



Republic of the Philippines
Supreme Court
Manila

EN BANC

LORIE MARIE TOMAS CALLO,
Petitioner,

G.R. No. 230324

Present:

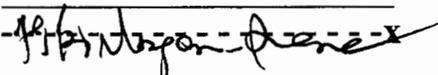
SERENO, C.J.,*
CARPIO,**
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,***
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,***
REYES, JR., and
GESMUNDO, JJ.***

- versus -

COMMISSIONER JAIME H. MORENTE,
BUREAU OF IMMIGRATION,
OIC ASSOCIATES COMMISSIONERS,
BUREAU OF IMMIGRATION, and
BRIAN ALAS, BUREAU OF
IMMIGRATION,

Respondents.

Promulgated:
September 19, 2017

X ----- 

DECISION

CARPIO, *Acting C.J.*:

The Case

This is a petition for a writ of *amparo* (with Prayer to Issue Interim Reliefs of Immediate Release of Danielle Tan Parker from Detention) under A.M. No. 07-9-12-SC (The Rule on the Writ of *Amparo*). Petitioner Lorie Marie Tomas Callo (Callo) seeks the immediate release of Danielle Tan Parker from the Immigration Detention Facility, Camp Bagong Diwa in Bicutan, Taguig City.

* On official leave.
** Acting Chief Justice per Special Order No. 2483 dated 14 September 2017.
*** On official business.
*** On official business.
*** On official business.

The Facts

Danielle Tan Parker (Parker) is a holder of Philippine Passport No. XX5678508 issued by the Department of Foreign Affairs (DFA) on 5 March 2010 and valid until 4 March 2015.

On 15 January 2013, Parker was charged for deportation for being an undesirable, undocumented, and overstaying alien, in violation of Section 37(a)(7) of the Philippine Immigration Act of 1940, as amended, in relation to Rule XVI, Office Memorandum No. ADD-01-004. It was alleged that Danielle Nopuente was a fugitive from justice in the United States of America with an outstanding arrest warrant issued against her. Subsequently, on 24 January 2013, a Summary Deportation Order (SDO) was issued against *Danielle Nopuente*, also known as *Isabelita Nopuente* and *Danielle Tan Parker*, upon verification that she arrived in the Philippines on 23 March 2011 under the Balikbayan Program, with an authorized stay of a period of one year. Parker was not in the list of approved applications of the DFA for dual citizenship and her American Passport had been revoked by the United States Department of State. Thus, she was considered an undocumented, undesirable, and overstaying alien, in violation of the Philippine Immigration Act of 1940.

On 5 June 2014, pursuant to the SDO issued by the Bureau of Immigration, Parker was arrested in Tagaytay City on the premise that Danielle Nopuente and Danielle Tan Parker are one and the same person. She was then taken to the Immigration Detention Facility in Bicutan, Taguig City. She is still currently detained in the Immigration Detention Facility as the deportation was not carried out due to the fact that Parker is charged with falsification and use of falsified documents before Branch 4, Municipal Trial Court in Cities, Davao City.

On 12 September 2014, Parker, as petitioner, filed a Petition for *Habeas Corpus* before Branch 266, Regional Trial Court (RTC) of Pasig City. The Bureau of Immigration was able to produce the body of Parker before the RTC. The Bureau of Immigration then alleged that as the SDO had become final and executory, it served as the legal authority to detain Parker. The Bureau of Immigration also argued that Parker cannot be released or deported without the final disposition of her pending criminal case in Davao City.

The RTC dismissed the petition, finding that the detention of Parker was legal.¹ Parker then appealed the case to the Court of Appeals (CA). The CA affirmed the RTC and found that Parker failed to prove that she was a Filipino citizen to warrant judicial intervention through *habeas corpus*.² The CA gave weight to the Certification dated 20 June 2015 issued by the Office

¹ *Rollo*, pp. 273-281.

² *Id.* at 344-352.



of the Consular Affairs of the DFA that there is “no available data” regarding any record/information from the year 1990 onwards of Philippine Passport No. XX5678508. Parker no longer appealed the denial of the issuance of the writ of *habeas corpus* and the decision of the CA became final and executory on 5 January 2016.³

On 23 March 2017, Callo filed this petition for a writ of *amparo* with prayer to issue Interim Reliefs of Immediate Release of Danielle Tan Parker from Detention. Callo argues that Parker is a natural-born Filipino citizen and thus, there is no reason for her to be detained by the Bureau of Immigration.

The Issue

The only issue in this case is whether or not the right to life, liberty, and security of Parker is threatened by the respondents to warrant the issuance of the writ of *amparo* and subsequently the award of the interim reliefs.

The Ruling of the Court

The petition has no merit.

Callo seeks the issuance of the writ of *amparo* and the interim reliefs available under A.M. No. 07-9-12-SC for the immediate release of Parker. Callo alleges that Parker is a natural-born Filipino citizen and thus should not have been detained by the Bureau of Immigration. Moreover, Callo alleges that the life of Parker is endangered in the detention center; and thus, a writ of *amparo* with the interim reliefs prayed for should be issued by this Court.

We disagree.

The protective writ of *amparo* is a judicial remedy to expeditiously provide relief to violations of a person’s constitutional right to life, liberty, and security, and more specifically, to address the problem of extralegal killings and enforced disappearances or threats thereof. Section 1 of A.M. No. 07-9-12-SC provides:

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.

³ Id. at 353.



The writ shall cover **extralegal killings** and **enforced disappearances** or **threats** thereof. (Emphasis supplied)

It is clear from the above-quoted provision that the writ of *amparo* covers extralegal killings and enforced disappearances or threats thereof.⁴ Enforced disappearance is defined under Republic Act (RA) No. 9851,⁵ Section 3(g) of which provides:

- (g) “Enforced or involuntary disappearance of persons” means the arrest, detention, or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time.

This Court also had the opportunity to define extralegal killings and enforced disappearance:

Extralegal killings are killings committed without due process of law, i.e., without legal safeguards or judicial proceedings. On the other hand, enforced disappearance has been defined by the Court as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.⁶

In *Navia v. Pardico*,⁷ this Court clarified that with the enactment of RA No. 9851, the Rule on the Writ of Amparo is now a procedural law anchored, not only on the constitutional right to life, liberty, and security, but also on a concrete statutory definition of “enforced or involuntary disappearance.” Further, elements constituting enforced disappearance as defined under RA No. 9851 were clearly laid down by this Court, *viz*:

- (a) that there be an arrest, detention, abduction or any form of deprivation of liberty;
- (b) that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
- (c) that it be followed by the State or political organization’s refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *amparo* petition; and,
- (d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.⁸

⁴ *Lozada, Jr. v. Macapagal-Arroyo*. 686 Phil. 536 (2012).

⁵ Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity. Approved on 11 December 2009.

⁶ *Mamba v. Bueno*, G.R. No. 191416, 7 February 2017.

⁷ 688 Phil. 266 (2012).

⁸ *Id.* at 279.

It is clear that the elements of enforced disappearance are not attendant in this case. There is also no threat of such enforced disappearance. While there is indeed a detention carried out by the State through the Bureau of Immigration, the third and fourth elements are not present. There is no refusal to acknowledge the deprivation of freedom or refusal to give information on the whereabouts of Parker because as Callo admits, Parker is detained in the Immigration Detention Facility of the Bureau of Immigration. The Bureau of Immigration also does not deny this. In fact, the Bureau of Immigration had produced the body of Parker before the RTC in the proceedings for the writ of *habeas corpus* previously initiated by Parker herself.⁹ Similarly, there is no intention to remove Parker from the protection of the law for a prolonged period of time. As the Bureau of Immigration explained, Parker has a pending criminal case against her in Davao City, which prevents the Bureau of Immigration from deporting her from the country.

Simply put, we see no enforced or involuntary disappearance, or any threats thereof, that would warrant the issuance of the writ of *amparo*. For the issuance of the writ, it is not sufficient that a person's life is endangered. It is even not sufficient to allege and prove that a person has disappeared. It has to be shown by the required quantum of proof that the disappearance was carried out by, or with the authorization, support or acquiescence of the government or a political organization, and that there is a refusal to acknowledge the same or to give information on the fate or whereabouts of the missing persons.¹⁰ In this case, Parker has not disappeared. Her detention has been sufficiently justified by the Bureau of Immigration, given that there is an SDO and a pending criminal case against her.

Callo contends that there is no cause to detain Parker because Parker, a natural-born Filipino citizen, is a different person from Danielle Nopuente, the person against whom the SDO was issued.

We disagree.

Callo has failed to prove that Danielle Tan Parker and Danielle Nopuente are two different persons. In particular, we give weight to the fact that the DFA issued a certificate verifying that there is no available data on Passport No. XX5678508, which was the Philippine passport used by Parker.¹¹ Moreover, the Certificate of Live Birth,¹² which purportedly shows that Parker was born in the Philippines on 21 March 1975 of Filipino parents, was only registered on 4 January 2010. There was no explanation given as to why Parker's birth was registered only after almost 35 years. Moreover, Callo only alleges facts from the year 2005, allegedly for

⁹ Rollo, p. 274.

¹⁰ Supra note 7, citing Section 3(g), RA No. 9851.

¹¹ Rollo, p. 196.

¹² Id. at 62.

purposes of brevity.¹³ We do not see any reason why facts surrounding the existence of Parker should only be presented from 2005. In fact, the only period that is thoroughly discussed about her is from 2010 to 2011. To prove that Parker and Nopuente are two different persons, the life and existence of Parker should have been alleged and proven since birth. In this case, there is no allegation nor any proof as to who Parker was, or what she had been doing, before 2011. Taking all these circumstances into perspective, Parker had failed to sufficiently prove that she is a different person from Danielle Nopuente.

Callo contends that Parker's life is endangered in the Immigration Detention Facility because of the threats against her by her co-detainees and the living conditions of the facility which pose health problems for Parker. Unfortunately, these allegations – even if proven – will not support the issuance of a writ of *amparo*. To repeat, the remedy of a writ of *amparo* is an extraordinary remedy that is meant to balance the government's awesome power and to curtail human rights abuses.¹⁴ The writ covers extralegal killings and enforced disappearances or threats thereof as specifically defined under RA No. 9851. The circumstances of Parker, as alleged by Callo, do not meet the requirements for the issuance of the writ of *amparo*.

Finally, we note that the petition for the writ of *amparo* was filed by Callo. However, there was no allegation of her relationship to Parker.¹⁵ In *Boac v. Cadapan*,¹⁶ we emphasized the importance of the exclusive and successive order of who can file a petition for a writ of *amparo*. We held:

Petitioners finally point out that the parents of Sherlyn and Karen do not have the requisite standing to file the *amparo* petition on behalf of Merino. They call attention to the fact that in the *amparo* petition, the parents of Sherlyn and Karen merely indicated that they were “concerned with Manuel Merino” as basis for filing the petition on his behalf.

Section 2 of the Rule on the *Writ of Amparo* provides:

The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

- (a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or

¹³ Id. at 10.

¹⁴ *Spouses Santiago v. Tolfo*, 772 Phil. 203 (2015).

¹⁵ *Rollo*, p. 9.

¹⁶ 665 Phil. 84, 107-108 (2011).

(c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

Indeed, the parents of Sherlyn and Karen failed to allege that there were no known members of the immediate family or relatives of Merino. The exclusive and successive order mandated by the above-quoted provision must be followed. **The order of priority is not without reason — “to prevent the indiscriminate and groundless filing of petitions for *amparo* which may even prejudice the right to life, liberty or security of the aggrieved party.”**

The Court notes that the parents of Sherlyn and Karen also filed the petition for *habeas corpus* on Merino’s behalf. No objection was raised therein for, in a *habeas corpus* proceeding, any person may apply for the writ on behalf of the aggrieved party.

It is thus only with respect to the *amparo* petition that the parents of Sherlyn and Karen are precluded from filing the application on Merino’s behalf as they are not authorized parties under the Rule. (Emphasis supplied)

Thus, while “any person” may file a petition for the writ of *habeas corpus*, in a petition for the writ of *amparo*, the order of priority on who can file the petition should be strictly followed. In this case, there was no allegation nor proof that Parker had no immediate family members or any ascendant, descendant, or collateral relative within the fourth civil degree of consanguinity or affinity. In fact, no allegation was made on any of the familial relationship of Parker as only her whereabouts from 2011 were alleged and discussed. Therefore, based on the order of priority, Callo had no legal standing to file this petition.

Given that there is no basis for the issuance of the writ of *amparo*, the interim reliefs sought for are also denied. Moreover, we see no need to address the other issues raised by Callo in this petition, specifically, the condition of the Immigration Detention Facility and the treatment of Parker in said detention center. A petition for the writ of *amparo* is not the proper action to resolve such issues.

WHEREFORE, the petition is hereby **DENIED**.

SO ORDERED.



ANTONIO T. CARPIO
Acting Chief Justice

WE CONCUR:

(on official leave)

MARIA LOURDES P. A. SERENO

Chief Justice



PRESBITERO J. VELÁSICO, JR.

Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO

Associate Justice



DIOSDADO M. PERALTA

Associate Justice



LUCAS P. BERSAMIN

Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO

Associate Justice

(on official business)
ESTELA M. PERLAS-BERNABE

Associate Justice

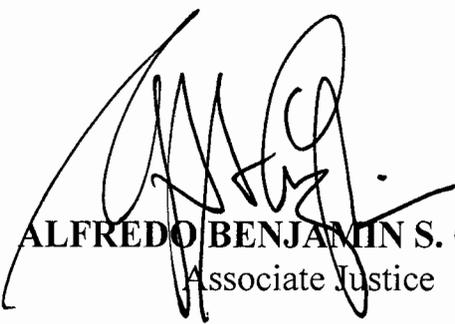


MARVIC M.V.F. LEONEN

Associate Justice

Francis H. Jardeleza
FRANCIS H. JARDELEZA

Associate Justice



ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

Samuel R. Martires
SAMUEL R. MARTIRES

Associate Justice

(on official business)
NOEL GIMENEZ TIJAM
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

(on official business)
ALEXANDER G. GESMUNDO
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.


ANTONIO T. CARPIO
Acting Chief Justice