

BRIGIDO R. SIMON, JR., CARLOS QUIMPO, CARLITO ABELARDO, AND GENEROSO OCAMPO, PETITIONERS, VS. COMMISSION ON HUMAN RIGHTS, ROQUE FERMO, AND OTHERS AS JOHN DOES, RESPONDENTS.*G.R. No. 100150. January 05, 1994*

Ponente: VITUG, J.

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The extent of the authority and power of the Commission on Human Rights ("CHR") is again placed into focus in this petition for prohibition, with prayer for a restraining order and preliminary injunction. The petitioners ask us to prohibit public respondent CHR from further hearing and investigating CHR Case No-90-1580, entitled "Fermo, et al. vs. Quimpo, et al."

The case all started when a "Demolition Notice," dated 9 July 1990, signed by Carlos Quimpo (one of the petitioners) in his capacity as an Executive Officer of the Quezon City Integrated Hawkers Management Council under the Office of the City Mayor, was sent to, and received by, the private respondents (being the officers and members of the North EDSA Vendors Association, Incorporated). In said notice, the respondents were given a grace-period of three (3) days (up to 12 July 1990) within which to vacate the questioned premises of North EDSA.[1] Prior to their receipt of the demolition notice, the private respondents were informed by petitioner Quimpo that their stalls should be removed to give way to the "People's Park." [2] On 12 July 1990, the group, led by their President Roque Fermo, filed a letter-complaint (Pinag-samang Sinumpaang Salaysay) with the CHR against the petitioners, asking the late CHR Chairman Mary Concepcion Bautista for a letter to be addressed to then Mayor Brigido Simon, Jr., of Quezon City to stop the demolition of the private respondents' stalls, sari-sari stores, and carinderia along North EDSA. The complaint was docketed as CHR Case No. 90-1580.[3] On 23 July 1990, the CHR issued an Order, directing the petitioners "to desist from demolishing the stalls and shanties at North EDSA pending resolution of the vendors/squatters' complaint before the Commission" and ordering said petitioners to appear before the CHR.[4]

On the basis of the sworn statements submitted by the private respondents on 31 July 1990, as well as CHR's own ocular inspection, and convinced that on 28 July 1990 the petitioners carried out the demolition of private respondents' stalls, sari-sari stores and carinderia,[5] the CHR, in its resolution of 1 August 1990, ordered the disbursement of financial assistance of not more than P200,000.00 in favor of the private respondents to purchase light housing materials and food under the Commission's supervision and again directed the petitioners to "desist from further demolition, with the warning that violation of said order would lead to a citation for contempt and arrest." [6]

A motion to dismiss,[7] dated 10 September 1990, questioned CHR's jurisdiction. The motion also averred, among other things, that:

"1. this case came about due to the alleged violation by the (petitioners) of the Inter-Agency Memorandum of

Agreement whereby Metro-Manila Mayors agreed on a moratorium in the demolition of the dwellings of poor dwellers in Metro-Manila;

"* * *

"3. * * *, a perusal of the said Agreement (revealed) that the moratorium referred to therein refers to moratorium in the demolition of the structures of poor dwellers;

"4. that the complainants in this case (were) not poor dwellers but independent business entrepreneurs even this Honorable Office admitted in its resolution of 1 August 1990 that the complainants are indeed, vendors;

"5. that the complainant (were) occupying government land, particularly the sidewalk of EDSA corner North Avenue, Quezon City; * * * and

"6. that the City Mayor of Quezon City (had) the sole and exclusive discretion and authority whether or not a certain business establishment (should) be allowed to operate within the jurisdiction of Quezon City, to revoke or cancel a permit, if already issued, upon grounds clearly specified by law and ordinance."[8]

During the 12 September 1990 hearing, the petitioners moved for postponement, arguing that the motion to dismiss set for 21 September 1990 had yet to be resolved. The petitioners likewise manifested that they would bring the case to the courts.

On 18 September 1990, a supplemental motion to dismiss was filed by the petitioners, stating that the Commission's authority should be understood as being confined only to the investigation of violations of civil and political rights, and that "the rights allegedly violated in this case (were) not civil and political rights, (but) their privilege to engage in business."[9]

On 21 September 1990, the motion to dismiss was heard and submitted for resolution, along with the contempt charge that had meantime been filed by the private respondents, albeit vigorously objected to by the petitioners (on the ground that the motion to dismiss was still then unresolved).[10]

In an Order,[11] dated 25 September 1990, the CHR cited the petitioners in contempt for carrying out the demolition of the stalls, sari-sari stores and carinderia despite the "order to desist," and it imposed a fine of P500.00 on each of them.

