

EN BANC

[G.R. No. 186640, February 11, 2010]

GEN. ALEXANDER B. YANO, CHIEF OF STAFF, ARMED FORCES OF THE PHILIPPINES, LT. GEN. VICTOR S. IBRADO, COMMANDING GENERAL, PHILIPPINE ARMY, AND MAJ. GEN. RALPH A. VILLANUEVA, COMMANDER, 7TH INFANTRY DIVISION, PHILIPPINE ARMY, PETITIONERS, VS. CLEOFAS SANCHEZ AND MARCIANA MEDINA, RESPONDENTS.

D E C I S I O N

CARPIO MORALES, J.:

On December 28, 2007, respondent Cleofas Sanchez (Cleofas) filed before this Court a petition docketed as G.R. No. 180839 for issuance of a Writ of *Amparo* with Motion for Production and Inspection directed against Gen. Hermogenes Esperon (Gen. Esperon), the then Chief of Staff of the Armed Forces of the Philippines (AFP).

On January 2, 2008, the Court^[1] resolved to issue a Writ of *Amparo* and ordered Gen. Esperon to make a verified return of the writ before Court of Appeals Justice Edgardo Sundiam, who was ordered to hear and decide the case which was eventually redocketed as CA-G.R. SP No. 00010 WR/A.

Cleofas amended her petition^[2] on January 14, 2008 to include herein co-respondent Marciana Medina (Marciana) as therein additional petitioner, and to implead other military officers^[3] including Lt. Ali Sumangil (Lt. Sumangil) and Sgt. Gil Villalobos^[4] (Sgt. Villalobos) as therein additional respondents.

In the *Amended* Petition, Cleofas and Marciana (respondents) alleged that on September 17, 2006 at around 8:00 p.m., their respective sons Nicolas Sanchez and Heherson Medina were catching frogs outside their home in Sitio Dalin, Barangay Bueno, Capas, Tarlac; that at around 1:00 a.m. of the next day, September 18, 2006, Nicolas' "wives" Lourdez and Rosalie Sanchez, who were then at home, heard gunshots and saw armed men in soldiers' uniforms passing by; that at around 4:00 a.m. of the same day, Lourdez and Rosalie went out to check on Nicolas and Heherson but only saw their caps, slippers, *pana* and airgun for catching frogs, as well as bloodstains; and that they immediately reported the matter to the *barangay* officials.

Respondents narrated that they, together with other family members, proceeded on September 19, 2006 to the Capas Station of the Philippine National Police (PNP). Accompanied by officials of the National Commission on Indigenous Peoples (NCIP),^[5] they also tried to search for Nicolas and Heherson at the Camp Detachment of the 71st Infantry Battalion of the Philippine Army (Army) in Barangay Burgos, San Jose, Tarlac, and at the Camp of the Bravo Company of the Army's 71st Infantry

Batallion inside Hacienda Luisita, Tarlac City, but to no avail.

Furthermore, respondents alleged that Josephine Galang Victoria, also known as Antonina Galang (Josephine), niece of a neighbor, later informed them that she had seen two men inside Camp Servillano Aquino of the Northern Luzon Command (Nolcom) in San Miguel, Tarlac City on September 21, 2006, whom Josephine later identified as Nicolas and Heherson (the victims) after respondents had shown her their photographs; and that Josephine informed them that she saw the victims again on September 24, 2006 and November 1, 2006,^[6] this time at the Camp of the Bravo Company of the Army's 71st Infantry Batallion inside Hacienda Luisita, where she had occasion to talk to Lt. Sumangil and Sgt. Villalobos. Respondents filed a case on December 21, 2006 before the Commission on Human Rights (CHR), which endorsed^[7] the same to the Ombudsman for appropriate action.

Contending that the victims' life, liberty and security had been and continued to be violated on account of their forced disappearance, respondents prayed for the issuance of a writ of *Amparo*, the production of the victims' bodies during the hearing on the Writ, the inspection of certain military camps,^[8] the issuance of temporary and permanent protection orders, and the rendition of judgment under Section 18 of the Rule on the Writ of *Amparo*.^[9]

Meanwhile, a consolidated Return of the Writ,^[10] verified by Gen. Esperon, Lt. Sumangil, Sgt. Villalobos, Maj. Gen. Juanito Gomez (Maj. Gen. Gomez) as Commander of the Army's 7th Infantry Division, and Lt. Col. Victor Bayani (Lt. Col. Bayani) as Camp Commander of Camp Servillano Aquino of the Nolcom in Tarlac City, was filed with the appellate court on January 24, 2008. Lt. Gen. Alexander Yano (Lt. Gen. Yano), Commanding General of the Army, filed a Return of the Writ upon his return from an official trip abroad.

