



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

REPRESENTATIVES EDCCEL C. LAGMAN, TOMASITO S. VILLARIN, GARY C. ALEJANO, EMMANUEL A. BILLONES, AND TEDDY BRAWNER BAGUILAT, JR.,

G.R. No. 231658

Petitioners,

- versus -

HON. SALVADOR C. MEDIALDEA, EXECUTIVE SECRETARY; HON. DELFIN N. LORENZANA, SECRETARY OF THE DEPARTMENT OF NATIONAL DEFENSE AND MARTIAL LAW ADMINISTRATOR; AND GEN. EDUARDO AÑO, CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES AND MARTIAL LAW IMPLEMENTOR,

Respondents.

X ----- X

EUFEMIA CAMPOS CULLAMAT, VIRGILIO T. LINCUNA, ATELIANA U. HIJOS, ROLAND A. COBRADO, CARL ANTHONY D. OLALO, ROY JIM BALANGHIG, RENATO REYES, JR., CRISTINA E. PALABAY, AMARYLLIS H. ENRIQUEZ, ACT TEACHERS' REPRESENTATIVE ANTONIO L. TINIO, GABRIELA WOMEN'S PARTY REPRESENTATIVE ARLENE D. BROSAS, KABATAAN PARTY-LIST REPRESENTATIVE SARAH JANE I. ELAGO, MAE PANER, GABRIELA KRISTA DALENA, ANNA ISABELLE ESTEIN, MARK VINCENT D. LIM, VENCER MARI CRISOSTOMO,

G.R. No. 231771

JOVITA MONTES,

Petitioners,

- versus -

**EXECUTIVE SECRETARY
SALVADOR MEDIALDEA,
DEFENSE SECRETARY DELFIN
LORENZANA, ARMED FORCES
OF THE PHILIPPINES CHIEF OF
STAFF LT. GENERAL EDUARDO
AÑO, PHILIPPINE NATIONAL
POLICE DIRECTOR-GENERAL
RONALD DELA ROSA,**

Respondents.

X-----X

**NORKAYA S. MOHAMAD, SITIE
NUR DYHANNA S. MOHAMAD,
NORAISAH S. SANI, ZAHRIA P.
MUTI-MAPANDI,**

Petitioners,

- versus -

**EXECUTIVE SECRETARY
SALVADOR C. MEDIALDEA,
DEPARTMENT OF NATIONAL
DEFENSE (DND) SECRETARY
DELFIN N. LORENZANA,
DEPARTMENT OF THE INTERIOR
AND LOCAL GOVERNMENT
(DILG) SECRETARY (OFFICER-IN-
CHARGE) CATALINO S. CUY,
ARMED FORCES OF THE
PHILIPPINES (AFP) CHIEF OF
STAFF GEN. EDUARDO M. AÑO,
PHILIPPINE NATIONAL POLICE
(PNP) CHIEF DIRECTOR
GENERAL RONALD M. DELA
ROSA, NATIONAL SECURITY
ADVISER HERMOGENES C.
ESPERON, JR.,**

Respondents.

X-----X

G.R. No. 231774

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,*
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,**
CAGUIOA,
MARTIRES,
TIJAM,
REYES, and
GESMUNDO,** JJ.

Promulgated:

December 5, 2017

[Handwritten signature] x *[Handwritten signature]*

* On official leave.
** On leave.

RESOLUTION

DEL CASTILLO, J.:

On July 4, 2017, the Court rendered its Decision finding sufficient factual bases for the issuance of Proclamation No. 216 and declaring it as constitutional. Petitioners timely filed separate Motions for Reconsideration. The Office of the Solicitor General (OSG) also filed its Comment.

After a careful review of the arguments raised by the parties, we find no reason to reverse our July 4, 2017 Decision.

All three Motions for Reconsideration question two aspects of the July 4, 2017 Decision, *i.e.*, the sufficiency of the factual bases of Proclamation No. 216 and the parameters used in determining the sufficiency of the factual bases. Petitioners, however, failed to present any substantial argument to convince us to reconsider our July 4, 2017 Decision.

Sufficiency of the Factual Bases of Proclamation No. 216 has been rendered moot by the expiration of the said Proclamation.

Section 18, Article VII of the Constitution provides that “the President x x x may, **for a period not exceeding sixty days**, suspend the privilege of the writ of *habeas corpus* or place the Philippines or any part thereof under martial law. x x x Upon the initiative of the President, the **Congress may, in the same manner, extend such proclamation or suspension for a period to be determined by the Congress**, if the invasion or rebellion shall persist and public safety requires it.”

From the foregoing, it is clear that the President’s declaration of martial law and/or suspension of the privilege of the writ of *habeas corpus* is effective for 60 days. As aptly described by Commissioner Monsod, “this declaration has a time fuse. It is only good for a maximum of 60 days. At the end of 60 days, it automatically terminates.”¹ Any extension thereof should be determined by Congress. The act of declaring martial law and/or suspending the privilege of the writ of *habeas corpus* by the President, however, is separate from the approval of the extension of the declaration and/or suspension by Congress. The initial declaration of martial law and/or suspension of the writ of *habeas corpus* is determined solely by the President, while the extension of the declaration and/or suspension, although initiated by the President, is approved by Congress.

In this case, Proclamation No. 216 issued on May 23, 2017 expired on July 23, 2017. Consequently, the issue of whether there were sufficient factual bases

¹ II RECORD, CONSTITUTIONAL COMMISSION 476 (July 30, 1986).

for the issuance of the said Proclamation has been rendered moot by its expiration. We have consistently ruled that a case becomes moot and academic when it “ceases to present a justiciable controversy by virtue of supervening events, so that a declaration thereon would be of no practical value.”² As correctly pointed out by the OSG, “the martial law and suspension of the privilege of the writ of *habeas corpus* now in effect in Mindanao no longer finds basis in Proclamation No. 216”³ but in Resolution of Both Houses No. 11 (RBH No. 11) adopted on July 22, 2017. RBH No. 11 is totally different and distinct from Proclamation No. 216. The former is a joint executive-legislative act while the latter is purely executive in nature.

The decision of the Congress to extend the same is of no moment. The approval of the extension is a distinct and separate incident, over which we have no jurisdiction to review as the instant Petition only pertains to the President’s issuance of Proclamation No. 216.

Thus, considering the expiration of Proclamation No. 216 and considering further the approval of the extension of the declaration of martial law and the suspension of the privilege of the writ of *habeas corpus* by Congress, we find no reason to disturb our finding that there were sufficient factual bases for the President’s issuance of Proclamation No. 216.

However, although the Motions for Reconsideration are dismissible on the ground of mootness, we deem it prudent to emphasize our discussion on the parameters for determining the sufficiency of factual basis for the declaration of martial law and/or the suspension of the privilege of the writ of *habeas corpus*.

The Constitution requires sufficiency of factual basis, not accuracy.

Petitioners, in essence, posit that the Court is required to determine the accuracy of the factual basis of the President for the declaration of martial law and/or the suspension of the privilege of the writ of *habeas corpus*. To recall, we held that “the parameters for determining the sufficiency of factual basis are as follows: 1) actual rebellion or invasion; 2) public safety requires it; the first two requirements must concur; and 3) there is probable cause for the President to believe that there is actual rebellion or invasion.”⁴ Moreover, we stated in the assailed Decision that “the phrase ‘sufficiency of factual basis’ in Section 18, Article VII of the Constitution should be understood as the only test for judicial review of the President’s power to declare martial law and suspend the privilege of the writ of *habeas corpus*.”⁵ Requiring the Court to determine the accuracy of the factual basis of the President contravenes the Constitution as Section 18, Article

² *Agriex Co., Ltd. v. Commissioner Villanueva*, 742 Phil. 574, 583 (2014).

³ Comment of the Office of the Solicitor General, pp. 7-8; *rollo* (G.R. No. 231658), Vol. 2, pp. 1419-1420.

⁴ Decision, p. 53; *id.* at 857.

⁵ *Id.* at 48; *id.* at 852.

VII only requires the Court to determine the sufficiency of the factual basis. Accuracy is not the same as sufficiency as the former requires a higher degree of standard. As we have explained in our July 4, 2017 Decision:

In determining the sufficiency of the factual basis of the declaration and/or the suspension, the Court should look into the full complement or totality of the factual basis, and not piecemeal or individually. Neither should the Court expect absolute correctness of the facts stated in the proclamation and in the written Report as the President could not be expected to verify the accuracy and veracity of all facts reported to him due to the urgency of the situation. To require precision in the President's appreciation of facts would unduly burden him and therefore impede the process of his decision-making. Such a requirement will practically necessitate the President to be on the ground to confirm the correctness of the reports submitted to him within a period that only the circumstances obtaining would be able to dictate. Such a scenario, of course, would not only place the President in peril but would also defeat the very purpose of the grant of emergency powers upon him, that is, to borrow the words of Justice Antonio T. Carpio in *Fortun*, to 'immediately put an end to the root cause of the emergency'. Possibly, by the time the President is satisfied with the correctness of the facts in his possession, it would be too late in the day as the invasion or rebellion could have already escalated to a level that is hard, if not impossible, to curtail.

Besides, the framers of the 1987 Constitution considered intelligence reports of military officers as credible evidence that the President can appraise and to which he can anchor his judgment, as appears to be the case here.

At this point, it is wise to quote the pertinent portions of the Dissenting Opinion of Justice Presbitero J. Velasco, Jr. in *Fortun*:

President Arroyo cannot be blamed for relying upon the information given to her by the Armed Forces of the Philippines and the Philippine National Police, considering that the matter of the supposed armed uprising was within their realm of competence, and that a state of emergency has also been declared in Central Mindanao to prevent lawless violence similar to the 'Maguindanao massacre,' which may be an indication that there is a threat to the public safety warranting a declaration of martial law or suspension of the writ.

Certainly, the President cannot be expected to risk being too late before declaring martial law or suspending the writ of *habeas corpus*. The Constitution, as couched, does not require precision in establishing the fact of rebellion. The President is called to act as public safety requires.

Corollary, as the President is expected to decide quickly on whether there is a need to proclaim martial law even only on the basis of intelligence reports, it is irrelevant, for purposes of the Court's review, if subsequent events prove that the situation had not been accurately reported to him. After all, the Court's review is confined to the sufficiency, not accuracy, of the information at hand during the declaration or suspension; subsequent events do not have any bearing insofar as the Court's review is concerned. x x x

Hence, the maxim *falsus in uno, falsus in omnibus* finds no application in this case. Falsities of and/or inaccuracies **in some of the facts** stated in the



proclamation and written report are **not enough reasons** for the Court to invalidate the declaration and/or suspension **as long as there are other facts in the proclamation and the written Report that support the conclusion that there is an actual invasion or rebellion and that public safety requires the declaration and/or suspension.**

In sum, the Court's power to review is limited to the determination of whether the President in declaring martial law and suspending the privilege of the writ of *habeas corpus* had sufficient factual basis. Thus, our review would be limited to an examination on whether the President acted within the bounds set by the Constitution, *i.e.*, whether the facts in his possession prior to and at the time of the declaration or suspension are sufficient for him to declare martial law or suspend the privilege of the writ of *habeas corpus*.⁶ (Emphasis supplied)

This is consistent with our ruling that “the President only needs to convince himself that there is probable cause or evidence showing that **more likely than not** a rebellion was committed or is being committed.”⁷ The standard of proof of probable cause does not require absolute truth. Since “martial law is a matter of urgency x x x the President x x x is not expected to completely validate all the information he received before declaring martial law or suspending the privilege of the writ of *habeas corpus*.”⁸

Notably, out of the several facts advanced by the President as basis for Proclamation No. 216, only five of them were being questioned by the petitioners. However, they were not even successful in their refutation since their “counter-evidence were derived solely from unverified news articles on the internet, **with neither the authors nor the sources shown to have affirmed the contents thereof. It was not even shown that efforts were made to secure such affirmation albeit the circumstances proved futile.**”⁹ Even granting that the petitioners were successful in their attempt to refute the aforesaid five incidents, there are other facts sufficient to serve as factual basis for the declaration of martial law and suspension of the privilege of the writ of *habeas corpus*.

There is absolutely no basis to petitioners' claim that the Court abdicated its power to review. To be sure, our findings that there was sufficient factual basis for the issuance of Proclamation No. 216 and that there was probable cause, that is, that more likely than not, rebellion exists and that public safety requires the declaration of martial law and suspension of the privilege of the writ of *habeas corpus*, were reached after due consideration of the facts, events, and information enumerated in the proclamation and report to Congress. The Court did not content itself with the examination only of the pleadings/documents submitted by the parties. In addition, it conducted a closed-door session where it tried to ferret additional information, confirmation and clarification from the resource persons,

⁶ Id. at 49-51; id. at 853-855.

⁷ Id. at 53; id. at 857.

⁸ Id. at 54; id. at 858.

⁹ Id. at 63; id. at 867.



particularly Secretary of National Defense Delfin Lorenzana and Armed Forces of the Philippines Chief of Staff Eduardo Año. At this juncture, it must be stated that the Court is not even obliged to summon witnesses as long as it satisfies itself with the sufficiency of the factual basis; it is purely discretionary on its part whether to call additional witnesses. In any event, reliance on so-called intelligence reports, even without presentation of its author, is proper and allowed by law.

The Court's acknowledgment of the President's superior data gathering apparatus, and the fact that it has given the Executive much leeway and flexibility, should never be understood as a prelude to surrendering the judicial power to review. The Court never intended to concede its power to verify the sufficiency of factual basis for the declaration of martial law and suspension of the privilege of the writ of *habeas corpus*. The leeway and flexibility accorded to the Executive must be construed in the context of the present set up wherein the declaration of martial law and suspension of the privilege of the writ of *habeas corpus* are grounded on actual invasion or rebellion, not on imminent threat or danger thereof; as such, time is of the essence for the President to act quickly to protect the country. It is also a recognition of the unassailable fact that as Commander-in-Chief, the President has access to confidential information. In fact, Fr. Joaquin Bernas even opined that the Court might have to rely on the fact-finding capabilities of the Executive; in turn, the Executive should share its findings with the Court if it wants to convince the latter of the propriety of its action.¹⁰ Moreover, it is based on the understanding that martial law is a flexible concept; that "the precise extent or range of the rebellion [cannot] be measured by exact metes and bounds;"¹¹ that public safety requirement cannot be quantified or measured by metes and bounds; that the Constitution does not provide that the territorial scope or coverage of martial law should be confined only to those areas where the armed public uprising actually transpired; that it will be impractical to expand the territorial application of martial law each time the coverage of actual rebellion expands and in direct proportion therewith; and, that there is always a possibility that the rebellion and other accompanying hostilities will spill over.

As regards the other arguments raised by petitioners, the same are a mere rehash which have already been considered and found to have no merit.

WHEREFORE, petitioners' Motions for Reconsideration are hereby **DENIED WITH FINALITY** for mootness and lack of merit.

No further pleadings shall be entertained.

Let entry of judgment be made in immediately.



¹⁰ Id. at 68; id. at 872.

¹¹ Id. at 72; id. at 876.

SO ORDERED.

MdelCastillo
MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

I reiterate my dissent.

[Signature]

MARIA LOURDES P. A. SERENO
Chief Justice

See Dissenting Opinion

[Signature]

ANTONIO T. CARPIO
Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

[Signature]
DIOSDADO M. PERALTA
Associate Justice

*This is to certify that
J. Bersamin left his vote
of concurrence.*

[Signature]
LUCAS P. BERSAMIN
Associate Justice

*I concur in the result & deny the MR.
On the merits, I maintain my separate opinion.*

[Signature]
ESTELA M. PERLAS-BERNABE
Associate Justice

*I reiterate my earlier dissent
in the main opinion*

[Signature]
MARVIC M.V.F. LEONEN
Associate Justice

(On leave)
FRANCIS H. JARDELEZA
Associate Justice

*See Separate
Dissent.*

[Signature]
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

[Signature]
SAMUEL R. MARTIRES
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

*This is to certify that J.
Gesmundo left his vote of concurrence.*

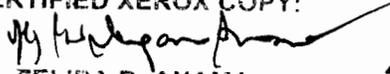

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

I certify that the conclusions in the above Resolution 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

CERTIFIED XEROX COPY:


FELIPA B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT