



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

ANITA MANGILA,
Petitioner,

G.R. No. 160739

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR, and
REYES, JJ.

**JUDGE HERIBERTO M.
PANGILINAN, ASST. CITY
PROSECUTOR II LUCIA JUDY
SOLINAP, and NATIONAL
BUREAU OF INVESTIGATION
(DIRECTOR REYNALDO
WYCOCO),**

Promulgated:

JUL 17 2013

Respondents.

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DECISION

BERSAMIN, J.:

Restraint that is lawful and pursuant to a court process cannot be inquired into through *habeas corpus*.

Antecedents

On June 16, 2003, seven criminal complaints charging petitioner Anita Mangila and four others with syndicated *estafa* in violation of Article 315 of the *Revised Penal Code*, in relation to Presidential Decree No. 1689, and with violations of Section 7(b) of Republic Act No. 8042 (*Migrant Workers and Overseas Filipino Act of 1995*) were filed in the Municipal Trial Court in Cities in Puerto Princesa City (MTCC), docketed as Criminal Cases No. 16916 to No. 16922. The complaints arose from the recruiting and promising of employment by Mangila and the others to the private complainants as overseas contract workers in Toronto, Canada, and from the collection of visa processing fees, membership fees and on-line application

the private complainants without lawful authority from the Philippine Overseas Employment Administration (POEA).¹

On the following day, June 17, 2003, Judge Heriberto M. Pangilinan, Presiding Judge of the MTCC, conducted a preliminary investigation on the complaints. After examining Miguel Aaron Palayon, one of the complainants, Judge Pangilinan issued a warrant for the arrest of Mangila and her cohorts without bail.² On the next day, the entire records of the cases, including the warrant of arrest, were transmitted to the City Prosecutor of Puerto Princesa City for further proceedings and appropriate action in accordance with the prevailing rules.³

As a consequence, Mangila was arrested on June 18, 2003 and detained at the headquarters on Taft Avenue, Manila of the National Bureau of Investigation (NBI).⁴

Claiming that Judge Pangilinan did not have the authority to conduct the preliminary investigation; that the preliminary investigation he conducted was not yet completed when he issued the warrant of arrest; and that the issuance of the warrant of arrest was without sufficient justification or without a prior finding of probable cause, Mangila filed in the Court of Appeals (CA) a petition for *habeas corpus* to obtain her release from detention. Her petition averred that the remedy of *habeas corpus* was available to her because she could no longer file a motion to quash or a motion to recall the warrant of arrest considering that Judge Pangilinan had already forwarded the entire records of the case to the City Prosecutor who had no authority to lift or recall the warrant.⁵

In its resolution promulgated on October 14, 2003,⁶ the CA denied the petition for *habeas corpus* for its lack of merit, explaining:

As a general rule, a writ of *habeas corpus* will not be granted where relief may be had or could have been procured by resort to another general remedy. As pointed out in *Luna vs. Plaza*, if petitioner is detained by virtue of a warrant of arrest, which is allegedly invalid, the remedy available to her is not a petition for *habeas corpus* but a petition to quash the warrant of arrest or a petition for a reinvestigation of the case by the Municipal Judge or by the Provincial Fiscal.

¹ *Rollo*, p. 5.

² *Id.* at 6.

³ *CA rollo*, p. 21.

⁴ *Rollo*, pp. 7 and 46.

⁵ *CA rollo*, pp. 2-11.

⁶ *Rollo*, pp. 16-17; penned by Associate Justice Marina L. Buzon (retired), and concurred in by Associate Justice Sergio L. Pestaño (retired/deceased) and Associate Justice Jose C. Mendoza (now a Member of this Court).

Section 5, Rule 112 of the Revised Rules of Criminal Procedure provides that the Municipal Judge who conducted the preliminary investigation shall transmit his resolution, together with the record of the case, including the warrant of arrest, to the Provincial Prosecutor, who shall review the same and order the release of an accused who is detained if no probable cause is found against him. Thus, the proper remedy available to petitioner is for her to file with the Provincial Prosecutor a motion to be released from detention on the grounds alleged in the instant petition.

WHEREFORE, the petition for *habeas corpus* is **DENIED** for lack of merit.

SO ORDERED.⁷

Mangila moved for the reconsideration of the denial of her petition for *habeas corpus*,⁸ but the CA denied the motion on November 19, 2003.⁹

Hence, this appeal *via* petition for review on *certiorari*.

Issue

Did the CA err in ruling that *habeas corpus* was not the proper remedy to obtain the release of Mangila from detention?

Ruling of the Court

The petition for review lacks merit.

The high prerogative writ of *habeas corpus* has been devised as a speedy and effective remedy to relieve persons from *unlawful* restraint. In *Caballes v. Court of Appeals*,¹⁰ the Court discoursed on the nature of the special proceeding of *habeas corpus* in the following manner:

A petition for the issuance of a writ of *habeas corpus* is a special proceeding governed by Rule 102 of the Rules of Court, as amended. In *Ex Parte Billings*, it was held that *habeas corpus* is that of a civil proceeding in character. It seeks the enforcement of civil rights. Resorting to the writ is not to inquire into the criminal act of which the complaint is made, but into the right of liberty, notwithstanding the act and the

⁷ Id. at 17.

⁸ CA rollo, pp. 43-48.

⁹ Rollo, pp. 20-22.

¹⁰ G.R. No. 163108, February 23, 2005, 452 SCRA 312.

immediate purpose to be served is relief from illegal restraint. The rule applies even when instituted to arrest a criminal prosecution and secure freedom. When a prisoner petitions for a writ of *habeas corpus*, he thereby commences a suit and prosecutes a case in that court.

Habeas corpus is not in the nature of a writ of error; nor intended as substitute for the trial court's function. It cannot take the place of appeal, *certiorari* or writ of error. The writ cannot be used to investigate and consider questions of error that might be raised relating to procedure or on the merits. **The inquiry in a *habeas corpus* proceeding is addressed to the question of whether the proceedings and the assailed order are, for any reason, null and void. The writ is not ordinarily granted where the law provides for other remedies in the regular course, and in the absence of exceptional circumstances. Moreover, *habeas corpus* should not be granted in advance of trial. The orderly course of trial must be pursued and the usual remedies exhausted before resorting to the writ where exceptional circumstances are extant. In another case, it was held that *habeas corpus* cannot be issued as a writ of error or as a means of reviewing errors of law and irregularities not involving the questions of jurisdiction occurring during the course of the trial, subject to the caveat that constitutional safeguards of human life and liberty must be preserved, and not destroyed. It has also been held that where restraint is under legal process, mere errors and irregularities, which do not render the proceedings void, are not grounds for relief by *habeas corpus* because in such cases, the restraint is not illegal.**

Habeas corpus is a summary remedy. It is analogous to a proceeding *in rem* when instituted for the sole purpose of having the person of restraint presented before the judge in order that the cause of his detention may be inquired into and his statements final. The writ of *habeas corpus* does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be the unlawful authority. Hence, the only parties before the court are the petitioner (prisoner) and the person holding the petitioner in custody, and the only question to be resolved is whether the custodian has authority to deprive the petitioner of his liberty. The writ may be denied if the petitioner fails to show facts that he is entitled thereto *ex merito justicias*.

A writ of *habeas corpus*, which is regarded as a “palladium of liberty,” is a prerogative writ which does not issue as a matter of right but in the sound discretion of the court or judge. It is, however, a writ of right on proper formalities being made by proof. Resort to the writ is not to inquire into the criminal act of which a complaint is made but unto the right of liberty, notwithstanding the act, and the immediate purpose to be served is relief from illegal restraint. The primary, if not the only object of the writ of *habeas corpus ad subjucendum*, is to determine the legality of the restraint under which a person is held.¹¹ (Bold underscoring supplied for emphasis)

The object of the writ of *habeas corpus* is to inquire into the legality of the detention, and, if the detention is found to be illegal, to require the

¹¹ Id. at pp. 324-326.

release of the detainee. Equally well-settled however, is that the writ will not issue where the person in whose behalf the writ is sought is out on bail, or is in the custody of an officer under process issued by a court or judge with jurisdiction or by virtue of a judgment or order of a court of record.¹²

There is no question that when the criminal complaints were lodged against Mangila and her cohorts on June 16, 2003, Judge Pangilinan, as the Presiding Judge of the MTCC, was empowered to conduct preliminary investigations involving “all crimes cognizable by the proper court in their respective territorial jurisdictions.” His authority was expressly provided in Section 2, Rule 112 of the *Revised Rules of Criminal Procedure*, to wit:

Section 2. *Officers authorized to conduct preliminary investigations.*

– The following may conduct preliminary investigations:

(a) Provincial or City Prosecutors and their assistants;

(b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;

(c) National and Regional State Prosecutors; and

(d) Other officers as may be authorized by law.

Their authority to conduct preliminary investigations shall include all crimes cognizable by the proper court in their respective territorial jurisdictions. (2a)

Under Section 6(b) of Rule 112 of the *Revised Rules of Criminal Procedure*, the investigating judge could issue a warrant of arrest during the preliminary investigation even without awaiting its conclusion should he find after an examination in writing and under oath of the complainant and the witnesses in the form of searching questions and answers that a probable cause existed, and that there was a necessity of placing the respondent under immediate custody in order not to frustrate the ends of justice. In the context of this rule, Judge Pangilinan issued the warrant of arrest against Mangila and her cohorts. Consequently, the CA properly denied Mangila’s petition for *habeas corpus* because she had been arrested and detained by virtue of the warrant issued for her arrest by Judge Pangilinan, a judicial officer undeniably possessing the legal authority to do so.

It is relevant to point out at this juncture that the authority of the MTC and MTCC judges to conduct preliminary investigations was removed only effective on October 3, 2005 pursuant to A.M. No. 05-8-26-SC.

¹² *In Re: Azucena L. Garcia*, G.R. No. 141443, August 30, 2000, 339 SCRA 292, 301.

With Mangila's arrest and ensuing detention being by virtue of the order lawfully issued by Judge Pangilinan, the writ of *habeas corpus* was not an appropriate remedy to relieve her from the restraint on her liberty. This is because the restraint, being lawful and pursuant to a court process, could not be inquired into through *habeas corpus*. To quote the dictum enunciated by Justice Malcolm in *Quintos v. Director of Prisons*:¹³

The writ of *habeas corpus* secures to a prisoner the right to have the cause of his detention examined and determined by a court of justice, and to have ascertained if he is held under lawful authority. **The function of *habeas corpus*, where the party who has appealed to its aid is in custody under process, does not extend beyond an inquiry into the jurisdiction of the court by which it was issued and the validity of the process upon its face. It is not a writ of error.** xxx (Bold underscoring supplied for emphasis)

Accordingly, Section 4, Rule 102 of the *Rules of Court* explicitly states:

Section 4. *When writ not allowed or discharge authorized.* — **If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order.** Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment. (Bold underscoring supplied for emphasis)

Still, Mangila harps on the procedural flaws supposedly committed by Judge Pangilinan in her attempt to convince the Court on her entitlement to the issuance of the writ of *habeas corpus*. She insists that the illegality and invalidity of the warrant of arrest because of its having been issued without an exhaustive examination of the complainants and the witnesses in writing and under oath; without a prior finding of probable cause; and without consideration of the necessity for its issuance in order not to frustrate the ends of justice were enough reasons for granting the writ of *habeas corpus*.¹⁴

Mangila fails to persuade.

To begin with, Judge Pangilinan issued the order of arrest after examining Palayon, one of the complainants against Mangila and her cohorts.

¹³ 55 Phil. 304, 306 (1930).

¹⁴ *Rollo*, pp. 7-9.

If he, as the investigating judge, considered Palayon's evidence sufficient for finding probable cause against her and her cohorts, which finding the Court justifiably presumes from his act of referring the case and its records to the Office of the City Prosecutor on the day immediately following the preliminary investigation he conducted, her petition for *habeas corpus* could not be the proper remedy by which she could assail the adequacy of the adverse finding. Even granting that there was a failure to adhere to the law or rule, such failure would not be the equivalent of a violation of her constitutional rights.¹⁵

Secondly, it was not procedurally correct for her to impugn the issuance of the warrant of arrest by hinting that the investigating judge did not at all consider the necessity of determining the existence of probable cause for its issuance due to time constraints and in order not to frustrate the ends of justice, for that consideration was presumed.

And, lastly, it was clear that under Section 5,¹⁶ Rule 112 of the *Revised Rules of Criminal Procedure*, the resolution of the investigating judge was not final but was still subject to the review by the public prosecutor who had the power to order the release of the detainee if no probable cause should be ultimately found against her. In the context of the rule, Mangila had no need to seek the issuance of the writ of *habeas corpus* to secure her release from detention. Her proper recourse was to bring the supposed irregularities attending the conduct of the preliminary investigation and the issuance of the warrant for her arrest to the attention of the City Prosecutor, who had been meanwhile given the most direct access to the entire records of the case, including the warrant of arrest, following Judge Pangilinan's transmittal of them to the City Prosecutor for appropriate action.¹⁷ We agree with the CA, therefore, that the writ of *habeas corpus* could not be used as a substitute for another available remedy.¹⁸

¹⁵ 39 Am. Jur. 2d; *Habeas Corpus*, § 45.

¹⁶ Section 5. *Resolution of investigating judge and its review.* — Within ten (10) days after the preliminary investigation, the investigating judge shall transmit the resolution of the case to the provincial or city prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the *Sandiganbayan* in the exercise of its original jurisdiction, for appropriate action. The resolution shall state the findings of facts and the law supporting his action, together with the record of the case which shall include: (a) the warrant, if the arrest is by virtue of a warrant; (b) the affidavits, counter-affidavits and other supporting evidence of the parties; (c) the undertaking or bail of the accused and the order for his release; (d) the transcripts of the proceedings during the preliminary investigation; and (e) the order of cancellation of his bail bond, if the resolution is for the dismissal of the complaint.

Within thirty (30) days from receipt of the records, the provincial or city prosecutor, or the Ombudsman or his deputy, as the case may be, shall review the resolution of the investigating judge on the existence of probable cause. Their ruling shall expressly and clearly state the facts and the law on which it is based and the parties shall be furnished with copies thereof. They shall order the release of an accused who is detained if no probable cause is found against him.

¹⁷ CA rollo, p. 21.

¹⁸ *In re: The Writ of Habeas Corpus for Reynaldo De Villa*, G.R. No. 158802, November 17, 2004, 442 SCRA 706, 721.

WHEREFORE, the Court **AFFIRMS** the resolutions promulgated on October 14, 2003 and November 19, 2003 in C.A.-G.R. SP No. 79745; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.




LUCAS P. BERSAMIN
Associate Justice


WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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