Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROSA NIA D. SANTOS,*
Petitioner,

-versus-

REPUBLIC OF THE PHILIPPINES,
Respondent.

G.R. No. 268643

Present:

LEONEN, *SAJ., Chairperson,*
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

JUN 10 2024

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DECISION

LOPEZ, J., *J.*:

Guardianship is a trust relation of the most sacred character and is designed to further the development and well-being of the ward.[1] In this light, the selection of the guardian must suit this very purpose. Hence, in considering the qualifications of the prospective guardian, the State must take into account the totality of the facts and the circumstances peculiar in each case, in paramount consideration to the best interest of the child.

This Court resolves a Petition for Review on *Certiorari*[2] assailing the Decision[3] of the Court of Appeals (CA), which affirmed the Decision[4] of the

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* Also referred to as "Rosa Nia Santos-Galman" and "Rosa Nia Galman" in some parts of the *rollo*.

1 *Francisco v. CA*, 212 Phil. 346, 352 (1984) [Per J. Guerrero, Second Division].

2 *Rollo*, pp. 9–36.

3 *Id.* at 37–47. The July 20, 2023 Decision in CA-G.R. CV No. 115917 was penned by Associate Justice Ramon M. Bato, Jr. and concurred in by Associate Justices Ronaldo Roberto B. Martin and Alfonso C. Ruiz II of the Fourth Division, Court of Appeals, Manila.

4 *Id.* at 48–54. The January 14, 2020 Decision in Spec. Proc. No. R-MND-17-04300-SP was penned by Presiding Judge Anthony B. Fama of Branch 277, Regional Trial Court, Mandaluyong City.

Regional Trial Court (RTC) denying the Petition[5] for guardianship of Rosa Nia D. Santos (Rosa) over the person of minor Juliana Rose A. Oscaris (Juliana).

The Antecedents

On December 8, 2017, Rosa filed a Petition for guardianship with the RTC, docketed as Spec. Proc. No. R-MND-17-04300-SP, praying for her appointment as guardian of Juliana. At the time the Petition was filed, Juliana was 9 years old.[6]

In the Petition, Rosa averred that Juliana was her niece from her sister, Jemyleen Rose Agustin (Jemyleen), who gave birth to Juliana on September 17, 2008 at the Perpetual Succor Hospital Maternity, Inc., Sampaloc, Manila.[7] The following day, on September 18, 2008, Jemyleen passed away due to cardiopulmonary arrest.[8]

After the burial of Jemyleen, Rosa and her mother, Rosalinda Danao (Rosalinda), mutually agreed to take full responsibility in raising Juliana. From her birth until the present, Juliana lived with her aunt and grandmother at their home in 746 Ballesteros Street, Mandaluyong City.[9] This arrangement was fully supported by Juliana's father, Julius Oscaris (Julius), who, at the time, was unemployed and was unable to provide financial support to his daughter.[10]

Rosa would often bring Juliana to Julius's house for them to have a close relationship. Conversely, Julius neither initiated any visits with his daughter nor maintained constant communication with her. He also did not reach out to Rosa, except on certain occasions when he would seek financial help.[11]

On the other hand, Rosa financially supported Rosalinda and Juliana as the breadwinner of their family. Aside from Juliana's everyday needs, Rosa paid for her schooling. Due to symptoms of attention deficit hyperactivity disorder (ADHD), which was diagnosed when Juliana was 2 years old, Rosa also had to shoulder her therapy sessions, which continued until she was 5 years old.[12]

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5 *Id.* at 55–63.
6 *Id.* at 55.
7 *Id.* at 65.
8 *Id.* at 66.
9 *Id.* at 56.
10 *Id.*
11 *Id.*
12 *Id.* at 57.

Rosa further attested that on May 1, 2017, she married Jeremy Galman (Jeremy), a solicitor based in London. After their wedding, they relocated to the United Kingdom. Notwithstanding her change in status and residence, Rosa asserted that Jeremy had encouraged her to file the Petition. Aside from being fully supportive of her decision to stand as guardian, Jeremy also intended to assist his wife to raise and care for Juliana.[13] Rosa claimed that more than her financial support, Juliana considered her as her mother. Further, she maintained that she was in full civil capacity and legal rights and that she was never convicted of any crime involving moral turpitude.[14]