In their Return, the military officers denied having custody of the victims. They posited that the proper remedy of respondents was to file a petition for the issuance of a Writ of *Habeas Corpus*, since the petition's ultimate objective was the production of the bodies of the victims, as they were allegedly abducted and illegally detained by military personnel;^[11] that the petition failed to indicate the matters required by paragraphs (c), (d) and (e), Section 5 of the Rule on the Writ of *Amparo*, such that the allegations were incomplete to constitute a cause of action, aside from being based on mere hearsay evidence, and are, at best, speculative; that respondents failed to present the affidavits of some other competent persons which would clearly validate their claim that the military violated the victims' right to life, liberty or security by abducting or detaining them; and that the petition did not allege any specific action or inaction attributable to the military officers with respect to their duties; or allege that respondents took any action by filing a formal complaint or visiting the military camps adverted to in order to verify Josephine's claim that she saw the victims on two different occasions inside the camps, or that they took efforts to follow up on the PNP Capas Station's further action on their complaint.^[12]

Denying he violated the victims' right to life, liberty and security, Gen. Esperon specifically asserted that, in compliance with the Defense Secretary's directive in relation to cases of Writ of *Amparo* against the AFP, he issued directives to the

Nolcom Commander and the Army's Commanding General to investigate and establish the circumstances surrounding reported disappearances of victims insofar as the claim on the possible involvement of the military units was concerned; and undertook to bring any military personnel involved, when warranted by the evidence, to the bar of justice.^[13]

Maj. Gen. Gomez likewise denied having custody or knowledge of the whereabouts of the victims, stating that it was not army policy to abduct civilians in his area of responsibility,^[14] and that he was away on official business at the time of the alleged disappearance of the victims.^[15]

Lt. Col. Bayani attested that he was designated Camp Commander only on September 1, 2007 and thus had no personal knowledge about the victims' alleged disappearance or abduction on September 18, 2006; that he was informed by his immediate predecessor that no individuals were detained in the camp as it did not even have detention facilities; and that in compliance with Gen. Esperon's directive, their command was conducting further investigation to verify the allegations in the petition.^[16]

Lt. Sumangil denied having spoken to Josephine inside the camp on September 24, 2006, on which date civilians were not allowed to enter except on official missions or when duly authorized to conduct transactions inside the camp. He thus concluded that Josephine lied in claiming to have seen the two victims inside the Camp of the Bravo Company of the 71st Infantry Battalion inside Hacienda Luisita on September 24, 2006 or at any time thereafter. He instead recounted that on September 24, 2006, he spoke for the first and only time, but only at the gate of the camp, with a person who identified herself as "Antonina Galang," who informed him about the disappearance of the victims since September 18, 2006. Warning him that these men were members of the New People's Army (NPA), she advised him not to entertain any queries or complaints relative to their alleged disappearance.^[17]

Sgt. Villalobos echoed Sumangil's disclaimer about having any of the victims in his custody or meeting anyone named Josephine Victoria, or about the latter having entered the camp's kitchen to drink water.

Lt. Gen. Yano stated that upon his return from his official functions overseas, he immediately inquired on the actions taken on the case. He averred that he had never participated directly or indirectly; or consented, permitted or sanctioned any illegal or illegitimate military operations. He declared that it had always been his policy to respect human rights and uphold the rule of law, and to bring those who violated the law before the court of justice.

In opposing the request for issuance of inspection and production orders, the military officers posited that apart from compromising national security should entry into these military camps/bases be allowed, these orders partook of the nature of a search warrant, such that the requisites for the issuance thereof must be complied with prior to their issuance. They went on to argue that such request relied solely on bare, self-serving and vague allegations contained in Josephine's affidavit, for aside from merely mentioning that she saw Nicolas and Heherson on board an army truck near the Nolcom gate and, days later, inside the kitchen of the 71st Infantry

Battalion Camp inside Hacienda Luisita and while logging outside said camp, Josephine had stated nothing more to ascertain the veracity of the places where she allegedly saw Nicolas and Heherson.^[18]

On whether the impleaded military officers were either directly or indirectly connected with the disappearance of the victims, the appellate court, after hearing, absolved, by the assailed Decision of September 17, 2008,^[19] Gen. Esperon, Lt. Gen. Yano, Maj. Gen. Gomez, and Lt. Col. Bayani for lack of evidence linking them to the disappearances, and further ruled as follows:

All said, this Court is convinced that petitioners have not adequately and convincingly established any direct or indirect link between respondents individual military officers and the disappearances of Nicolas and Heherson. Neither did the concerned Philippine Army Units have exerted fully their efforts to investigate and unearth the truth and bring the culprits before the bar of justice.

