

EN BANC

[G.R. No. 184467, June 19, 2012]

**EDGARDO NAVIA,^[1] RUBEN DIO,^[2] AND ANDREW BUISING,
PETITIONERS, VS. VIRGINIA PARDICO, FOR AND IN BEHALF
AND IN REPRESENTATION OF BENHUR V. PARDICO
RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

For the protective writ of *amparo* to issue in enforced disappearance cases, allegation and proof that the persons subject thereof are missing are not enough. It must also be shown by the required quantum of proof that their disappearance was carried out by, “or with the authorization, support or acquiescence of, [the government] or a political organization, followed by a refusal to acknowledge [the same or] give information on the fate or whereabouts of [said missing] persons.”^[3]

This petition for review on *certiorari*^[4] filed in relation to Section 19 of A.M. No. 07-9-12-SC^[5] challenges the July 24, 2008 Decision^[6] of the Regional Trial Court (RTC), Branch 20, Malolos City which granted the Petition for Writ of *Amparo*^[7] filed by herein respondent against the petitioners.

Factual Antecedents

On March 31, 2008, at around 8:30 p.m., a vehicle of Asian Land Strategies Corporation^[8] (Asian Land) arrived at the house of Lolita M. Lapore (Lolita) located at 7A Lot 9, Block 54, Grand Royale Subdivision, *Barangay* Lugam, Malolos City. The arrival of the vehicle awakened Lolita’s son, Enrique Lapore (Bong), and Benhur Pardico (Ben), who were then both staying in her house. When Lolita went out to investigate, she saw two uniformed guards disembarking from the vehicle. One of them immediately asked Lolita where they could find her son Bong. Before Lolita could answer, the guard saw Bong and told him that he and Ben should go with them to the security office of Asian Land because a complaint was lodged against them for theft of electric wires and lamps in the subdivision.^[9]

Shortly thereafter, Bong, Lolita and Ben were in the office of the security department of Asian Land also located in Grand Royale Subdivision.^[10] The supervisor of the security guards, petitioner Edgardo Navia (Navia), also arrived thereat.

As to what transpired next, the parties’ respective versions diverge.

Version of the Petitioners

Petitioners alleged that they invited Bong and Ben to their office because they received a report from a certain Mrs. Emphasis, a resident of Grand Royale Subdivision, that she saw Bong and Ben removing a lamp from a post in said subdivision.^[11] The reported unauthorized taking of the lamp was relayed thru radio to petitioners Ruben Dio (Dio) and Andrew Busing (Busing), who both work as security guards at the Asian Land security department. Following their department's standard operating procedure, Dio and Busing entered the report in their logbook and proceeded to the house of Mrs. Emphasis. It was there where Dio and Busing were able to confirm who the suspects were. They thus repaired to the house of Lolita where Bong and Ben were staying to invite the two suspects to their office. Bong and Ben voluntarily went with them.

At the security office, Dio and Busing interviewed Bong and Ben. The suspects admitted that they took the lamp but clarified that they were only transferring it to a post nearer to the house of Lolita.^[12] Soon, Navia arrived and Busing informed him that the complainant was not keen in participating in the investigation. Since there was no complainant, Navia ordered the release of Bong and Ben. Bong then signed a statement to the effect that the guards released him without inflicting any harm or injury to him.^[13] His mother Lolita also signed the logbook below an entry which states that she will never again harbor or entertain Ben in her house. Thereafter, Lolita and Bong left the security office.

Ben was left behind as Navia was still talking to him about those who might be involved in the reported loss of electric wires and lamps within the subdivision. After a brief discussion though, Navia allowed Ben to leave. Ben also affixed his signature on the logbook to affirm the statements entered by the guards that he was released unharmed and without any injury.^[14]

Upon Navia's instructions, Dio and Busing went back to the house of Lolita to make her sign the logbook as witness that they indeed released Ben from their custody. Lolita asked Busing to read aloud that entry in the logbook where she was being asked to sign, to which Busing obliged. Not contented, Lolita put on her reading glasses and read the entry in the logbook herself before affixing her signature therein. After which, the guards left.

