



Republic of the Philippines
Supreme Court
Manila

EN BANC

Spouses **NERIO and SOLEDAD
PADOR and REY PADOR,**

Petitioners,

G. R. No. 183460

Present:

- versus -

Barangay **Captain BERNABE
ARCAYAN, *Barangay Tanod* CHIEF
ROMEO PADOR, *Barangay Tanods*
ALBERTO ALIVIO, CARMELO
REVALES, ROBERTO ALIMORIN,
WINELO ARCAYAN,
CHRISTOPHER ALIVIO &
BIENVENIDO ARCAYAN, all of
Barangay Tabunan, Cebu City,
Respondents.**

SERENO, *CJ*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,*
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, *JJ*.

Promulgated:

March 12, 2013

X ----- X

DECISION

SERENO, *CJ*:

This Petition for Review on Certiorari¹ assails the Resolution² of the Regional Trial Court (RTC), Branch 17, Cebu City, in Spec. Proc. No. 16061-CEB. The RTC Resolution denied the Petition for a Writ of *Amparo* filed by petitioner-spouses Nerio and Soledad Pador and Rey Pador against respondents – *Barangay* Captain Bernabe Arcayan, *Barangay Tanod* Chief Romeo Pador, and *Barangay Tanods* Alberto Alivio, Carmelo Revales, Roberto Alimorin, Wineo Arcayan, Christopher Alivio and Bienvenido Arcayan.

* On official leave.

¹ *Rollo*, pp. 12-56; Verified Petition for Review on Certiorari dated 16 July 2008.

² *Id.* at 57-59; Resolution dated 3 July 2008, penned by Judge Silvestre A. Maamo, Jr.

On 22 March 2008, petitioners filed with the RTC a Verified Petition for the Issuance of a Writ of *Amparo*.³

Petitioners alleged that in February 2008, rumors circulated that petitioner Nerio Pador was a *marijuana* planter in *Barangay* Tabunan, Cebu City.⁴ On 17 March 2008, respondents Alberto Alivio, Carmelo Revalles and Roberto Alimorin raided their *ampalaya* farm to search for *marijuana* plants, but found none.⁵ After the raid, petitioners Nerio and Rey Pador received invitation letters for a conference from respondent *Barangay* Captain Arcayan.⁶ They referred the invitation letters to their counsel, who advised them not to attend and, instead, send a letter-reply to *Barangay* Captain Arcayan. When the latter received the letter-reply, he allegedly read its contents, got one copy, and refused to sign a receipt of the document.⁷ Petitioners then concluded that the conduct of the raid, the sending of the invitation letters, the refusal of respondent *barangay* captain to receive their letter-reply – as well as the possibility of more harassment cases, false accusations, and possible violence from respondents – gravely threatened their right to life, liberty and security and necessitated the issuance of a writ of *amparo*.⁸

After examining the contents of the petition and the affidavits attached to it, the RTC issued the Writ and directed respondents to make a verified return.⁹

In compliance with the RTC's directive, respondents filed their Verified Return and/or Comment.¹⁰ In their counter-statement of facts, they alleged that on 16 March 2008, respondent Winelo Arcayan received a report regarding the alleged existence of a *marijuana* plantation in a place called *Sitio* Gining in *Barangay* Tabunan.¹¹ He then referred the matter to *Barangay Tanod* Chief Romeo Pador and *Barangay* Captain Arcayan, who commenced to organize a patrol.¹²

On the morning of 17 March 2008, while the *barangay tanods* were having a final briefing, Carmelo Revalles left the place to take his breakfast.¹³ While he was taking his breakfast, Nerio Pador, who was riding a motorcycle, stopped and accused the former of uprooting the *marijuana* plants.¹⁴ Carmelo denied any knowledge about the incident, and Nerio thereafter threatened to have him killed. Carmelo promptly reported this threat to the other *barangay tanods*.¹⁵

³ RTC Records, pp. 1-8; Verified Petition dated 22 March 2008.

⁴ Id. at 9; Affidavit of Rosemelinda Pador dated 22 March 2008.

⁵ Id. at 3; Verified Petition dated 22 March 2008.

⁶ Id. at 4; Verified Petition dated 22 March 2008.

⁷ Id.

⁸ Id. at 4-5; Verified Petition dated 22 March 2008.

⁹ Id. at 23-24; Writ of *Amparo* dated 26 March 2008.

¹⁰ Id. at 28-42; Verified Return and/or Comment on the Petition dated 31 March 2008.

¹¹ Id. at 30; Verified Return and/or Comment on the Petition dated 31 March 2008.