On January 14, 2020, the RTC issued a Decision[15] denying the Petition. Given that Rosa was now residing in the United Kingdom since her marriage to Jeremy, the RTC concluded that she would be unable to exercise actual custody and personally care for Juliana. Significantly, the RTC invoked the doctrine in *Vancil v. Belmes*[16] in denying her guardianship. In that case, this Court instructed that "courts should not appoint persons as guardians who are not within the jurisdiction of our courts for they will find it difficult to protect the wards."[17]

On appeal, the CA affirmed[18] the RTC Decision. Consistent with A.M. No. 03-02-05-SC,[19] the CA concluded that Rosa was not available to render proper care to Juliana for the full period of guardianship due to her living arrangement. As such, it would be more likely that Rosa would delegate her duties and responsibilities to another person while she was away. Finally, the CA ruled that the proscription in *Vancil* was unequivocal, there being no exception to the rule that the appointment of guardians who are not within the jurisdiction of the Philippines is prohibited.[20] Ultimately, the CA decreed:

> ***WHEREFORE,*** the instant appeal is ***DENIED*** for lack of merit. The Decision dated January 14, 2020 issued by the Regional Trial Court of Mandaluyong City, Branch 277, denying the petition in Spec. Proc. No. R-MND-17-04300-SP (In the Matter of the Guardianship of the Minor Juliana Rose A. Oscaris, Rosa Nia D. Santos as petitioner), is ***AFFIRMED.***
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> ***SO ORDERED.***[21] (Emphasis in the original)

Hence, Rosa filed the instant Petition.

Rosa contends that the denial of her Petition for guardianship is detrimental to the best interests of Juliana. She emphasizes that aside from her

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13 *Id.* at 60.
14 *Id.* at 58–59.
15 *Id.* at 48–54.
16 411 Phil. 359 (2001) [Per J. Sandoval-Gutierrez, Third Division].
17 *Id.* at 367.
18 *Rollo*, pp. 37–47.
19 Rule on Guardianship of Minors (2003), sec. 5.
20 *Rollo*, p. 45.
21 *Id.* at 46.

stable financial standing, she continued to exercise *de facto* parental authority over Juliana from her birth up to the present, showering her with unconditional love, care, attention, and stability, just like any good parent.[22]

Rosa asserts that apart from her, there is no other person qualified or was willing to be appointed as Juliana's legal guardian. To be specific, she further avers that Julius never assumed his parental role, and was in fact supportive of Rosa's guardianship. Similarly, Rosalinda was not in any position to become Juliana's legal guardian given her advanced age.[23]

Finally, Rosa argues that the doctrine laid down in *Vancil* is inapplicable, as the petitioner seeking guardianship in that case was a citizen and resident of another country and had never exercised actual custody over the subject minor. Here, Rosa exercised, and had continued to exercise, parental authority over Juliana, and had retained her Filipino citizenship, which afforded her the convenience to travel back and forth for Juliana.[24]

In lieu of a Comment, the Office of the Solicitor General (OSG) manifested that the arguments it raised in its Manifestation before the CA be adopted.[25]

In essence, the OSG theorized that the evidence on record fully supports Rosa's readiness and capability in becoming a guardian to Juliana. Foremost, their physical separation, though undeniable, would not pose as an issue, given that Rosa had always maintained constant communication with Juliana. During the time that she was unable to return to the Philippines, Rosa even brought Juliana and Rosalinda to spend some months with her in the United Kingdom.[26]

Agreeing with Rosa, the OSG also argued that the facts of the present case did not merit the application of *Vancil.* Unlike the facts in *Vancil*, Rosa remains to be a citizen of the Philippines and had no trouble in travelling regularly just to exercise her duties as guardian. Also dissimilar to *Vancil*, there was no opposition in the appointment of Rosa as Juliana's guardian.[27]

Issue

Whether the CA erred in affirming the RTC Decision denying the Petition for guardianship in favor of petitioner Rosa Nia D. Santos.

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22 *Id.* at 21.
23 *Id.* at 29.
24 *Id.* at 27–28.
25 *Id.* at 388.
26 *Id.* at 401.
27 *Id.* at 402–403.

This Court's Ruling

The Petition is meritorious.

Before proceeding to the merits of the instant case, this Court finds it necessary to emphasize that a petition for review on *certiorari* under Rule 45 of the Rules of Court, as in this case, is limited to resolving only questions of law and not of fact. As established in *First Nationwide Assurance Corp. v. Court of Appeals*,[28] "[a]s a rule, factual issues may not be raised in a petition for review under Rule 45 of the Rules of Court. Hence, this Court is not duty-bound to analyze and weigh all over again the evidence already considered in the proceedings below."[29]

Here, petitioner essentially implores this Court to determine her fitness to serve as Juliana's guardian. Suffice it to state, the issue raised is a factual question as it necessitates the re-examination of the evidence already passed upon by the courts below. As a trier of law and not of fact, this duty is manifestly beyond this Court's jurisdiction.

