

THIRD DIVISION

[G.R. No. 189220, December 07, 2016]

ALBERT WILSON, PETITIONER, VS. THE HONORABLE EXECUTIVE SECRETARY EDUARDO ERMITA, SECRETARY OF FOREIGN AFFAIRS ALBERTO ROMULO, SECRETARY OF JUSTICE RAUL GONZALES, BUREAU OF JAIL MANAGEMENT AND PENOLOGY, BOARD OF CLAIMS, DEPARTMENT OF JUSTICE, SOLICITOR GENERAL AGNES DEVANADERA, AND BUREAU OF IMMIGRATION, RESPONDENTS.

DECISION

REYES, J.:

Before the Court is a Petition for *Mandamus*^[1] filed by Albert Wilson (Wilson) to enforce the United Nations Human Rights Committee (the Committee) Communication No. 868/1999^[2] (View) against the Republic of the Philippines (RP).

Antecedent Facts

The present case has its roots in the incarceration and subsequent acquittal of Wilson for the crime of rape which was the subject of the Court's ruling in GR. No. 135915 entitled *People of the Philippines v. Wilson*.^[3]

Proceedings in G.R. No. 135915

On September 16, 1996, Wilson, a British national, was accused and charged with the crime of consummated rape^[4] by a 12-year-old girl, the daughter of his Filipina live-in partner. The girl was assisted by her biological father in filing the criminal complaint. Immediately thereafter, Wilson was taken into custody.

After trial, Wilson was found guilty beyond reasonable doubt of the crime of Rape by the Regional Trial Court (RTC) of Valenzuela, Metro Manila, Branch 171, in its Decision dated September 30, 1998 and was imposed the death penalty pursuant to Section 11 of Republic Act (R.A.) No. 7659^[5] and ordered to indemnify the victim the amount of P50,000.00.^[6] The case was elevated to the Supreme Court for automatic review.

Pending appeal, or on June 15, 1999, Wilson filed with the Committee, pursuant to Article 5, paragraph 4 of the Optional Protocol, a case^[7] against the RP for violations of the International Covenant on Civil and Political Rights (ICCPR) specifically: Article 2, paragraphs 2 and 3;^[8] Articles 6;^[9] 7;^[10] 9;^[11] 10, paragraphs 1 and 2;^[12] and Article 14, paragraphs 1, 2, and 3 and 6.^[13]

In the Decision^[14] dated December 21, 1999, the Court reversed the ruling of the RTC. It found that there were serious discrepancies and inconsistent statements particularly in the testimony given by the victim. It concluded that there was not enough evidence to support the finding of guilt beyond reasonable doubt for the crime of rape by Wilson. The Court, thus, acquitted Wilson stating:

WHEREFORE, the decision of the trial court is reversed and set aside. The accused is hereby acquitted of the charge of consummated rape. The Director of the Bureau of Corrections is ordered to effect his immediate release from custody unless he is being held in custody for some other legal cause.

SO ORDERED.^[15]

The Present Case

Wilson was released from detention the day after the acquittal. He immediately left the Philippines for the United Kingdom (UK). Upon his return in the UK, Wilson sought compensation from the Board of Claims (BOC) of the Department of Justice (DOJ) pursuant to R.A. No. 7309^[16] through counsel as one who was unjustly accused, convicted and imprisoned but released by virtue of an acquittal.

On January 1, 2001, the BoC-DOJ awarded to Wilson P14,000.00 as compensation. On February 21, 2001, Wilson was informed of the BoC-DOJ award and that he had to claim the compensation in person in the Philippines. Wilson moved for reconsideration arguing that under R.A. No. 7309, he was entitled to P40,000.00.^[17]

On April 23, 2001, the BoC-DOJ informed Wilson that a memorandum was issued directing the BOC to raise the award to the maximum amount that may be paid to those unjustly imprisoned or detained subject to the availability of funds.^[18]

Wilson applied for and was denied a tourist visa to travel to the Philippines due to his presence in the Bureau of Immigration (BI) watch list.^[19] According to the BI, Wilson's presence in the watch list could be attributed to his overstaying and his previous conviction of a crime involving moral turpitude.^[20]

The BoC-DOJ, thereafter, issued Resolution No. 2001-25 dated August 24, 2001 granting Wilson an additional award of P26,000.00 in addition to the initial amount of P14,000.00 bringing the total award to P40,000.00.^[21]

In September 2001, the DOJ issued a check amounting to P26,000.00 representing the additional award. The check was made out to Wilson, care of the Ambassador of UK at the request of the former.^[22]

On November 11, 2003, the Committee issued the View. It found that the allegations falling under Article 14, paragraphs 1, 2, 3 and 6 of the ICCPR were inadmissible.^[23] The Committee stated:

9. In accordance with article 2, paragraph 3 (a), of the [ICCPR], the State party is under an obligation to provide the author with an effective

remedy. In respect of the **violations of article 9** the **State party should compensate** the author. As to the **violations of articles 7 and 10** suffered while in detention, including subsequent to sentence of death, the **Committee observes** that the **compensation provided by the State party under its domestic law was not directed at these violations, and that compensation due to the author should take due account both of the seriousness of the violations and the damage to the author caused.** In this context, the Committee recalls the **duty upon the State party to undertake a comprehensive and impartial investigation of the issues raised in the course of the author's detention, and to draw the appropriate penal and disciplinary consequences for the individuals found responsible.** As to the imposition of immigration fees and visa exclusion, the Committee takes the view that in order to remedy the violations of the Covenant the State party should refund to the author the moneys claimed from him. All monetary compensation thus due to the author by the State party should be made available for payment to the author at the venue of his choice, be it within the State party's territory or abroad. The State party is also under an obligation to avoid similar violations in the future.^[24]