On 1 March 1991,[12] the CHR issued an Order, denying petitioners' motion to dismiss and supplemental motion to dismiss, in this wise:

"Clearly, the Commission on Human Rights under its constitutional mandate had jurisdiction over the complaint filed by the squatters-vendors who complained of the gross violations of their human and constitutional rights. The motion to dismiss should be and is hereby DENIED for lack of merit."[13]

The CHR opined that "it was not the intention of the (Constitutional) Commission to create only a paper tiger limited only to investigating civil and political rights, but it (should) be (considered) a quasi-judicial body with the power to provide appropriate legal measures for the protection of human rights of all persons within the Philippines * * *." It added:

"The right to earn a living is a right essential to one's right to development, to life and to dignity. All these brazenly and violently ignored and trampled upon by respondents with little regard at the same time for the basic rights of women and children, and their health, safety and welfare. Their actions have psychologically scarred and traumatized the children, who were witness and exposed to such a violent demonstration of Man's inhumanity to man."

In an Order,[14] dated 25 April 1991, petitioners' motion for reconsideration was denied.

Hence, this recourse.

The petition was initially dismissed in our resolution[15] of 25 June 1991; it was subsequently reinstated, however, in our resolution[16] of 18 June 1991, in which we also issued a temporary restraining order, directing the CHR to "CEASE and DESIST from further hearing CHR No. 90-1580." [17]

The petitioners pose the following:

Whether or not the public respondent has jurisdiction:

- a) to investigate the alleged violations of the "business rights" of the private respondents whose stalls were demolished by the petitioners at the instance and authority given by the Mayor of Quezon City;
- b) to impose the fine of P500.00 each on the petitioners; and
- c) to disburse the amount of P200,000.00 as financial aid to the vendors affected by the demolition.

In the Court's resolution of 10 October 1991, the Solicitor-General was excused from filing his comment for public respondent CHR. The latter thus filed its own comment,[18] through Hon. Samuel Soriano, one of its Commissioners. The Court also resolved to dispense with the comment of private respondent Roque Fermo, who had since failed to comply with the resolution, dated 18 July 1991, requiring such comment.

The petition has merit.

The Commission on Human Rights was created by the 1987 Constitution.[19] It was formally constituted by then President Corazon Aquino via Executive Order No. 163,[20] issued on 5 May 1987, in the exercise of her legislative power at the time. It succeeded, but so superseded as well, the Presidential Committee on Human Rights.[21]

The powers and functions[22] of the Commission are defined by the 1987 Constitution, thus: to -

- "(1) Investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights;
- "(2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court;
- "(3) Provide appropriate legal measures for the protection of human rights of all persons within the Philippines, as well as Filipinos residing abroad, and provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection;
- "(4) Exercise visitorial powers over jails, prisons, or detention facilities;
- "(5) Establish a continuing program of research, education, and information to enhance respect for the primacy of human rights;
- "(6) Recommend to the Congress effective measures to promote human rights and to provide for compensation to victims of violations of human rights, or their families;
- "(7) Monitor the Philippine Government's compliance with international treaty obligations on human rights;
- "(8) Grant immunity from prosecution to any person whose testimony or whose possession of documents or other evidence is necessary or convenient to determine the truth in any investigation conducted by it or under its authority;
- "(9) Request the assistance of any department, bureau, office, or agency in the performance of its functions;

"(10) Appoint its officers and employees in accordance with law; and

"(11) Perform such other duties and functions as may be provided by law."

In its Order of 1 March 1991, denying petitioners' motion to dismiss, the CHR theorizes that the intention of the members of the Constitutional Commission is to make CHR a quasi-judicial body.[23] This view, however, has not heretofore been shared by this Court. In *Cariño v. Commission on Human Rights*,[24] the Court, through then Associate Justice, now Chief Justice Andres Narvasa, has observed that it is "only the first of the enumerated powers and functions that bears any resemblance to adjudication or adjudgment," but that resemblance can in no way be synonymous to the adjudicatory power itself. The Court explained:

"* * * (T)he Commission on Human Rights * * * was not meant by the fundamental law to be another court or quasi-judicial agency in this country, or duplicate much less take over the functions of the latter.

"The most that may be conceded to the Commission in the way of adjudicative power is that it may investigate, i.e., receive evidence and make findings of fact as regards claimed human rights violations involving civil and political rights. But fact finding is not adjudication, and cannot be likened to the judicial function of a court of justice, or even a quasi-judicial agency or official. The function of receiving evidence and ascertaining therefrom the facts of a controversy is not a judicial function, properly speaking. To be considered such, the faculty of receiving evidence and making factual conclusions in a controversy must be accompanied by the authority of applying the law to those factual conclusions to the end that the controversy may be decided or determined authoritatively, finally and definitively, subject to such appeals or modes of review as may be provided by law. This function, to repeat, the Commission does not have."

After thus laying down at the outset the above rule, we now proceed to the other kernel of this controversy and, it is, to determine the extent of CHR's investigative power.

It can hardly be disputed that the phrase "human rights" is so generic a term that any attempt to define it, albeit not a few have tried, could at best be described as inconclusive. Let us observe. In a symposium on human rights in the Philippines, sponsored by the University of the Philippines in 1977, one of the questions that has been propounded is "(w)hat do you understand by 'human rights'?" The participants, representing different sectors of the society, have given the following varied answers:

"Human rights are the basic rights which inhere in man by virtue of his humanity. They are the same in all parts of the world, whether the Philippines or England, Kenya or the Soviet Union, the United States or Japan, Kenya or Indonesia * * *.

"Human rights include civil rights, such as the right to life, liberty, and property; freedom of speech, of the press, of religion, academic freedom, and the rights of the accused to due process of law; political rights, such as the right to elect public officials, to be elected to public office, and to form political associations and engage in politics; and social rights, such as the right to an education, employment, and social services."[25]

"Human rights are the entitlement that inhere in the individual person from the sheer fact of his humanity. * * * Because they are inherent, human rights are not granted by the State but can only be recognized and protected by it."[26]

"(Human rights include all) the civil, political, economic, social, and cultural rights defined in the Universal Declaration of Human Rights."[27]

"Human rights are rights that pertain to man simply because he is human. They are part of his natural birth right, innate and inalienable."[28]

The Universal Declaration of Human Rights, as well as, or more specifically, the International Covenant on

Economic, Social and Cultural Rights and International Covenant on Civil and Political Rights, suggests that the scope of human rights can be understood to include those that relate to an individual's social, economic, cultural, political and civil relations. It thus seems to closely identify the term to the universally accepted traits and attributes of an individual, along with what is generally considered to be his inherent and inalienable rights, encompassing almost all aspects of life.

Have these broad concepts been equally contemplated by the framers of our 1986 Constitutional Commission in adopting the specific provisions on human rights and in creating an independent commission to safeguard these rights? It may of value to look back at the country's experience under the martial law regime which may have, in fact, impelled the inclusions of those provisions in our fundamental law. Many voices have been heard. Among those voices, aptly representative perhaps of the sentiments expressed by others, comes from Mr. Justice J.B.L. Reyes, a respected jurist and an advocate of civil liberties, who, in his paper, entitled "Present State of Human Rights in the Philippines,"[29] observes:

"But while the Constitution of 1935 and that of 1973 enshrined in their Bill of Rights most of the human rights expressed in the International Covenant, these rights became unavailable upon the proclamation of Martial Law on 21 September 1972. Arbitrary action then became the rule. Individuals by the thousands became subject to arrest upon suspicion, and were detained and held for indefinite periods, sometimes for years, without charges, until ordered released by the Commander-in-Chief or this representative. The right to petition for the redress of grievances became useless, since group actions were forbidden. So were strikes. Press and other mass media were subjected to censorship and short term licensing. Martial law brought with it the suspension of the writ of habeas corpus, and judges lost independence and security of tenure, except members of the Supreme Court. They were required to submit letters of resignation and were dismissed upon the acceptance thereof. Torture to extort confessions were practiced as declared by international bodies like Amnesty International and the International Commission of Jurists."

Converging our attention to the records of the Constitutional Commission, we can see the following discussions during its 26 August 1986 deliberations:

"MR. GARCIA. * * *, the primacy of its (CHR) task must be made clear in view of the importance of human rights and also because civil and political rights have been determined by many international covenants and human rights legislations in the Philippines, as well as the Constitution, specifically the Bill of Rights and subsequent legislation. Otherwise, if we cover such a wide territory area, we might diffuse its impact and the precise nature of its task, hence, its effectivity would also be curtailed.

"So, it is important to delineate the parameters of its task so that the commission can be most effective.

"MR. BENGZON. That is precisely my difficulty because civil and political rights are very broad. The Article on the Bill of Rights covers civil and political rights. Every single right of an individual involves his civil right or his political right. So, where do we draw the line?

"MR. GARCIA. Actually, these civil and political rights have been made clear in the language of human rights advocates, as well as in the Universal Declaration of Human Rights which addresses a number of articles on the right to life, the right against torture, the right to fair and public hearing, and so on. These are very specific rights that are considered enshrined in many international documents and legal instruments as constituting civil and political rights, and these are precisely what we want to defend here.

"MR. BENGZON. So, would the commissioner say civil and political rights as defined in the Universal Declaration of Human Rights?

"MR. GARCIA. Yes, and as I have mentioned, the International Covenant of Civil and Political Rights distinguished this right against torture.

"MR. BENGZON. So as to distinguish this from the other rights that we have?

"MR. GARCIA. Yes, because the other rights will encompass social and economic rights, and there are other violations of rights of citizens which can be addressed to the proper courts and authorities.

"* * *

"MR. BENGZON. So, we will authorize the commission to define its functions, and, therefore, in doing that the commission will be authorized to take under its wings cases which perhaps heretofore or at this moment are under the jurisdiction of the ordinary investigative and prosecutorial agencies of the government. Am I correct?

"MR. GARCIA. No. We have already mentioned earlier that we would like to define the specific parameters which cover civil and political rights as covered by the international standards governing the behavior of governments regarding the particular political and civil rights of citizens, especially of political detainees or prisoners. This particular aspect we have experienced during martial law which we would now like to safeguard.

"MR. BENGZON. Then, I go back to that question that I had. Therefore, what we are really trying to say is, perhaps, at the proper time we could specify all those rights stated in the Universal Declaration of Human Rights and defined as human rights. Those are the rights that we envision here?

"MR. GARCIA. Yes. In fact, they are also enshrined in the Bill of Rights of our Constitution. They are integral parts of that.

"MR. BENGZON. Therefore, is the Gentleman saying that all the rights under the Bill of Rights covered by human rights?

"MR. GARCIA. No, only those that pertain to civil and political rights.

"* * *

"MR. RAMA. In connection with the discussion on the scope of human rights, I would like to state that in the past regime, everytime we invoke the violation of human rights, the Marcos regime came out with the defense that, as a matter of fact, they had defended the rights of people to decent living, food, decent housing and a life consistent with human dignity.

"So, I think we should really limit the definition of human rights to political rights. Is that the sense of the committee, so as not to confuse the issue?

"MR. SARMIENTO. Yes, Madam President.

"MR. GARCIA. I would like to continue and respond also to repeated points raised by the previous speaker.

"There are actually six areas where this Commission on Human Rights could act effectively: 1) protection of rights of political detainees; 2) treatment of prisoners and the prevention of tortures; 3) fair and public trials; 4) cases of disappearances; 5) salvagings and hamletting; and 6) other crimes committed against the religious.

"***

"The PRESIDENT. Commissioner Guingona is recognized.

"MR. GUINGONA. Thank you Madam President.

"I would like to start by saying that I agree with Commissioner Garcia that we should, in order to make the proposed Commission more effective, delimit as much as possible, without prejudice to future expansion. The coverage of the concept and jurisdictional area of the term 'human rights. I was actually disturbed this morning when the reference was made without qualification to the rights embodied in the universal Declaration of

Human Rights, although later on, this was qualified to refer to civil and political rights contained therein.

"If I remember correctly, Madam President, Commissioner Garcia, after mentioning the Universal Declaration of Human Rights of 1948, mentioned or linked the concept of human right with other human rights specified in other convention which I do not remember. Am I correct?

"MR. GARCIA. Is Commissioner Guingona referring to the Declaration of Torture of 1985?

"MR. GUINGONA. I do not know, but the commissioner mentioned another.

"MR. GARCIA. Madam President, the other one is the International Convention on Civil and Political Rights of which we are signatory.

"MR. GUINGONA. I see. The only problem is that, although I have a copy of the Universal Declaration of Human Rights here, I do not have a copy of the other covenant mentioned. It is quite possible that there are rights specified in that other convention which may not be specified here. I was wondering whether it would be wise to link our concept of human rights to general terms like 'convention,' rather than specify the rights contained in the convention.

"As far as the Universal Declaration of Human Rights is concerned, the Committee, before the period of amendments, could specify to us which of these articles in the Declaration will fall within the concept of civil and political rights, not for the purpose of including these in the proposed constitutional article, but to give the sense of the Commission as to what human rights would be included, without prejudice to expansion later on, if the need arises. For example, there was no definite reply to the question of Commissioner Regalado as to whether the right to marry would be considered a civil or a social right. It is not a civil right?

"MR. GARCIA. Madam President, I have to repeat the various specific civil and political rights that we felt must be envisioned initially by this provision--freedom from political detention and arrest prevention of torture, right to fair and public trials, as well as crimes involving disappearance salvagings, hamlettings and collective violations. So, it is limited to politically related crimes precisely to protect the civil and political rights of a specific group of individuals, and therefore, we are not opening it up to all of the definite areas.

"MR. GUINGONA. Correct. Therefore, just for the record, the Gentlemen is no longer linking his concept or the concept of the Committee on Human Rights with the so-called civil or political rights as contained in the Universal Declaration of Human rights.

"MR. GARCIA. When I mentioned earlier the Universal Declaration of Human Rights, I was referring to an international instrument.

"MR. GUINGONA. I know.

"MR. GARCIA. But it does not mean that we will refer to each and every specific article therein, but only to those that pertain to the civil and politically related, as we understand it in this Commission on Human Rights.

"MR. GUINGONA. Madam President, I am not even clear as to the distinction between civil and social rights.

"MR. GARCIA. There are two international covenants: the International Covenant and Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The second covenant contains all the different rights - the rights of labor to organize, the right to education, housing, shelter, et cetera.

"MR. GUINGONA. So we are just limiting at the moment the sense of the committee to those that the Gentlemen has specified.

"MR. GARCIA. Yes, to civil and political rights.

"MR. GUINGONA. Thank you.

"* * *

"SR. TAN. Madam President, from the standpoint of the victims of human rights, I cannot stress more on how much we need a Commission on Human Rights. * * *

"* * * human rights victims are usually penniless. They cannot pay and very few lawyers will accept clients who do not pay. And so, they are the ones more abused and oppressed. Another reason is, the cases involved are very delicate - torture, salvaging, picking up without any warrant of arrest, massacre - and the persons who are allegedly guilty are people in power like politicians, men in the military and big shots. Therefore, this Human Rights Commission must be independent.

"I would like very much to emphasize how much we need this commission, especially for the little Filipino, the little individual who needs this kind of help and cannot get it. And I think we should concentrate only on civil and political violations because if we open this to land, housing and health, we will have no place to go again and we will not receive any response. * * *"[30] (underscoring supplied.)

The final outcome, now written as Section 18, Article XIII, of the 1987 Constitution, is a provision empowering the Commission on Human Rights to "investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights" (Sec. 1).

The term "civil rights,"[31] has been defined as referring -

"(to) those (rights) that belong to every citizen of the state or country, or, in a wider sense, to all its inhabitants, and are not connected with the organization or administration of government. They include the rights of property, marriage, equal protection of the laws, freedom of contract, etc. Or, as otherwise defined civil rights are rights appertaining to a person by virtue of his citizenship in a state or community. Such term may also refer, in its general sense, to rights capable of being enforced or redressed in a civil action."