At any rate, factual findings may be passed upon and reviewed by this Court when the judgment is based on a misapprehension of facts, or in instances when the facts set forth in the petition are not disputed by respondents.[30] After an assiduous review of the records, such exceptions apply to the instant case, as will be discussed below. Accordingly, this Court is persuaded to revisit the factual circumstances and resolve the issue herein raised by petitioner.

On the merits, this Court finds that the RTC and the CA were manifestly mistaken in withholding guardianship rights from Rosa.

To begin with, no less than the 1987 Constitution enjoins the State to defend "[t]he right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation, and other conditions prejudicial to their development."[31]

To ensure that this sacrosanct constitutional duty is fulfilled, parents, as natural guardians of their unemancipated children, are vested with parental authority and are thus bound to keep them in their custody and company. "[T]here is no power, but a task; no complex of rights, but a sum of duties; no sovereignty but a sacred trust for the welfare of the minor."[32] This Court, in

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28 376 Phil. 701 (1999) [Per J. Panganiban, Third Division].
29 *Id.* at 709–710. (Citation omitted)
30 *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990) [Per J. Bidin, Third Division].
31 CONST., art. XV, sec. 3(2).
32 *Santos v. CA*, 312 Phil. 482, 487–488 (1995) [Per J. Romero, Third Division]. (Citation omitted)

Santos v. CA,[33] defined parental authority as "a mass of rights and obligations[,] which the law grants to parents for the purpose of the children's physical preservation and development, as well as the cultivation of their intellect and the education of their heart and senses."[34]

This right of parents to exercise parental authority is both an inherent and inalienable right. Nevertheless, this Court is not unmindful of instances where such responsibility may be transferred or renounced.[35] Thus, the State will not disturb the parent-child relationship, except only for the strongest reasons as provided by law. After all, the welfare and development of minor children must at all times be preserved, and should not be made dependent on the personal circumstances of the parents.

Towards this end, the law allows other persons aside from the biological parents to exercise parental authority. In default of parents, a guardian is "one who exercises parental authority over a child."[36] Even prior to the passage of the Family Code, the law has since placed a premium on the role of the guardians. Under the now repealed Article 351 of the Civil Code, "[a] general guardian or a guardian over the person [of the ward] shall have the same authority over the ward's person as the parents." In the same breath, Article 313 further affirms that guardianship has long been recognized as one of the admitted exceptions to the general rule that parental authority cannot be renounced or transferred, so long as it has been approved by the courts.

In *Francisco v. CA*,[37] this Court laid down a definition of guardianship, while underscoring the consequential nature of a guardian's role over their ward, thus:

> A guardianship is a trust relation of the most sacred character, in which one person, called a "guardian" acts for another called the "ward" whom the law regards as incapable of managing his own affairs. A guardianship is designed to further the ward's well-being, not that of the guardian. It is intended to preserve the ward's property, as well as to render any assistance that the ward may personally require. It has been stated that while custody involves immediate care and control, guardianship indicates not only those responsibilities, but those of one in *loco parentis* as well.
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> A guardian is or becomes incompetent to serve the trust if [they are] so disqualified by mental incapacity, conviction of crime, moral delinquency[,] or physical disability as to be prevented from properly discharging the duties of his office. A guardian, once appointed may be removed in case [they become] insane or otherwise incapable of discharging

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33 *Id.*
34 *Id.* at 487.
35 *Id.* at 488.
36 *People v. Miranda*, G.R. No. 261970, June 14, 2023 [Per J. Singh, Third Division] at 14. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.
37 212 Phil. 346 (1984) [Per J. Guerrero, Second Division].