¹² Id.

¹³ Id. at 31; Verified Return and/or Comment on the Petition dated 31 March 2008.

¹⁴ Id. at 53-54; Affidavit of Carmelo Revalles dated 31 March 2008.

¹⁵ Id. at 54; Affidavit of Carmelo Revalles dated 31 March 2008.

Respondents recounted that, notwithstanding Nerio's actions, they proceeded to patrol the area.¹⁶ When they passed by the house of Nerio, he angrily uttered in Cebuano, "If I will be informed who reported the matter to the police, I will attack the informant." Carmelo then asked him, "Who reported to you?" Nerio replied, "I will tell you later once I will be captured by police authorities. All of us will be dead this afternoon. I want a shoot out!"¹⁷

Respondents thereafter commenced their patrol of a place owned by a certain David Quintana, but their rounds yielded a negative result.¹⁸

Later that evening, while respondent Alberto Alivio was passing by the house of Nerio, the latter threatened to kill him, saying, "I want to kill now!"¹⁹ Alberto then asked him, "Who reported to you so that the truth will come out?" Nerio then punched the door of his house and said, "I will tell you later when I will be captured by the police authorities!" Alberto then left the place and reported the matter to respondent *Barangay* Captain Arcayan.²⁰

In response to the reports, *Barangay* Captain Arcayan stated that he ordered his secretary to prepare invitation letters for petitioners Nerio and Rey Pador, as the allegations of threats and intimidation made by Nerio against some of the *barangay tanods* were serious. *Barangay* Captain Arcayan explained that he no longer signed a copy of petitioners' letter-reply, as he had already been given a copy of it.²¹

The RTC then heard the Petition. On 3 July 2008, it issued the assailed Resolution²² finding that petitioners' claims were based merely on hearsay, speculations, surmises and conjectures, and that respondents had sufficiently explained the reason behind the issuance of the letters of invitation. It thereafter proceeded to deny petitioners the privilege of the writ of *amparo*.²³

Dissatisfied with the ruling of the RTC, petitioners filed the instant Petition for Review²⁴ before this Court, ascribing grave and serious error on the part of the trial court.²⁵

The Court's Ruling

We uphold the RTC's Resolution and deny the instant Petition.

¹⁶ Id. at 31; Verified Return and/or Comment on the Petition dated 31 March 2008.

¹⁷ Id. at 54; Affidavit of Carmelo Revaldes dated 31 March 2008.

¹⁸ Id. at 32; Verified Return and/or Comment on the Petition dated 31 March 2008.

¹⁹ Id. at 32-33; Verified Return and/or Comment on the Petition dated 31 March 2008.

²⁰ Id. at 33; Verified Return and/or Comment on the Petition dated 31 March 2008.

²¹ Id. at 67; Affidavit of Bernabe Arcayan dated 8 April 2008.

²² Id. at 136-138; Resolution dated 3 July 2008.

²³ Id. at 138; Resolution dated 3 July 2008.

²⁴ *Rollo*, pp. 12-56; Verified Petition for Review on Certiorari dated 16 July 2008.

²⁵ Id. at 19; Verified Petition for Review on Certiorari dated 16 July 2008.

Section 1 of the Rule on the Writ of *Amparo*²⁶ provides for the grounds that may be relied upon in a petition therefor, as follows:

SEC. 1. Petition. – The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

Thus, to be entitled to the privilege of the writ, petitioners must prove by substantial evidence²⁷ that their rights to life, liberty and security are being violated or threatened by an unlawful act or omission.

A closer look at the instant Petition shows that it is anchored on the following allegations: *first*, that respondents conducted a raid on the property of petitioner based on information that the latter were cultivators of *marijuana*; *second*, that respondent *barangay* captain sent them invitation letters without stating the purpose of the invitation; *third*, that respondent *barangay* captain refused to receive petitioners' letter-reply; and *fourth*, that petitioners anticipate the possibility of more harassment cases, false accusations, and potential violence from respondents.

All these allegations are insufficient bases for a grant of the privilege of the writ.

On the first allegation, we find that the supposed raid on petitioners' *ampalaya* farm was sufficiently controverted by respondents.

Respondents alleged, and the trial court found, that a roving patrol was conducted, not on the *ampalaya* farm of Nerio Pador, but on an area locally called *Sitio* Gining, which was beside the lot possessed by David Quintana.²⁸

Assuming, however, that respondents had in fact entered the *ampalaya* farm, petitioner Rey Pador himself admitted that they had done so with his permission, as stated in his affidavit:

5. Around 8:00 a.m., I saw Tabunan barangay tanod Roberto Alimorin. I greeted him good morning. He told me that there are reports that marijuana plants were grown at our ampalaya farm and that there is already a raid.