The concerned Philippine Army units (such as the Northern Command and the 7th Infantry Division, which had jurisdiction over the place of disappearance of Nicolas and Heherson, should exert extraordinary diligence to follow all possible leads to solve the disappearances of Nicolas and Heherson. The Philippine Army should be reminded of its constitutional mandate as the protector of the people and the State.

RELIEFS

While as We stated hereinbefore that We could not find any link between respondents individual military officers to the disappearance of Nicolas and Heherson, nonetheless, the fact remains that the two men are still missing. Hence, We find it equitable to grant petitioners some reliefs in the interest of human rights and justice as follows:

1. Inspections of the following camps: Camp Servillano Aquino, San Miguel, Tarlac City, any military camp of the 7th Infantry Division located in Aqua Farm, Hacienda Luisita, Tarlac City, within reasonable working hours of any day except when the military camp is on red alert status.
2. Thorough and Impartial Investigation - for the appropriate Investigating Unit of the Philippine Army at Camp Servillano Aquino and the Philippine Army, 7th Infantry Division in Fort Magsaysay to conduct their respective investigation of all angles pertaining to the disappearances of Nicolas and Heherson and to immediately file charges against those found guilty and submit their written report to this Court within three (3) months from notice.

SO ORDERED.^[20] (underscoring supplied)

The military officers filed a Motion for Partial Reconsideration (Motion), arguing in the main that since respondents failed to prove the allegations in their petition by

substantial evidence, the appellate court should not have granted those reliefs.^[21]

The appellate court denied the Motion by the assailed Resolution of March 3, 2009.^[22]

Taking up the cudgels for the military, Gen. Alexander Yano,^[23] Lt. Gen. Victor Ibrado,^[24] and Maj. Gen. Ralph Villanueva^[25] (petitioners) filed the present petition for review of the appellate court's assailed issuances, faulting it for

. . . NOT CATEGORICALLY DENYING THE PRIVILEGE OF THE WRIT OF AMPARO PURSUANT TO SECTION 18 OF THE RULE ON THE WRIT OF AMPARO **DESPITE ITS FINDING THAT RESPONDENTS FAILED TO PROVE THEIR ALLEGATIONS IN THEIR PETITION FOR AMPARO BY SUBSTANTIAL EVIDENCE.** . . . [AND] . . . DIRECTING PETITIONERS TO:

(A) ALLOW RESPONDENTS TO INSPECT CAMP SERVILLANO AQUINO, NORTH LUZON COMMAND, PHILIPPINE ARMY, SAN MIGUEL, TARLAC CITY AND ANY MILITARY CAMP OF THE 7TH INFANTRY DIVISION LOCATED IN AQUA FARM, HACIENDA LUISITA, TARLAC CITY; AND.

(B) CONDUCT THOROUGH AND IMPARTIAL INVESTIGATION OF THE DISAPPEARANCE OF THE AGGRIEVED PARTIES, FILE CHARGES AGAINST THOSE FOUND GUILTY AND SUBMIT WRITTEN REPORT WITHIN THREE MONTHS FROM NOTICE.^[26]
(emphasis and underscoring supplied)

The Court finds merit in the petition.

In ruling in favor of Lt. Sumangil and Sgt. Villalobos, the appellate court resolved the case on the basis of the credibility of Josephine as a witness. It arrived at the following findings:

To prove that these two military officers took or have custody of Nicolas and Heherson, petitioners presented Josephine Galang Victoria, also known as Antonina Galang, a niece of petitioner Cleofas Sanchez' neighbor, who allegedly saw Nicolas and Heherson inside Camp Servillano Aquino on September 21, 2006 when she visited her uncle, a certain Major Henry Galang, who is allegedly living inside the camp; that a few days later, she again saw Nicolas and Heherson at Aqua Farm at Hacienda Luisita, where the camp of Bravo Company of the 71st Infantry Battalion is located and where Heherson was seen sweeping the floor and Nicolas was seen cooking, having wounds in their legs near the feet as if sustained from a gunshot wound; that on November 1, 2006, she went back upon advice of Lt. Sumangil to give her a cellphone which Tech. Sgt. Villalobos handed to her for her to know where Nicolas and Heherson will be brought; that they [*sic*] saw the two outside getting some woods