> [their] trust or unsuitable therefor, or has wasted or mismanaged the estate, or failed for thirty (30) days after it is due to render an account or make a return.[38] (Citations omitted)

The delicate task of appointing prospective guardians falls in the hands of the courts. Also in *Francisco*, this Court illumined that in making an informed decision in selecting a guardian, the court must consider several factors as follows:

> [T]he financial situation, the physical condition, the sound judgment, prudence and trustworthiness, the morals, character and conduct, and the present and past history of a prospective appointee, as well as the probability of his being able to exercise the powers and duties of guardian for the full period during which guardianship will be necessary.[39]

In 2003, A.M. No. 03-02-05-SC, or the Rule on Guardianship of Minors, was implemented, echoing the factors set in *Francisco*. Section 5 of the Rule directs courts to consider the following qualifications:

> (a) moral character;
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> (b) physical, mental[,] and psychological condition;
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> (c) financial status;
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> (d) relationship of trust with the minor;
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> (e) availability to exercise the powers and duties of a guardian for the full period of the guardianship;
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> (f) lack of conflict of interest with the minor; and
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> (g) ability to manage the property of the minor.[40]

It must be added posthaste that these qualifications are by no means exhaustive. Still and all, this Court must uphold the best interests of the child in selecting the prospective guardian. Never has this Court deviated from this criterion in cases concerning the care, custody, and control of a child.

To be sure, the "best interests of the child" is an indelible principle pervading Philippine jurisprudence involving adoption, support, personal status, minors in conflict with the law, child custody, and guardianship.[41] The principle finds its mooring on the United Nations Convention on the Rights of the Child (Convention), a treaty, which the Philippines signed on January 26, 1990 and ratified on August 21, 1990. Pertinently, Article 3 of the Convention clearly mandates that "[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of

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38 *Id.* at 352–353.

39 *Id.*

40 Rule on Guardianship of Minors (2003), sec. 5.

41 *Pablo-Gualberto v. Gualberto V*, 500 Phil. 226, 249 (2005) [Per J. Panganiban, Third Division].

law, administrative authorities or legislative bodies, the best interests of the child shall be the primary consideration."[42] Thus, in *Espiritu v. CA*,[43] this Court stressed that in ascertaining the welfare and best interests of the child, courts must take into account "all relevant considerations."[44] Aside from the care and devotion expected from a guardian, factors such as "religious background, moral uprightness, home environment and time availability; as well as the children's emotional and educational needs"[45] were likewise considered by this Court in the past in deciding on a prospective guardian.

With these considerations, this Court finds that it is in the best interests of Juliana that petitioner be duly recognized and appointed as her legal guardian.

Foremost, it remains undisputed, even by the OSG, that petitioner is the only one capacitated to stand as Juliana's legal guardian.

While this Court does not denigrate the important role of Julius as Juliana's father, there exists compelling reasons showing that it would be to the detriment of Juliana to be placed under his care. To recapitulate, while it is recognized that parental authority is an inherent natural right supported by both law and sound public policy, the law still allows a waiver of such an authority "in cases of adoption, guardianship, and surrender to a children's home or an orphan institution."[46] To emphasize, "the best interest of the minor can override procedural rules and even the rights of parents to the custody of their children."[47]

As amply demonstrated by evidence, Julius had never extended any sort of financial support to Juliana.[48] Instead of caring for his daughter, knowing that she had only one parent, he instead chose to stay with his live-in partner in Tondo, Manila. Aside from the lack of material support, Julius was never present for Juliana.[49] Lamentably, he had practically abandoned her to the care and custody of petitioner. Worse, there was never an instance that Julius visited his daughter. He even failed to send her any cards or gifts during special occasions or milestones, from the time of her birth to the present. It bears mentioning that Julius himself expressed his consent to the Petition for guardianship, and had in fact signified his full support and trust to the

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42 Convention on the Rights of the Child, September 2, 1990, *available at* https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/crc.pdf (last accessed on June 21, 2024).

43 312 Phil. 431 (1995) [Per J. Melo, Third Division].

44 *Id.* at 438.

45 *Pablo-Gualberto v. Gualberto V*, 500 Phil. 226, 250 (2005) [Per J. Panganiban, Third Division].

46 *Santos v. CA*, 312 Phil. 482, 488 (1995) [Per J. Romero, Third Division].

47 *Luna v. IAC*, 221 Phil. 400, 408 (1985) [Per J. Concepcion, Jr., Second Division].

48 *Rollo*, p. 50.