6. Being innocent and nothing to hide, I allowed Mr. Alimorin to search the ampalaya farm for marijuana plants.²⁹

²⁶ A.M. No. 07-9-12-SC, adopted on 16 October 2007.

²⁷ Secs. 17 and 18, Rule on the Writ of *Amparo*.

²⁸ RTC Records, p. 138; Resolution dated 3 July 2008.

²⁹ Id. at. 12; Affidavit dated 22 March 2008.

Finally, even assuming that the entry was done without petitioners' permission, we cannot grant the privilege of the writ of *amparo* based upon a trespass on their *ampalaya* farm. Granting that the intrusion occurred, it was merely a violation of petitioners' property rights. In *Tapuz v. Del Rosario*,³⁰ we ruled that the writ of *amparo* does not envisage the protection of concerns that are purely property or commercial in nature, as follows:

[T]he writ of *amparo* was originally conceived as a response to the extraordinary rise in the number of killings and enforced disappearances, and to the perceived lack of available and effective remedies to address these extraordinary concerns. It is intended to address violations of or threats to the rights to life, liberty or security, as an extraordinary and independent remedy beyond those available under the prevailing Rules, or as a remedy supplemental to these Rules. **What it is not, is a writ to protect concerns that are purely property or commercial. Neither is it a writ that we shall issue on amorphous and uncertain grounds.**³¹
x x x. (Emphasis in the original)

We therefore rule that the alleged intrusion upon petitioners' *ampalaya* farm is an insufficient ground to grant the privilege of the writ of *amparo*.

On petitioners' second and third allegations, we find that the *barangay* captain's act of sending invitation letters to petitioners and failure to sign the receiving copy of their letter-reply did not violate or threaten their constitutional right to life, liberty or security. The records show that *Barangay* Captain Arcayan sufficiently explained the factual basis for his actions. Moreover, the records are bereft of any evidence that petitioners were coerced to attend the conference through the use of force or intimidation. On the contrary, they had full freedom to refuse to attend the conference, as they have in fact done in this case.

The fourth allegation of petitioner – that, following these events, they can anticipate more harassment cases, false accusations and possible violence from respondents – is baseless, unfounded, and grounded merely on pure speculations and conjectures. As such, this allegation does not warrant the consideration of this Court.

On a final note, we reiterate that the privilege of the writ of *amparo* is an extraordinary remedy adopted to address the special concerns of **extra-legal killings and enforced disappearances**. "Accordingly, the remedy ought to be resorted to and granted judiciously, lest the ideal sought by the *Amparo* Rule be diluted and undermined by the indiscriminate filing of *amparo* petitions for purposes less than the desire to secure *amparo* reliefs and protection and/or on the basis of unsubstantiated allegations."³²


WHEREFORE, premises considered, the instant Petition for Review is **DENIED**. The 3 July 2008 Resolution of the Regional Trial Court, Branch 17, Cebu City, in Spec. Proc. No. 16061-CEB is **AFFIRMED**.

³⁰ G.R. No. 182484, 17 June 2008, 554 SCRA 768.


³¹ Id. at 784.


³² *Rubrico v. Macapagal-Arroyo*, G.R. No. 183871, 18 February 2010, 613 SCRA 233, 261.


SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice

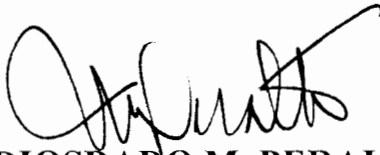
WE CONCUR:

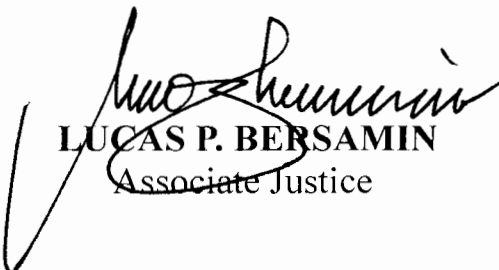

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

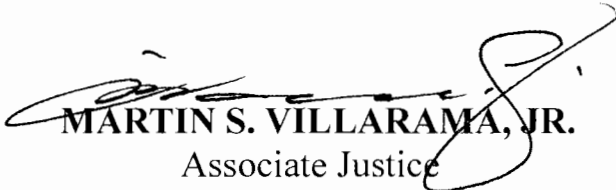

ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

(On official leave)
JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice



BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
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.



MARIA LOURDES P. A. SERENO
Chief Justice