

EN BANC

[G.R. No. 231671, July 25, 2017]

ALEXANDER A. PADILLA, RENE A.V. SAGUISAG, CHRISTIAN S. MONSOD, LORETTA ANN P. ROSALES, RENE B. GOROSPE, AND SENATOR LEILA M. DE LIMA, PETITIONERS, VS. CONGRESS OF THE PHILIPPINES, CONSISTING OF THE SENATE OF THE PHILIPPINES, AS REPRESENTED BY SENATE PRESIDENT AQUILINO "KOKO" PIMENTEL III, AND THE HOUSE OF REPRESENTATIVES, AS REPRESENTED BY HOUSE SPEAKER PANTALEON D. ALVAREZ, RESPONDENTS.

[G.R. No. 231694]

FORMER SEN. WIGBERTO E. TAÑADA, BISHOP EMERITUS DEOGRACIAS S. IÑIGUEZ, BISHOP BRODERICK PABILLO, BISHOP ANTONIO R. TOBIAS, MO. ADELAIDA YGRUBAY, SHAMAH BULANGIS AND CASSANDRA D. DELURIA, PETITIONERS, VS. CONGRESS OF THE PHILIPPINES, CONSISTING OF THE SENATE AND THE HOUSE OF REPRESENTATIVES, AQUILINO "KOKO" PIMENTEL III, PRESIDENT, SENATE OF THE PHILIPPINES, AND PANTALEON D. ALVAREZ, SPEAKER, HOUSE OF THE REPRESENTATIVES, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

These consolidated petitions under consideration essentially assail the failure and/or refusal of respondent Congress of the Philippines (the Congress), composed of the Senate and the House of Representatives, to convene in joint session and therein deliberate on Proclamation No. 216 issued on May 23, 2017 by President Rodrigo Roa Duterte (President Duterte). Through Proclamation No. 216, President Duterte declared a state of martial law and suspended the privilege of the writ of *habeas corpus* in the whole of Mindanao for a period not exceeding sixty (60) days effective from the date of the proclamation's issuance.

In the Petition for *Mandamus* of Alexander A. Padilla (Padilla), Rene A.V. Saguisag (Saguisag), Christian S. Monsod (Monsod), Loretta Ann P. Rosales (Rosales), Rene B. Gorospe (Gorospe), and Senator Leila M. De Lima (Senator De Lima), filed on June 6, 2017 and docketed as G.R. No. 231671 (the Padilla Petition), petitioners seek a ruling from the Court directing the Congress to convene in joint session to deliberate on Presidential Proclamation No. 216, and to vote thereon.^[1]

In the Petition for *Certiorari* and *Mandamus* of former Senator Wigberto E. Tañada (Tañada), Bishop Emeritus Deogracias Iñiguez (Bishop Iñiguez), Bishop Broderick

Pabillo (Bishop Pabillo), Bishop Antonio Tobias (Bishop Tobias), Mo. Adelaida Ygrubay (Mo. Ygrubay), Shamah Bulangis (Bulangis), and Cassandra D. Deluria (Deluria), filed on June 7, 2017 and docketed as G.R. No. 231694 (the Tañada Petition), petitioners entreat the Court to: (a) declare the refusal of the Congress to convene in joint session for the purpose of considering Proclamation No. 216 to be in grave abuse of discretion amounting to a lack or excess of jurisdiction; and (b) issue a writ of *mandamus* directing the Congress to convene in joint session for the aforementioned purpose.^[2]

Respondent Congress, represented by the Office of the Solicitor General (OSG), filed its *Consolidated Comment* on June 27, 2017. Respondents Senate of the Philippines and Senate President Aquilino "Koko" Pimentel III (Senate President Pimentel), through the Office of the Senate Legal Counsel, separately filed their *Consolidated Comment (Ex Abudanti Cautela)* on June 29, 2017.

ANTECEDENT FACTS

On May 23, 2017, President Duterte issued Proclamation No. 216, declaring a state of martial law and suspending the privilege of the writ of *habeas corpus* in the Mindanao group of islands on the grounds of rebellion and necessity of public safety pursuant to Article VII, Section 18 of the 1987 Constitution.

Within forty-eight (48) hours after the proclamation, or on May 25, 2017, and while the Congress was in session, President Duterte transmitted his "Report relative to Proclamation No. 216 dated 23 May 2017" (Report) to the Senate, through Senate President Pimentel, and the House of Representatives, through House Speaker Pantaleon D. Alvarez (House Speaker Alvarez).

According to President Duterte's Proclamation No. 216 and his Report to the Congress, the declaration of a state of martial law and the suspension of the privilege of the writ of *habeas corpus* in the whole of Mindanao ensued from the series of armed attacks, violent acts, and atrocities directed against civilians and government authorities, institutions, and establishments perpetrated by the Abu Sayyaf and Maute terrorist groups, in complicity with other local and foreign armed affiliates, who have pledged allegiance to the Islamic State of Iraq and Syria (ISIS), to sow lawless violence, terror, and political disorder over the said region for the ultimate purpose of establishing a DAESH *wilayah* or Islamic Province in Mindanao.

Representatives from the Executive Department, the military, and other security officials of the government were thereafter invited, on separate occasions, by the Senate and the House of Representatives for a conference briefing regarding the circumstances, details, and updates surrounding the President's proclamation and report.

On May 29, 2017, the briefing before the Senate was conducted, which lasted for about four (4) hours, by Secretary of National Defense Delfin N. Lorenza (Secretary Lorenzana), National Security Adviser and Director General of the National Security Council Hermogenes C. Esperon, Jr. (Secretary Esperon), and Chief of Staff of the Armed Forces of the Philippines (AFP) General Eduardo M. Año (General Año). The following day, May 30, 2017, the Senate deliberated on these proposed resolutions: (a) Proposed Senate (P.S.) Resolution No. 388,^[3] which expressed support for

President Duterte's Proclamation No. 216; and (b) P.S. Resolution No. 390,^[4] which called for the convening in joint session of the Senate and the House of Representatives to deliberate on President Duterte's Proclamation No. 216.

P.S. Resolution No. 388 was approved, after receiving seventeen (17) affirmative votes as against five (5) negative votes, and was adopted as Senate Resolution No. 49^[5] entitled "*Resolution Expressing the Sense of the Senate Not to Revoke, at this Time, Proclamation No. 216, Series of 2017, Entitled 'Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao.'*"^[6]

P.S. Resolution No. 390, on the other hand, garnered only nine (9) votes from the senators who were in favor of it as opposed to twelve (12) votes from the senators who were against its approval and adoption.^[7]

On May 31, 2017, the House of Representatives, having previously constituted itself as a Committee of the Whole House,^[8] was briefed by Executive Secretary Salvador C. Medialdea (Executive Secretary Medialdea), Secretary Lorenzana, and other security officials for about six (6) hours. After the closed-door briefing, the House of Representatives resumed its regular meeting and deliberated on House Resolution No. 1050 entitled "*Resolution Expressing the Full Support of the House of Representatives to President Rodrigo Duterte as it Finds No Reason to Revoke Proclamation No. 216, Entitled 'Declaring a State of Martial Law and Suspending the Privilege of the Writ of Habeas Corpus in the Whole of Mindanao.'*"^[9] The House of Representatives proceeded to divide its members on the matter of approving said resolution through *viva voce* voting. The result shows that the members who were in favor of passing the subject resolution secured the majority vote.^[10]

The House of Representatives also purportedly discussed the proposal calling for a joint session of the Congress to deliberate and vote on President Duterte's Proclamation No. 216. After the debates, however, the proposal was rejected.^[11]

These series of events led to the filing of the present consolidated petitions.

THE PARTIES' ARGUMENTS

The Padilla Petition

Petitioners in G.R. No. 231671 raise the question of "[w]hether Congress is required to convene in joint session, deliberate, and vote jointly under Article VII, [Section] 18 of the Constitution" and submit the following arguments in support of their petition:

[I] THE PETITION SATISFIES THE REQUISITES FOR THE EXERCISE OF THE HONORABLE COURT'S POWER OF JUDICIAL REVIEW.

[i] THERE IS AN ACTUAL CASE OR CONTROVERSY.

[ii] PETITIONERS, AS PART OF THE PUBLIC AND AS TAXPAYERS, POSSESS LEGAL STANDING TO FILE THIS PETITION.

[iii] PETITIONER (DE LIMA), AS MEMBER OF CONGRESS, HAS LEGAL STANDING TO FILE THIS PETITION.

[iv] THE CASE AND THE ISSUE INVOLVED ARE RIPE FOR JUDICIAL DETERMINATION.

[II] THE PLAIN TEXT OF THE CONSTITUTION, SUPPORTED BY THE EXPRESS INTENT OF THE FRAMERS, AND CONFIRMED BY THE SUPREME COURT, REQUIRES THAT CONGRESS CONVENE IN JOINT SESSION TO DELIBERATE AND VOTE AS A SINGLE DELIBERATIVE BODY.

[i] THE PLAIN TEXT OF THE CONSTITUTION REQUIRES THAT CONGRESS CONVENE IN JOINT SESSION.

[ii] THE EXPRESS INTENT OF THE FRAMERS IS FOR CONGRESS TO CONVENE IN JOINT SESSION TO DELIBERATE AND VOTE AS A SINGLE DELIBERATIVE BODY.

[iii] THE SUPREME COURT CONFIRMED IN *FORTUN v. GMA* THAT CONGRESS HAS THE "AUTOMATIC DUTY" TO CONVENE IN JOINT SESSION.

[iv] LEGISLATIVE PRECEDENT ALSO RECOGNIZES CONGRESS' DUTY TO CONVENE IN JOINT SESSION.

[III] THE REQUIREMENT TO ACT AS A SINGLE DELIBERATIVE BODY UNDER ARTICLE VII, [SECTION] 18 OF THE CONSTITUTION IS A MANDATORY, MINISTERIAL CONSTITUTIONAL DUTY OF CONGRESS, WHICH CAN BE COMPELLED BY *MANDAMUS*.^[12]

Petitioners claim that there is an actual case or controversy in this instance and that their case is ripe for adjudication. According to petitioners, the resolutions separately passed by the Senate and the House of Representatives, which express support as well as the intent not to revoke President Duterte's Proclamation No. 216, injure their rights "to a proper [and] mandatory legislative review of the declaration of martial law" and that the continuing failure of the Congress to convene in joint session similarly causes a continuing injury to their rights.^[13]

Petitioners also allege that, as citizens and taxpayers, they all have *locus standi* in their "assertion of a public right" which they have been deprived of when the Congress refused and/or failed to convene in joint session to deliberate on President Duterte's Proclamation No. 216. Senator De Lima adds that she, together with the other senators who voted in favor of the resolution to convene the Congress jointly, were even effectively denied the opportunity to perform their constitutionally-mandated duty, under Article VII, Section 18 of the Constitution, to deliberate on the said proclamation of the President in a joint session of the Congress.^[14]

On the propriety of resorting to the remedy of *mandamus*, petitioners posit that "the duty of Congress to convene in joint session upon the proclamation of martial law or the suspension of the privilege of the writ of *habeas corpus* does not require the exercise of discretion." Such mandate upon the Congress is allegedly a purely ministerial act which can be compelled through a writ of *mandamus*.^[15]

As for the substantive issue, it is the primary contention of petitioners that a plain reading of Article VII, Section 18 of the Constitution shows that the Congress is required to convene in joint session to review Proclamation No. 216 and vote as a single deliberative body. The performance of the constitutional obligation is allegedly mandatory, not discretionary.^[16]

According to petitioners, the discretionary nature of the phrase "may revoke such proclamation or suspension" under Article VII, Section 18 of the Constitution allegedly pertain to the power of the Congress to revoke but not to its obligation to jointly convene and vote which, they stress, is mandatory. To require the Congress to convene only when it exercises the power to revoke is purportedly absurd since the Congress, without convening in joint session, cannot know beforehand whether a majority vote in fact exists to effect a revocation.^[17]

Petitioners claim that in *Fortun v. Macapagal-Arroyo*,^[18] this Court described the "duty" of the Congress to convene in joint session as "automatic." The convening of the Congress in joint session when former President Gloria Macapagal-Arroyo (President Macapagal-Arroyo) declared martial law and suspended the privilege of the writ of *habeas corpus* in Maguindanao was also a legislative precedent where the Congress clearly recognized its duty to convene in joint session.^[19]

The mandate upon the Congress to convene jointly is allegedly intended by the 1986 Constitutional Commission (ConCom) to serve as a protection against potential abuses in the exercise of the President's power to declare martial law and suspend the privilege of the writ of *habeas corpus*. It is "a mechanism purposely designed by the Constitution to compel Congress to review the propriety of the President's action x x x [and] meant to contain martial law powers within a democratic framework for the preservation of democracy, prevention of abuses, and protection of the people."^[20]

The Tañada Petition

The petitioners in G.R. No. 231694 chiefly opine that:

- I. A PLAIN READING OF THE 1987 CONSTITUTION LEADS TO THE INDUBITABLE CONCLUSION THAT A JOINT SESSION OF CONGRESS TO REVIEW A DECLARATION OF MARTIAL LAW BY THE PRESIDENT IS MANDATORY.
- II. FAILURE TO CONVENE A JOINT SESSION DEPRIVES LAWMAKERS OF A DELIBERATIVE AND INTERROGATORY PROCESS TO REVIEW MARTIAL LAW.
- III. FAILURE TO CONVENE A JOINT SESSION DEPRIVES THE PUBLIC OF TRANSPARENT PROCEEDINGS WITHIN WHICH TO BE INFORMED OF THE FACTUAL BASES OF MARTIAL LAW AND THE INTENDED PARAMETERS OF ITS IMPLEMENTATION.
- IV. THE FRAMERS OF THE CONSTITUTION INTENDED THAT A JOINT SESSION OF CONGRESS BE CONVENED IMMEDIATELY AFTER THE