

**MARTINIANO P. VIVO, PETITIONER, VS. HON. RODOLFO T. GANZON,
DANTE Q. NAGTALON, MARTIN MANAHAN, AURELIO P. JOSE,
GASPAR LEYSON, TIMOTEO DIESTRO, SILVERIO GABUCAN, ROMEO
DESACADA,...**

G.R. NO. L-23453. May 31, 1974

Ponente: FERNANDO, J.

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FERNANDO, J.:

In this application for habeas corpus, the then Acting Commissioner of Immigration, petitioner Martiniano P. Vivo, sought his release from detention and confinement ordered by respondent Rodolfo T. Ganzon as Chairman of the Senate Committee on Labor and Immigration.[1] Upon the filing of his petition, he was able to obtain his provisional liberty upon the posting of a bond. It admits of no doubt that with the Senate being abolished under the present Constitution, that order of confinement had lost any juridical basis, even on the assumption that it had when issued the impress of validity.

It was alleged that when petitioner appeared before such committee and upon noticing that only its Chairman was present, the six other members[2] being absent, he sought to be excused from testifying on the plea that as there was no quorum, there could not be a valid committee meeting. It was further stated that then and there, respondent Ganzon brushed aside such request, declared a recess and after resuming what he considered was a bona fide session, he asked petitioner some preliminary questions. As he declined to answer, pleading that the committee as a whole should rule on his objection, he was declared in contempt of the committee and of the Senate, with respondent Ganzon ordering the then Senate Sergeant-at-Arms and his assistants and deputies, the other respondents to place petitioner under arrest and detention.[3] He then alleged that: "Your petitioner is now detained and deprived of his liberty by respondents, who are taking turns by rotation in guarding your petitioner, without due process of law, in violation of his Constitutional and legal rights to be free, such detention was and is not by virtue of any valid warrant of arrest, or commitment, for indeed, there is not even a written warrant of arrest and respondent Ganzon as Senator and Chairman of the Senate Committee on Labor and Immigration is without any power or authority to order the arrest of your petitioner and deprive him of his liberty for alleged contempt of the Committee and of the Senate since the Committee in question had not been constituted and assembled in a meeting lawfully convened as a body." [4]

This Court, as noted at the outset, thereafter granted the writ, ordered a hearing and released the petitioner upon his posting a bond of P500.00.

Eventually, an answer was filed by respondent Ganzon on behalf of himself and the other respondents maintaining that the action taken by him was in accordance with law and the implied power of the Senate to punish for contempt. There was submitted as annexes to such answer a Senate resolution[5] authorizing all standing committees and all the special committees of the Senate to function during recess of Congress and a certification,[6] signed by the six other Senator members of the Committee, to the effect that they had given their

consent, "implied or implicit" to the exercise by respondent Ganzon as Chairman, of the power to conduct the hearings and investigations, which consent in their opinion, included his being authorized to exercise all his prerogatives. In view of the importance of the legal issues raised, the parties including amici curiae[7] submitted extensive memoranda.

This is not the occasion, however, to pass on the significant questions of law argued. As already mentioned, the liberty of petitioner has lost its tentative character. It is to be declared, as likewise made clear, permanent. The present Constitution did indeed abolish the Senate of the Philippines. Instead of a bicameral Congress, there is now a unicameral National Assembly.[8] Formerly, the power to punish for contempt was a mere incident of the implied power of investigation possessed by the two branches of Congress. Now there is this provision: "The National Assembly or any of its committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in such inquiries shall be respected." [9] The Court thus feels that instead of passing on the issues presented, a more appropriate case, if it arises under the above provision, should be awaited.

WHEREFORE, for the reason above stated and without the need of passing on the legality of the order of confinement and detention by respondent Rodolfo T. Ganzon, allegedly by virtue of his being Chairman of the then Senate Committee on Labor and Immigration, with the Senate abolished, the provisional release under bail of Martiniano P. Vivo is declared permanent and the order of detention issued by the aforesaid respondent Ganzon to be without any force or effect. No costs.

Zaldivar, (Chairman), Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J, did not take part.

[1] The other respondents were Dante Q. Nagtalon, Martin Manahan, Aurelio P. Jose, Gaspar Leyson, Timoteo Diestro, Silverio Gabucan, Romeo Desacada, Ricardo Junsay and Raymundo San lose and all other deputies, agents, and assistants of the Senate Sergeant-at-Arms, or other persons acting under his orders.

[2] The six other members were the then Senators Francisco Rodrigo, Alejandro D. Almendras, Jose J. Roy, Gerardo Roxas, Jose W. Diokno, and Juan R. Liwag, Petition, par. 5.

[3] Ibid.

[4] Ibid, par. 8.

[5] Annex A, Senate Resolution No. 50, 1964.

[6] Annex B, Certification, 1964.

[7] The amici curiae were the then Dean of the College of Law of the University of the Philippines, now Secretary of Justice, Vicente Abad Santos, and its then Professors, Luis J. Gonzaga, Jose C. Laureta, Juan F. Rivera and Estelito Mendoza, now Solicitor General.

[8] According to Article VIII, Section 1 of the Constitution: "The legislative power shall be vested in a National Assembly."

[9] Cf. Article VIII, Section 12, par. (2) of the Constitution.

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