49 *Id.* at 258.

appointment of petitioner as Juliana's legal guardian.[50] As plainly expressed in his *Salaysay*:[51]

> *4. Patuloy ako na sumasang-ayon sa nasabing* Petition. *Mag-isa na lamang akong namumuhay bilang wala akong mga magulang, asawa, mga kapatid, o iba pang anak. Meron lamang akong kinakasama sa kasalukuyan. Mas makakabuti kay Juliana na manatiling nasa poder ni Rosa Nia Santos na sya nang nagpalaki at patuloy na nagpalaki at nagaalaga sa kan*[y]*a.*[52]

In stark contrast, it was petitioner who financially supported both Rosalinda and Juliana from the latter's birth until the present. Aside from living with her aunt and grandmother in their residence, Juliana's schooling and her other needs were met by petitioner. When Juliana was 2 years old, petitioner shouldered her behavioral therapy sessions due to symptoms of ADHD. Rosa also shouldered Juliana's speech therapy until she was 5 years old. When Juliana was ready to go to school, petitioner paid for her tuition fee, tutorial sessions, books, school supplies, uniforms, bus service, and allowance. Aside from these, petitioner even allowed Juliana to take ballet, art, and Kumon classes, all at her expense.[53]

The witnesses of the prosecution likewise attest to petitioner's fitness as a guardian. Noticeably, the OSG did not contest such fact. This Court has always been consistent in ruling that "the duty to ascertain the competence and credibility lies with trial court . . . [a]bsent any compelling reason to justify the reversal of the evaluations and conclusions of the trial court, the reviewing court is generally bound by the former's findings."[54]

Rosalinda, as petitioner's mother and Juliana's grandmother, testified that ever since Jemyleen's passing, petitioner had stood as Juliana's mother. While Juliana was fully aware that her biological mother had passed away, she still acknowledged petitioner as her mother, while petitioner regarded Juliana as her own daughter. Notwithstanding her marriage to Jeremy and her transfer to London, Rosalinda affirmed that petitioner and Juliana's relationship never wavered, as Jeremy was even supportive of maintaining their bond.[55]

Dolores Manalili (Dolores), as Juliana's godmother, corroborated petitioner's fitness as a guardian, describing her as a "dependable, reliable, responsible, and [a] God-fearing person."[56] Having known petitioner since 2003, Dolores testified that petitioner had always put Juliana and Rosalinda first in making crucial decisions. Dolores further revealed that prior to

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50 *Id.* at 172.
51 *Id.* at 252.
52 *Id.*
53 *Id.* at 38.
54 *People v. An*, 612 Phil. 476, 485 (2009) [Per J. Peralta, Third Division].
55 *Rollo*, p. 67.
56 *Id.* at 71.

transferring abroad due to her marriage to Jeremy, petitioner was offered an opportunity to work and reside abroad. However, she declined the position, given that Juliana was only 6 years old.[57]

Godofredo Danao, petitioner's uncle, likewise added that no other person was more qualified to stand as Juliana's guardian other than petitioner, having assumed the role of her mother and guardian since she was born. He further adduced that aside from him and Rosalinda, who were of advanced age themselves, their other siblings, as Juliana's grandparents, had already passed away.[58]

In like manner, a perusal of the findings of the court social worker, Social Welfare Officer II Charineflor C. Serapion, further confirm the uncontroverted testimonies of the prosecution witnesses.[59] To further add weight to her findings, this Court observes that her information came from her personal interviews, not only with petitioner and Rosalinda, but also from Julius and Juliana herself.[60] This Court takes heed of the salient portions of the Social Case Study as follows:

> XII. CASE ASSESSMENT
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> This is the case of a [P]etition for guardianship wherein the minor child Juliana Rose A. Oscaris is under the loving care of her maternal grandmother and Aunt Rosa Nia. It was expressed that from the time Juliana's mother died after the child birth the herein petitioner and Rosalinda took care of Juliana up to the present. The biological father had expressed no capacity to provide the needs of the child since he has no permanent job.
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> . . . .
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> The petitioner Rosa Nia Galman possess[ed] good qualifications to be a legal guardian for Juliana. She has a good relationship to the child, a mother-daughter relationship. She is the sole provider for the child's needs: education, medical, spiritual[,] and moral needs. Though the fact that she is already married but still her priority would be for the best welfare of Juliana. Her husband is aware of the petition and with open heart he fully supports the petitioner. Petitioner is a law[-]abiding citizen as reflected on her PNP and NBI clearances and had found no derogatory records.
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> The three[-]character references as reflected on their "*Sinumpaang Salaysay*" attested petitioner as a kind and loving person. They also stated that Rosa Nia is a family[-]oriented person and how she strongly cared for Juliana as a mother and father to her. They attested that she treated Juliana as her own child. She is the only qualified guardian for Juliana.

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57 *Id.*
58 *Id.* at 175–176.
59 *Id.* at 256–263.
60 *Id.* at 257.

> The other prospective guardians mention[ed] above fully supports the petition as they believed that it would be the best interest and welfare for Juliana.
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> Generally, [the] minor child would be safeguarded if Rosa Nia, the petitioner takes over the role as the legal guardian. As observed, they have already established a strong mother-daughter relationship. Rosa Nia showed [her] concern to the minor child, she has no other intention but for her best welfare. She does not expect any in return but looking after Juliana's best future is her main priority.
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> To add, this petition would help the petitioner to have an easy transaction in concern to the minor child developmental activities like school matter e.g. when the teacher call[ed] the attention of the guardian or parents, she automatically show[ed] up as the child legal guardian. Since the biological father has no problem with regards to the petition, hence, this would be a great help for Juliana and Rosa Nia.
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> Lastly, the petition found with genuine intention [sic] and this would be for the best welfare and interest to the minor child.
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> XIII. RECOMMENDATION
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> In view of the above assessment and evaluation, the undersigned court social worker respectfully recommends unto this Honorable Court that the [P]etition for guardianship to the minor child, ***Juliana Rose A. Oscaris*** would redound for her best welfare and interest and corresponding letters of guardianship to petitioner ***Rosa Nia Galman*** is hereby recommended and be issued in her favor as the petitioner is qualified and fit with commendable social functioning.[61] (Emphasis in the original)

On another point, the instant case is not on all fours with the antecedents in *Vancil* and must be distinguished.

In *Vancil*, petitioner, a naturalized American citizen, filed a petition for guardianship over the persons and properties of minors Valerie and Vincent, her grandchildren from her deceased son. The RTC granted the petition and appointed petitioner as the guardian over the said minors. On appeal, the CA reversed the RTC Decision, holding that parents have a natural preference to their children, and that good reasons must exist for another person to be named as their guardian. Here, since the mother of the minors was still alive, and had in fact opposed the petition for guardianship, she necessarily enjoyed preferential right over petitioner. To break the *impasse*, this Court agreed with the CA that the mother of the minors possessed the legal right to their custody. More pertinently, this Court raised that given that petitioner was an American citizen and a resident of Colorado, she would be unable to perform her responsibilities as guardian.

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61 *Id.* at 261–262.

Finally, this Court invoked its earlier ruling in *Guerrero v. Teran*,[62] declaring that courts should not appoint persons as guardians outside of its jurisdiction, as this would prove difficult to protect the wards. This Court enunciated:

> There is nothing in the law which requires the courts to appoint residents only as administrators or guardians. However, notwithstanding the fact that there are no statutory requirements upon this question, the courts, charged with the responsibilities of protecting the estates of deceased persons, wards of the estate, etc., will find much difficulty in complying with this duty by appointing administrators and guardians who are not personally subject to their jurisdiction. Notwithstanding that there is no statutory requirement, the courts should not consent to the appointment of persons as administrators and guardians who are not personally subject to the jurisdiction of our courts here.[63]

In the instant case, the CA, concurring with the RTC, squarely applied the pronouncements in *Vancil* to deny guardianship rights to petitioner.

Nonetheless, there are relevant circumstances in the instant case affecting the qualification of the applicant-guardian, which differs from the circumstances in *Vancil*.

In *Vancil*, aside from being an American citizen and a resident of Colorado, USA, petitioner was never in the country to take care of her wards from the time she was appointed as guardian. The petitioner readily admitted the difficulty of discharging the duties of a guardian by an expatriate like her. Her old age and final conviction for libel in Cebu City further contributed to this Court's apprehension of her eventual return to the Philippines to assume her guardianship duties. It was for these reasons that this Court declared that "courts should not appoint guardians who are not within the jurisdiction of our courts for they will find it difficult to protect the wards."[64]

Markedly, petitioner in the instant case stands in stark contrast to the petitioner in *Vancil*.

In *Vancil*, petitioner's qualifications were assailed by respondent as the minors' biological mother. In the instant case, this Court harps that there was no opposition to petitioner's appointment as Juliana's guardian. To reiterate, Julius, Juliana's biological father, was in full support of the Petition for guardianship.[65] Jeremy was likewise behind petitioner in her bid to become Juliana's guardian. To show his full cognizance and support to petitioner's

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62 13 Phil. 212 (1909) [Per J. Johnson, *En Banc*].
63 *Id.* at 217.
64 *Vancil v. Belmes*, 411 Phil. 359, 367 (2001) [Per J. Sandoval-Gutierrez, Third Division].
65 *Rollo*, p. 252.

cause, he even accompanied her during the proceedings before the RTC.[66] Interestingly, from the proceedings in the CA to this Court, the OSG expressed the same view, manifesting that the trial court misappreciated the attendant facts of the case, as petitioner's financial standing and capacity more than proved that she was capable to provide support for Juliana's basic needs and education.[67]

Also dissimilar to *Vancil*, petitioner expressed no difficulty on her part to fulfill the needs of her niece. In particular, petitioner retained her Philippine citizenship while intentionally maintaining a spousal visa. Instead of applying for residency in the United Kingdom, which she could have easily done, this choice would allow petitioner the flexibility to fly back to the Philippines with ease to tend to Juliana's needs.[68]

More, petitioner's efforts in fostering close ties with Juliana cannot be ignored. Despite her relocation to the United Kingdom after her wedding, petitioner hurriedly returned to the Philippines to look after Juliana while applying for a spousal visa. During Juliana's summer vacation of the same year, petitioner brought her and Rosalinda to the United Kingdom for three months. While she planned to return to the Philippines on December of the same year, she unexpectedly became pregnant. With a desire not to be away from Juliana for too long, petitioner again shouldered Juliana and Rosalinda's trip to the United Kingdom.[69] During these intervals of separation, petitioner would conduct daily video calls with Juliana and had never failed to monitor her daily activities.[70]

Clearly, distance alone does not prove a guardian's competence or fitness. As proven by the facts, this was not the first time that petitioner was physically separated from Juliana. When petitioner's work relocated her to Bicol when Juliana was still an infant, she would drive all the way to Manila every weekend to personally take care of Juliana.[71]

With this context, petitioner's clear attachment to Juliana and her proven track record to fulfill Juliana's needs, whom she reared since birth, is undeniable. Thus, petitioner cannot be faulted for not being physically present in the country due to her pregnancy. This unforeseen, yet temporary situation is plainly insufficient to prove her unsuitability and to defeat her cause to be allowed guardianship over Juliana.

Indeed, it would be unjust to deprive petitioner of guardianship merely because of her temporary separation from Juliana. Again, the capacity of a

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66 TSN, Rosa Nia D. Santos, September 16, 2019, p. 9.
67 *Rollo*, pp. 394–407.
68 TSN, Rosa Nia D. Santos, September 16, 2019, pp. 5–6.
69 *Id.* at 11–12.
70 *Id.* at 12.
71 *Rollo*, p. 401.

guardian to perform their duties should not be measured solely on their physical distance, especially of a temporary nature, from the ward.

While A.M. No. 03-02-05-SC cites the "availability to exercise the powers and duties of a guardian for a full period of the guardianship"[72] as a factor in appointing a possible guardian, nowhere in the Rule was this construed to pertain to the guardian's continuous physical presence or proximity to the ward; to construe it as such would only serve to limit rather than support the Rule's assurances. The availability to exercise the powers and duties of a guardian must consider the totality of the actions of the guardian to the ward, especially the willingness and the condition and the status of the guardian to be able to exercise those powers and duties for the best interests of the child. The CA was therefore in error when it adjudged petitioner as incompetent based on residence and distance from the ward alone. Instead, it should have considered other factors to measure whether her appointment would be conducive to Juliana's proper moral development. Thus, what ultimately determines the fitness of a guardian is their ability to see to the physical, educational, social, and moral welfare of the ward, and to give the ward a healthy environment commensurate to their respective resources.

As borne by the records, petitioner fully met such standards. To hark back to this Court's earlier discussion, the best interests of the child will be the best criterion to determine her capacity. Given that the life and existence of the minor is at stake, this Court can do no less than to ensure that the noble and compassionate objective of this principle is sustained.

Verily, the grant of guardianship rights in petitioner's favor would operate to uphold rather than hamper Juliana's interests. Practicably, her appointment as guardian would dispel with the difficulties she encountered in raising Juliana, thus:

> [Petitioner] tried to open a bank account under Juliana's name, but she was not allowed to do so as she was not Juliana'[s] guardian. She was also not allowed to apply for Juliana's passport. She had to bring her mother Rosalinda who was already a senior citizen at that time in order to process said application. In travelling abroad with Juliana, [petitioner] also had to bring Rosalinda with them despite her old age[.][73] (Citation omitted)

As another error by the CA, the assailed Decision inaccurately inferred that Juliana would be best left under the care of Rosalinda. The CA reasoned that aside from exercising substitute parental authority over her granddaughter, she was physically present in the Philippines.[74]

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72 Rule on Guardianship of Minors (2003), sec. 5(e).
73 *Rollo*, p. 402.
74 *Id.* at 46.

Relevantly, Article 216 of the Family Code provides that only certain persons may exercise substitute parental authority in the absence, unsuitability, or in default of *first*, the parents, and *second*, a judicially appointed guardian, as in this case.[75] It may thus be deduced that the judicially appointed guardian enjoys preference over the grant of substitute parental authority. Article 216 reads:

> ARTICLE 216. In default of parents or a judicially appointed guardian, the following persons shall exercise substitute parental authority over the child in the order indicated:
>
> (1) The surviving grandparent, as provided in [Article] 214;
>
> (2) The oldest brother or sister, over twenty-one years of age, unless unfit or disqualified; and
>
> (3) The child's actual custodian, over twenty-one years of age, unless unfit or disqualified.
>
> Whenever the appointment of a judicial guardian over the property of the child becomes necessary, the same order of preference shall be observed.

As the predecessor of the Family Code, the Civil Code likewise recognized that guardians exercise substitute parental authority over the child while exercising supervision over his or her conduct:

> ARTICLE 349. The following persons shall exercise substitute parental authority:
>
> (1) Guardians;
>
> (2) Teachers and professors;
>
> (3) Heads of children's homes, orphanages, and similar institutions;
>
> (4) Directors of trade establishments, with regard to apprentices;
>
> (4) Grandparents;
>
> (5) The oldest brother or sister.
>
> ARTICLE 350. The persons named in the preceding article shall exercise reasonable supervision over the conduct of the child.

On this score, this Court subscribes to the disquisitions of the OSG in insisting that the judicially appointed guardian must be favored over the rights of persons exercising substitute parental authority:

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75 *Bagtas v. Hon. Judge Santos*, 621 Phil. 94, 105 (2009) [Per J. Carpio, Second Division].

> 4. Arguably, such preference takes its roots from the fact that a petition to apply as a guardian is voluntary while substitute parental authority is under the compulsion of law. This element of volition in guardianship – which is lacking in substitute parental authority – gives rise to a valid expectation that the guardian is whole-heartedly willing and able to take care of the ward. In this context, the judicial appointment of a competent guardian, when applied for, must be favored over the imposition of substitute parental authority upon the persons stated in Article 216 of the Family Code.[76]

Given that petitioner has convincingly proven her capacity to serve as Juliana's guardian, no reason would therefore arise for Rosalinda to assume substitute parental authority. In any event, this Court cautions that should petitioner renege from her guardianship duties, she may be abdicated from her position when she fails to perform her functions or her appointment is no longer necessary. Sections 24 and 25 of A.M. No. 03-02-05-SC state:

> SECTION 24. *Grounds for Removal or Resignation of Guardian.* — When a guardian becomes insane or otherwise incapable of discharging his trust or is found thereafter to be unsuitable, or has wasted or mismanaged the property of the ward, or has failed to render an account or make a return for thirty days after it is due, the court may, upon reasonable notice to the guardian, remove him as such and require him to surrender the property of the ward to the person found to be lawfully entitled thereto.
>
> The court may allow the guardian to resign for justifiable causes.
>
> Upon the removal or resignation of the guardian, the court shall appoint a new one.
>
> No motion for removal or resignation shall be granted unless the guardian has submitted the proper accounting of the property of the ward and the court has approved the same.
>
> SECTION 25. *Ground for Termination of Guardianship.* — The court *motu proprio* or upon verified motion of any person allowed to file a petition for guardianship may terminate the guardianship on the ground that the ward has come of age or has died. The guardian shall notify the court of such fact within ten days of its occurrence. (Emphasis in the original)

Until then, this Court finds no error to allow petitioner to forge a guardianship relationship with Juliana, who she had loved and regarded as her own.

All told, this Court finds that the CA erred in affirming the RTC Decision. Inasmuch as the primary objective for the institution of guardianship is for the protection of the ward, there is more than sufficient reason for the appointment of petitioner as Juliana's guardian. To do otherwise

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[76] *Rollo*, p. 396.

would go against the best interests of the child, which this Court has always envisioned to uphold.

ACCORDINGLY, the instant Petition is **GRANTED.** The July 20, 2023 Decision of the Court of Appeals in CA-G.R. CV No. 115917 is **REVERSED**. The custody and care of the minor Juliana Rose A. Oscaris is granted to petitioner Rosa Nia D. Santos. The Regional Trial Court, Branch 277 of Mandaluyong City is **ORDERED** to issue the corresponding letters of guardianship in her favor.

SO ORDERED.

JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
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.

MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ALEXANDER G. GESMUNDO
Chief Justice