In a letter^[25] dated June 19, 2008, Wilson, through his counsel, asked the Executive Secretary [ES]:

As with internationally wrongful acts, a breach of a State obligation gives rise first to a duty of reparation. The Committee found that the breach of Covenant obligations required that the Philippines provide compensation or redress. In accordance with the decision of the Committee, we thus pray that this Honorable Office:

1. take steps to effect payment of compensation to Mr. Wilson, taking into consideration the seriousness of the breach of his human rights;
2. direct the [BOC] to release the sums awarded to Mr. Wilson to his authorized representatives, the undersigned counsel Roque and Butuyan Law Office.
3. direct the [BI] to refund the amount unjustly imposed upon Mr. Wilson for overstaying his tourist visa, such be indirectly attributable to the wrongful decision of the trial court.^[26]

In his letter^[27] dated October 20, 2008, Wilson reiterated his June 19, 2008 letter and asked that the payment of compensation be effected, a comprehensive and impartial investigation be conducted, and the monies paid by Wilson with respect to immigration fees and visa exclusion be refunded.^[28]

On October 29, 2008, the letter was referred by the ES to the DOJ Secretary for appropriate action.^[29]

On September 9, 2009, Wilson filed the present petition for *mandamus*.^[30] He insists his entitlement to the writ of *mandamus* owing to the ICCPR and the Optional

Protocol. He argues that by virtue of the doctrine of transformation, the RP is in breach of an international obligation since any View issued by the Committee constitutes part of international law and that the RP is obligated to enforce the same. He prays that:

1. Respondents take steps to ensure that Albert Wilson is paid and given reparation in the amount sufficient to compensate him for the torture and abuse he suffered under the penal system of the Philippines, in compliance with Philippine treaty obligations in the ICCPR as embodied in the Communication of the Human Rights Committee in Case no. 868/1999 in keeping with international law on reparations.
2. Respondents undertake continual efforts and steps to ensure that no torture and inhuman and degrading treatment are suffered by prisoners in the National Penitentiary and other places of detention and imprisonment in the Philippines, in the manner laid down in the *Manila Bay case*.^[31]

The RP, through the Office of the Solicitor General (OSG), opines that the petition is without merit. It argues that Wilson was not able to prove that there is any national law giving life to the ICCPR and Optional Protocol in order for it to have force and effect in our jurisdiction as required under Article 2(2) of the ICCPR.^[32] It further avers that the findings of the Committee are merely recommendatory and does not give rise to an obligation to enforce and implement the View. Thus, being recommendatory, the View cannot be used to compel the Philippine Government to compensate Wilson.^[33] In any event, Wilson's documents show that BoC-DOJ had already awarded in his favor P40,000.00 pursuant to R.A. No. 7309 and it was of Wilson's own volition that the amount remains unclaimed.^[34] It disagrees that the case of *Metropolitan Manila Development Authority, et al. v. Concerned Residents of Manila Bay, et al.*^[35] is applicable because unlike the Manila Bay case, the petitioner, in this case, seeks to enforce international law and not domestic law.^[36]

Issue

Simply, the issue before this Court is whether *mandamus* lies to compel the enforcement of the View.

Ruling of the Court

The petition is without merit.

Under Section 3, Rule 65 of the Rules of Court, *mandamus* is a writ issued to compel a tribunal to perform an act which the law enjoins as a duty resulting from an office, trust or station, to wit:

Section 3. *Petition for mandamus.* - **When any tribunal, corporation, board, officer or person unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust, or station**, or unlawfully excludes another from the use and enjoyment of a right or office to which such other is entitled,

and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty and praying that judgment be rendered commanding the respondent, immediately or at some other time to be specified by the court, to do the act required to be done to protect the rights of the petitioner, and to pay the damages sustained by the petitioner by reason of the wrongful acts of the respondent.

The petition shall also contain a sworn certification of non-forum shopping as provided in the third paragraph of Section 3, Rule 46. (Emphasis ours)

In *Yuvienco v. Hon. Canonoy, etc., et al.*,^[37] and several times reiterated thereafter, the Court held that a purely ministerial duty must exist and a clear legal right must be established by the petitioner for *mandamus* to lie, to wit:

Two pertinent principles are well settled in this jurisdiction: (a) one is that *mandamus* would lie only to compel a tribunal, board or officer to comply with a purely ministerial duty, or to allow a party to exercise a right or to occupy and enjoy the privileges of an office to which he is lawfully entitled; (b) the other is that for the writ of *mandamus* to issue, petitioner must establish a clear legal right to the relief sought, and a mandatory duty on the part of the respondent in relation thereto.^[38]

It behooves the Court to examine whether the View dated November 11, 2003 relied upon by Wilson confers upon him any legal right which the respondents are ministerially required to perform but have unlawfully neglected.

No Ministerial Duty

It is well-settled that a ministerial duty must be clear and specific as to leave no room for the exercise of discretion in its performance.^[39] As stated in *Lord Allan Jay Q. Velasco v. Hon. Speaker Feliciano R. Belmonte, Jr., Secretary General Marilyn B. Barua-Yap and Regina Ongsiako Reyes*:^[40]

A purely ministerial act or duty is one which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary and not ministerial. The duty is ministerial only when the discharge of the same requires neither the exercise of official discretion or judgment.^[41]

R.A. No. 7309 was passed on March 30, 1992 creating a BoC-DOJ to evaluate and investigate claims for compensation for persons who were: (1) unjustly accused, convicted and imprisoned but released by virtue of an acquittal; (2) unjustly detained and released without being charged; (3) a victim of arbitrary or illegal detention and released without being charged; and (4) victim of a violent crime.^[42] Under R.A. No. 7309, compensation for victims of unjust imprisonment or detention