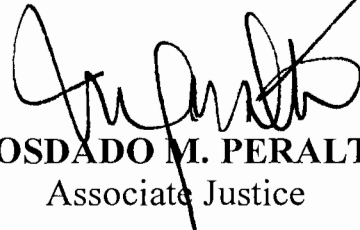
Further, the Court **ORDERS** petitioner Shirley Vingson @ Shirley Vingson Demaisip to pay the balance of the docket and other legal fees within 10 days from receipt of this Resolution.

SO ORDERED.


ROBERTO A. ABAD
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

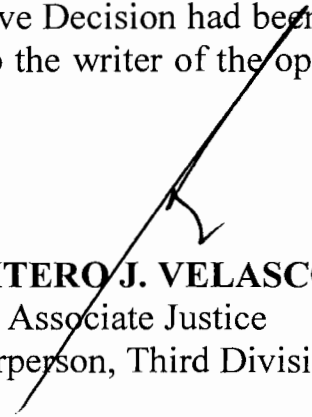

DIOSDADO M. PERALTA
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

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


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice