

EN BANC

[G.R. No. 180906, October 07, 2008]

**THE SECRETARY OF NATIONAL DEFENSE, THE CHIEF OF STAFF,
ARMED FORCES OF THE PHILIPPINES, PETITIONERS, VS.
RAYMOND MANALO AND REYNALDO MANALO, RESPONDENTS.**

D E C I S I O N

PUNO, CJ.:

While victims of enforced disappearances are separated from the rest of the world behind secret walls, they are not separated from the constitutional protection of their basic rights. The constitution is an overarching sky that covers all in its protection. The case at bar involves the rights to life, liberty and security in the first petition for a writ of *amparo* filed before this Court.

This is an appeal via Petition for Review under Rule 45 of the Rules of Court in relation to Section 19^[1] of the Rule on the Writ of *Amparo*, seeking to reverse and set aside on both questions of fact and law, the Decision promulgated by the Court of Appeals in C.A. G.R. AMPARO No. 00001, entitled "Raymond Manalo and Reynaldo Manalo, petitioners, versus The Secretary of National Defense, the Chief of Staff, Armed Forces of the Philippines, respondents."

This case was originally a Petition for Prohibition, Injunction, and Temporary Restraining Order (TRO)^[2] filed before this Court by herein respondents (therein petitioners) on August 23, 2007 to stop herein petitioners (therein respondents) and/or their officers and agents from depriving them of their right to liberty and other basic rights. Therein petitioners also sought ancillary remedies, Protective Custody Orders, Appointment of Commissioner, Inspection and Access Orders, and all other legal and equitable reliefs under Article VIII, Section 5(5)^[3] of the 1987 Constitution and Rule 135, Section 6 of the Rules of Court. In our Resolution dated August 24, 2007, we (1) ordered the Secretary of the Department of National Defense and the Chief of Staff of the AFP, their agents, representatives, or persons acting in their stead, including but not limited to the Citizens Armed Forces Geographical Unit (CAFGU) to submit their Comment; and (2) enjoined them from causing the arrest of therein petitioners, or otherwise restricting, curtailing, abridging, or depriving them of their right to life, liberty, and other basic rights as guaranteed under Article III, Section 1^[4] of the 1987 Constitution.^[5]

While the August 23, 2007 Petition was pending, the Rule on the Writ of *Amparo* took effect on October 24, 2007. Forthwith, therein petitioners filed a Manifestation and Omnibus Motion to Treat Existing Petition as *Amparo* Petition, to Admit Supporting Affidavits, and to Grant Interim and Final *Amparo* Reliefs. They prayed that: (1) the petition be considered a Petition for the Writ of *Amparo* under Sec. 26^[6] of the *Amparo* Rule; (2) the Court issue the writ commanding therein

respondents to make a verified return within the period provided by law and containing the specific matter required by law; (3) they be granted the interim reliefs allowed by the *Amparo* Rule and all other reliefs prayed for in the petition but not covered by the *Amparo* Rule; (4) the Court, after hearing, render judgment as required in Sec. 18^[7] of the *Amparo* Rule; and (5) all other just and equitable reliefs.^[8]

On October 25, 2007, the Court resolved to treat the August 23, 2007 Petition as a petition under the *Amparo* Rule and further resolved, *viz*:

WHEREFORE, let a WRIT OF AMPARO be issued to respondents requiring them to file with the CA (Court of Appeals) a verified written return within five (5) working days from service of the writ. We REMAND the petition to the CA and designate the Division of Associate Justice Lucas P. Bersamin to conduct the summary hearing on the petition on November 8, 2007 at 2:00 p.m. and decide the petition in accordance with the Rule on the Writ of Amparo.^[9]

On December 26, 2007, the Court of Appeals rendered a decision in favor of therein petitioners (herein respondents), the dispositive portion of which reads, *viz*:

ACCORDINGLY, the PRIVILEGE OF THE WRIT OF AMPARO is GRANTED.

The respondents **SECRETARY OF NATIONAL DEFENSE** and **AFP CHIEF OF STAFF** are hereby REQUIRED:

1. To furnish to the petitioners and to this Court within five days from notice of this decision all official and unofficial reports of the investigation undertaken in connection with their case, except those already on file herein;
2. To confirm in writing the present places of official assignment of M/Sgt Hilario *aka* Rollie Castillo and Donald Caigas within five days from notice of this decision.
3. To cause to be produced to this Court all medical reports, records and charts, reports of any treatment given or recommended and medicines prescribed, if any, to the petitioners, to include a list of medical and (sic) personnel (military and civilian) who attended to them from February 14, 2006 until August 12, 2007 within five days from notice of this decision.

The compliance with this decision shall be made under the signature and oath of respondent AFP Chief of Staff or his duly authorized deputy, the latter's authority to be express and made apparent on the face of the sworn compliance with this directive.

SO ORDERED.^[10]

Hence, this appeal. In resolving this appeal, we first unfurl the facts as alleged by herein respondents:

Respondent Raymond Manalo recounted that about one or two weeks before

February 14, 2006, several uniformed and armed soldiers and members of the CAFGU summoned to a meeting all the residents of their *barangay* in San Idelfonso, Bulacan. Respondents were not able to attend as they were not informed of the gathering, but Raymond saw some of the soldiers when he passed by the *barangay* hall.^[11]

On February 14, 2006, Raymond was sleeping in their house in Buhol na Mangga, San Ildefonso, Bulacan. At past noon, several armed soldiers wearing white shirts, fatigue pants and army boots, entered their house and roused him. They asked him if he was Bestre, but his mother, Ester Manalo, replied that he was Raymond, not Bestre. The armed soldier slapped him on both cheeks and nudged him in the stomach. He was then handcuffed, brought to the rear of his house, and forced to the ground face down. He was kicked on the hip, ordered to stand and face up to the light, then forcibly brought near the road. He told his mother to follow him, but three soldiers stopped her and told her to stay.^[12]

Among the men who came to take him, Raymond recognized brothers Michael de la Cruz, Madning de la Cruz, "Puti" de la Cruz, and "Pula" de la Cruz, who all acted as lookout. They were all members of the CAFGU and residing in Manuzon, San Ildefonso, Bulacan. He also recognized brothers Randy Mendoza and Rudy Mendoza, also members of the CAFGU. While he was being forcibly taken, he also saw outside of his house two *barangay* councilors, Pablo Cunanan and Bernardo Lingasa, with some soldiers and armed men.^[13]

The men forced Raymond into a white L300 van. Once inside, he was blindfolded. Before being blindfolded, he saw the faces of the soldiers who took him. Later, in his 18 months of captivity, he learned their names. The one who drove the van was Rizal Hilario alias Rollie Castillo, whom he estimated was about 40 years of age or older. The leader of the team who entered his house and abducted him was "Ganata." He was tall, thin, curly-haired and a bit old. Another one of his abductors was "George" who was tall, thin, white-skinned and about 30 years old.^[14]

The van drove off, then came to a stop. A person was brought inside the van and made to sit beside Raymond. Both of them were beaten up. On the road, he recognized the voice of the person beside him as his brother Reynaldo's. The van stopped several times until they finally arrived at a house. Raymond and Reynaldo were each brought to a different room. With the doors of their rooms left open, Raymond saw several soldiers continuously hitting his brother Reynaldo on the head and other parts of his body with the butt of their guns for about 15 minutes. After which, Reynaldo was brought to his (Raymond's) room and it was his (Raymond's) turn to be beaten up in the other room. The soldiers asked him if he was a member of the New People's Army. Each time he said he was not, he was hit with the butt of their guns. He was questioned where his comrades were, how many soldiers he had killed, and how many NPA members he had helped. Each time he answered none, they hit him.^[15]

In the next days, Raymond's interrogators appeared to be high officials as the soldiers who beat him up would salute them, call them "sir," and treat them with respect. He was in blindfolds when interrogated by the high officials, but he saw their faces when they arrived and before the blindfold was put on. He noticed that the uniform of the high officials was different from those of the other soldiers. One

of those officials was tall and thin, wore white pants, tie, and leather shoes, instead of combat boots. He spoke in Tagalog and knew much about his parents and family, and a *habeas corpus* case filed in connection with the respondents' abduction.^[16] While these officials interrogated him, Raymond was not manhandled. But once they had left, the soldier guards beat him up. When the guards got drunk, they also manhandled respondents. During this time, Raymond was fed only at night, usually with left-over and rotten food.^[17]

On the third week of respondents' detention, two men arrived while Raymond was sleeping and beat him up. They doused him with urine and hot water, hit his stomach with a piece of wood, slapped his forehead twice with a .45 pistol, punched him on the mouth, and burnt some parts of his body with a burning wood. When he could no longer endure the torture and could hardly breathe, they stopped. They then subjected Reynaldo to the same ordeal in another room. Before their torturers left, they warned Raymond that they would come back the next day and kill him.^[18]

The following night, Raymond attempted to escape. He waited for the guards to get drunk, then made noise with the chains put on him to see if they were still awake. When none of them came to check on him, he managed to free his hand from the chains and jumped through the window. He passed through a helipad and firing range and stopped near a fishpond where he used stones to break his chains. After walking through a forested area, he came near a river and an Iglesia ni Kristo church. He talked to some women who were doing the laundry, asked where he was and the road to Gapan. He was told that he was in Fort Magsaysay.^[19] He reached the highway, but some soldiers spotted him, forcing him to run away. The soldiers chased him and caught up with him. They brought him to another place near the entrance of what he saw was Fort Magsaysay. He was boxed repeatedly, kicked, and hit with chains until his back bled. They poured gasoline on him. Then a so-called "Mam" or "Madam" suddenly called, saying that she wanted to see Raymond before he was killed. The soldiers ceased the torture and he was returned inside Fort Magsaysay where Reynaldo was detained.^[20]

For some weeks, the respondents had a respite from all the torture. Their wounds were treated. When the wounds were almost healed, the torture resumed, particularly when respondents' guards got drunk.^[21]

Raymond recalled that sometime in April until May 2006, he was detained in a room enclosed by steel bars. He stayed all the time in that small room measuring 1 x 2 meters, and did everything there, including urinating, removing his bowels, bathing, eating and sleeping. He counted that eighteen people^[22] had been detained in that *bartolina*, including his brother Reynaldo and himself.^[23]

For about three and a half months, the respondents were detained in Fort Magsaysay. They were kept in a small house with two rooms and a kitchen. One room was made into the *bartolina*. The house was near the firing range, helipad and mango trees. At dawn, soldiers marched by their house. They were also sometimes detained in what he only knew as the "DTU."^[24]

At the DTU, a male doctor came to examine respondents. He checked their body and eyes, took their urine samples and marked them. When asked how they were

feeling, they replied that they had a hard time urinating, their stomachs were aching, and they felt other pains in their body. The next day, two ladies in white arrived. They also examined respondents and gave them medicines, including orasol, amoxicillin and mefenamic acid. They brought with them the results of respondents' urine test and advised them to drink plenty of water and take their medicine. The two ladies returned a few more times. Thereafter, medicines were sent through the "master" of the DTU, "Master" Del Rosario alias Carinyoso at Puti. Respondents were kept in the DTU for about two weeks. While there, he met a soldier named Efren who said that Gen. Palparan ordered him to monitor and take care of them.^[25]

One day, Rizal Hilario fetched respondents in a Revo vehicle. They, along with Efren and several other armed men wearing fatigue suits, went to a detachment in Pinaud, San Ildefonso, Bulacan. Respondents were detained for one or two weeks in a big two-storey house. Hilario and Efren stayed with them. While there, Raymond was beaten up by Hilario's men.^[26]

From Pinaud, Hilario and Efren brought respondents to Sapang, San Miguel, Bulacan on board the Revo. They were detained in a big unfinished house inside the compound of "Kapitan" for about three months. When they arrived in Sapang, Gen. Palparan talked to them. They were brought out of the house to a basketball court in the center of the compound and made to sit. Gen. Palparan was already waiting, seated. He was about two arms' length away from respondents. He began by asking if respondents felt well already, to which Raymond replied in the affirmative. He asked Raymond if he knew him. Raymond lied that he did not. He then asked Raymond if he would be scared if he were made to face Gen. Palparan. Raymond responded that he would not be because he did not believe that Gen. Palparan was an evil man.^[27]

Raymond narrated his conversation with Gen. Palparan in his affidavit, *viz*:

Tinanong ako ni Gen. Palparan, "Ngayon na kaharap mo na ako, di ka ba natatakot sa akin?"

Sumagot akong, "Siyempre po, natatakot din..."

Sabi ni Gen. Palparan: "Sige, bibigyan ko kayo ng isang pagkakataon na mabuhay, basta't sundin n'yo ang lahat ng sasabihin ko... sabihin mo sa magulang mo - huwag pumunta sa mga rali, sa hearing, sa Karapatan at sa Human Right dahil niloloko lang kayo. Sabihin sa magulang at lahat sa bahay na huwag paloko doon. Tulungan kami na kausapin si Bestre na sumuko na sa gobyerno."^[28]

Respondents agreed to do as Gen. Palparan told them as they felt they could not do otherwise. At about 3:00 in the morning, Hilario, Efren and the former's men - the same group that abducted them - brought them to their parents' house. Raymond was shown to his parents while Reynaldo stayed in the Revo because he still could not walk. In the presence of Hilario and other soldiers, Raymond relayed to his parents what Gen. Palparan told him. As they were afraid, Raymond's parents acceded. Hilario threatened Raymond's parents that if they continued to join human rights rallies, they would never see their children again. The respondents were then