Subsequently, petitioners received an invitation^[15] from the Malolos City Police Station requesting them to appear thereat on April 17, 2008 relative to the complaint of Virginia Pardico (Virginia) about her missing husband Ben. In compliance with the invitation, all three petitioners appeared at the Malolos City Police Station. However, since Virginia was not present despite having received the same invitation, the meeting was reset to April 22, 2008.^[16]

On April 22, 2008, Virginia attended the investigation. Petitioners informed her that they released Ben and that they have no information as to his present whereabouts.^[17] They assured Virginia though that they will cooperate and help in the investigation of her missing husband.^[18]

Version of the Respondent

According to respondent, Bong and Ben were not merely invited. They were

unlawfully arrested, shoved into the Asian Land vehicle and brought to the security office for investigation. Upon seeing Ben at the security office, Navia lividly grumbled "*Ikaw na naman?*"^[19] and slapped him while he was still seated. Ben begged for mercy, but his pleas were met with a flurry of punches coming from Navia hitting him on different parts of his body.^[20] Navia then took hold of his gun, looked at Bong, and said, "*Wala kang nakita at wala kang narinig, papatayin ko na si Ben.*"^[21]

Bong admitted that he and Ben attempted to take the lamp. He explained that the area where their house is located is very dark and his father had long been asking the administrator of Grand Royale Subdivision to install a lamp to illumine their area. But since nothing happened, he took it upon himself to take a lamp from one of the posts in the subdivision and transfer it to a post near their house. However, the lamp Bong got was no longer working. Thus, he reinstalled it on the post from which he took it and no longer pursued his plan. ^[22]

Later on, Lolita was instructed to sign an entry in the guard's logbook where she undertook not to allow Ben to stay in her house anymore.^[23] Thereafter, Navia again asked Lolita to sign the logbook. Upon Lolita's inquiry as to why she had to sign again, Navia explained that they needed proof that they released her son Bong unharmed but that Ben had to stay as the latter's case will be forwarded to the *barangay*. Since she has poor eyesight, Lolita obligingly signed the logbook without reading it and then left with Bong.^[24] At that juncture, Ben grabbed Bong and pleaded not to be left alone. However, since they were afraid of Navia, Lolita and Bong left the security office at once leaving Ben behind.^[25]

Moments after Lolita and Bong reached their house, Busing arrived and asked Lolita to sign the logbook again. Lolita asked Busing why she had to sign again when she already twice signed the logbook at the headquarters. Busing assured her that what she was about to sign only pertains to Bong's release. Since it was dark and she has poor eyesight, Lolita took Busing's word and signed the logbook without, again, reading what was written in it. ^[26]

The following morning, Virginia went to the Asian Land security office to visit her husband Ben, but only to be told that petitioners had already released him together with Bong the night before. She then looked for Ben, asked around, and went to the *barangay*. Since she could not still find her husband, Virginia reported the matter to the police.

In the course of the investigation on Ben's disappearance, it dawned upon Lolita that petitioners took advantage of her poor eyesight and naivete. They made her sign the logbook as a witness that they already released Ben when in truth and in fact she never witnessed his actual release. The last time she saw Ben was when she left him in petitioners' custody at the security office.^[27]

Exasperated with the mysterious disappearance of her husband, Virginia filed a Petition for Writ of *Amparo*^[28] before the RTC of Malolos City. Finding the petition sufficient in form and substance, the *amparo* court issued an Order^[29] dated June 26, 2008 directing, among others, the issuance of a writ of *amparo* and the

production of the body of Ben before it on June 30, 2008. Thus:

WHEREFORE, conformably with Section 6 of the Supreme Court Resolution [in] A.M. No. 07-[9]-12-SC, also known as "The Rule On The Writ Of Amparo", let a writ of amparo be issued, as follows:

- (1) ORDERING [petitioners] Edgardo Navia, Ruben Dio and Andrew Busing of the Asian Land Security Agency to produce before the Court the body of aggrieved party Benhur Pardico, on Monday, June 30, 2008, at 10:30 a.m.;
- (2) ORDERING the holding of a summary hearing of the petition on the aforementioned date and time, and DIRECTING the [petitioners] to personally appear thereat;
- (3) COMMANDING [petitioners] Edgardo Navia, Ruben Dio and Andrew Busing to file, within a non-extendible period of seventy-two (72) hours from service of the writ, a verified written return with supporting affidavits which shall, among other things, contain the following:
 - a) The lawful defenses to show that the [petitioners] did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;
 - b) The steps or actions taken by the [petitioners] to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission; and
 - c) All relevant information in the possession of the [petitioners] pertaining to the threat, act or omission against the aggrieved party.
- (4) GRANTING, *motu proprio*, a Temporary Protection Order prohibiting the [petitioners], or any persons acting for and in their behalf, under pain of contempt, from threatening, harassing or inflicting any harm to [respondent], his immediate family and any [member] of his household.

The Branch Sheriff is directed to immediately serve personally on the [petitioners], at their address indicated in the petition, copies of the writ as well as this order, together with copies of the petition and its annexes.

[30]

A Writ of *Amparo*^[31] was accordingly issued and served on the petitioners on June 27, 2008.^[32] On June 30, 2008, petitioners filed their Compliance^[33] praying for the denial of the petition for lack of merit.

A summary hearing was thereafter conducted. Petitioners presented the testimony of Busing, while Virginia submitted the sworn statements^[34] of Lolita and Enrique which the two affirmed on the witness stand.

Ruling of the Regional Trial Court

On July 24, 2008, the trial court issued the challenged Decision^[35] granting the petition. It disposed as follows:

WHEREFORE, the Court hereby grants the privilege of the writ of *amparo*, and deems it proper and appropriate, as follows:

(a) To hereby direct the National Bureau of Investigation (NBI) to immediately conduct a deep and thorough investigation of the [petitioners] Edgardo Navia, Ruben Dio and Andrew Busing in connection with the circumstances surrounding the disappearance of [Benhur] Pardico, utilizing in the process, as part of the investigation, the documents forming part of the records of this case;

(b) To hereby direct the NBI to extend to the family of [Benhur] Pardico and the witnesses who testified in this case protection as it may deem necessary to secure their safety and security; and

(c) To hereby direct the Office of the Provincial Prosecutor of Bulacan to investigate the circumstances concerning the legality of the arrest of [Benhur] Pardico by the [petitioners] in this case, utilizing in the process, as part of said investigation, the pertinent documents and admissions forming part of the record of this case, and take whatever course/s of action as may be warranted.

Furnish immediately copies of this decision to the NBI, through the Office of Director Nestor Mantaring, and to the Provincial Prosecutor of Bulacan.

SO ORDERED.^[36]

Petitioners filed a Motion for Reconsideration^[37] which was denied by the trial court in an Order^[38] dated August 29, 2008.

Hence, this petition raising the following issues for our consideration:

4.1. WHETHER X X X THE HONORABLE TRIAL COURT GRAVELY ERRED IN RULING THAT RESPONDENT IS ENTITLED TO THE PRIVILEGE OF THE WRIT OF AMPARO.

4.1.1. WHETHER X X X RESPONDENT WAS ABLE TO ESTABLISH THAT PETITIONERS HAVE COMMITTED OR ARE COMMITTING ACTS IN VIOLATION OF HER HUSBAND'S RIGHT TO LIFE, LIBERTY, OR SECURITY.

4.1.2. WHETHER X X X RESPONDENT SUFFICIENTLY ESTABLISHED THE FACT OF THE DISAPPEARANCE OF BENHUR PARDICO.

4.1.3. WHETHER X X X RESPONDENT WAS ABLE TO