Also quite often mentioned are the guarantees against involuntary servitude, religious persecution, unreasonable searches and seizures, and imprisonment for debt.[32]

Political rights,[33] on the other hand, are said to refer to the right to participate, directly or indirectly, in the establishment or administration of government, the right of suffrage, the right to hold public office, the right of petition and, in general, the rights appurtenant to citizenship vis-a-vis the management of government.[34]

Recalling the deliberations of the Constitutional Commission, aforequoted, it is readily apparent that the delegates envisioned a Commission on Human Rights that would focus its attention to the more severe cases of human rights violations. Delegate Garcia, for instance, mentioned such areas as the "(1) protection of rights of political detainees, (2) treatment of prisoners and the prevention of tortures, (3) fair and public trials, (4) cases of disappearances, (5) salvagings and hamletting, and (6) other crimes committed against the religious." While the enumeration has not likely been meant to have any preclusive effect, more than just expressing a statement of priority, it is, nonetheless, significant for the tone it has set. In any event, the delegates did not apparently take comfort in peremptorily making a conclusive delineation of the CHR's scope of investigatorial jurisdiction. They have thus seen it fit to resolve, instead, that "Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendation." [35]

In the particular case at hand, there is no cavil that what are sought to be demolished are the stalls, sari-sari stores and carinderia, as well as temporary shanties, erected by private respondents on a land which is planned to be developed into a "People's Park." More than that, the land adjoins the North EDSA of Quezon City which, this Court can take judicial notice of, is a busy national highway. The consequent danger to life and limb is not thus to be likewise simply ignored. It is indeed paradoxical that a right which is claimed to have been violated is one that cannot, in the first place, even be invoked, if it is not, in fact, extant. Be that as it may, looking at the standards

hereinabove discoursed vis-a-vis the circumstances obtaining in this instance, we are not prepared to conclude that the order for the demolition of the stalls, sari-sari stores and carinderia of the private respondents can fall within the compartment of "human rights violations involving civil and political rights" intended by the Constitution.

On its contempt powers, the CHR is constitutionally authorized to "adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court." Accordingly, the CHR acted within its authority in providing in its revised rules, its power "to cite or hold any person in direct or indirect contempt, and to impose the appropriate penalties in accordance with the procedure and sanctions provided for in the Rules of Court." That power to cite for contempt, however, should be understood to apply only to violations of its adopted operational guidelines and rules of procedure essential to carry out its investigatorial powers. To exemplify, the power to cite for contempt could be exercised against persons who refuse to cooperate with the said body, or who unduly withhold relevant information, or who decline to honor summons, and the like, in pursuing its investigative work. The "order to desist" (a semantic interplay for a restraining order) in the instance before us, however, is not investigatorial in character but prescinds from an adjudicative power that it does not possess. In *Export Processing Zone Authority vs. Commission on Human Rights*,^[36] the Court, speaking through Madame Justice Carolina Griño-Aquino, explained:

"The constitutional provision directing the CHR to 'provide for preventive measures and legal aid services to the underprivileged whose human rights have been violated or need protection' may not be construed to confer jurisdiction on the Commission to issue a restraining order or writ of injunction for, it that were the intention, the Constitution would have expressly said so. 'Jurisdiction is conferred only by the Constitution or by law'. It is never derived by implication."

"Evidently, the 'preventive measures and legal aid services' mentioned in the Constitution refer to extrajudicial and judicial remedies (including a writ of preliminary injunction) which the CHR may seek from the proper courts on behalf of the victims of human rights violations. Not being a court of justice, the CHR itself has no jurisdiction to issue the writ, for a writ of preliminary injunction may only be issued 'by the judge of any court in which the action is pending [within his district], or by a Justice of the Court of Appeals, or of the Supreme Court. * * *. A writ of preliminary injunction is an ancillary remedy. It is available only in a pending principal action, for the preservation or protection of the rights and interests of a party thereto, and for no other purpose.'" (footnotes omitted)

The Commission does have legal standing to indorse, for appropriate action, its findings and recommendations to any appropriate agency of government.^[37]

The challenge on the CHR's disbursement of the amount of P200,000.00 by way of financial aid to the vendors affected by the demolition is not an appropriate issue in the instant petition. Not only is there lack of locus standi on the part of the petitioners to question the disbursement but, more importantly, the matter lies with the appropriate administrative agencies concerned to initially consider.

The public respondent explains that this petition for prohibition filed by the petitioners has become moot and academic since the case before it (CHR Case No. 90-1580) has already been fully heard, and that the matter is merely awaiting final resolution. It is true that prohibition is a preventive remedy to restrain the doing of an act about to be done, and not intended to provide a remedy for an act already accomplished.^[38] Here, however, said Commission admittedly has yet to promulgate its resolution in CHR Case No. 90-1580. The instant petition has been intended, among other things, to also prevent CHR from precisely doing that.^[39]

WHEREFORE, the writ prayed for in this petition is GRANTED. The Commission on Human Rights is hereby prohibited from further proceeding with CHR Case No. 90-1580 and from implementing the P500.00 fine for contempt. The temporary restraining order heretofore issued by this Court is made permanent. No costs.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, and Puno, JJ., concur.

Padilla, J., dissenting opinion.

[1] Rollo, p. 16.

[2] Rollo, p. 17.

[3] Ibid., pp. 16-17.

[4] Ibid., p. 21.

[5] Ibid.; see also Annex "C-3," Rollo, pp. 102-103.

[6] Ibid., p. 79.

[7] Annex "C," Rollo, p. 26.

[8] Rollo, pp. 26-27.

[9] Annex "E," Ibid., p. 34.

[10] Rollo, p. 5.

[11] Annex "F," Petition, rollo, pp. 36-42.

[12] Annex "G," Petition, Rollo, pp. 44-46.

[13] Rollo, p. 46.

[14] Annex "J," pp. 56-57.

[15] Rollo, p. 59.

[16] Ibid., p. 66.

[17] Ibid., p. 67.

[18] Rollo, pp. 77-88.

[19] Art. XIII, Sec. 17, [1].

[20] DECLARING THE EFFECTIVITY OF THE CREATION OF THE COMMISSION ON HUMAN RIGHTS AS PROVIDED FOR IN THE 1987 CONSTITUTION, PROVIDING GUIDELINES FOR THE OPERATION THEREOF, AND FOR OTHER PURPOSES.

[21] Ibid., Sec. 17, [3]; E.O. No. 163, Sec. 4.

[22] Ibid., Sec. 18.

[23] Rollo, p. 45.

[24] 204 SCRA 483, 492.

[25] Remigio Agpalo, Roxas Professor of Political Science, University of the Philippines, Human Rights in the Philippines: An Unassembled Symposium, 1977, pp. 1-2.

[26] Emerenciana Arcellana, Department of Political Science, U.P., Ibid., pp. 2-3.

[27] Nick Joaquin, National Artist, Ibid., p. 15.

[28] Salvador Lopez, Professor, U.P. Law Center, Ibid., p. 20.

[29] Submitted to the LAWASIA Human Rights Standing Committee: Recent Trends in Human Rights, circa, 1981-1982, pp. 47-52.

[30] Records of the Constitutional Commission, Volume 3, pp. 722-723; 731; 738-739.

[31] Black's Law Dictionary, Sixth edition, 1324; Handbook of American Constitutional Law, (4th ed., 1927), p. 524.

[32] Malcolm, The Constitutional Law of the Philippine Islands, (2nd ed., 1926), pp. 431-457.

[33] Black's Law Dictionary, Ibid., p. 1325.

[34] Anthony vs. Burrow, 129 F. 783, 789 [1904].

[35] Sec. 19, Art. XIII.

[36] 208 SCRA 125, 131.

[37] See Export Processing Zone Authority vs. Commission on Human Rights, 208 SCRA 125.

[38] Cabañero vs. Torres, 61 Phil. 523; Agustin vs. dela Fuente, 84 Phil. 515; Navarro vs. Lardizabal, 25 SCRA 370.

[39] See Magallanes vs. Sarita, 18 SCRA 575.

DISSENTING OPINION**PADILLA, J.:**

I reiterate my separate opinion in "Carino, et al. vs. The Commission on Human Rights, et al.," G.R. No. 96681, 2 December 1991, 204 SCRA 483 in relation to the resolution of 29 January 1991 and my dissenting opinion in "Export Processing Zone Authority vs. The Commission on Human Rights, et al.," G.R. No. 101476, 14 April 1992, 208 SCRA 125. I am of the considered view that the CHR can issue a cease and desist order to maintain the status quo pending its investigation of a case involving an alleged human rights violation; that such cease and desist order maybe necessary in situations involving a threatened violation of human rights, which the CHR intends to investigate.

In the case at bench, I would consider the threatened demolition of the stalls, sari-sari stores and carinderias as well as the temporary shanties owned by the private respondents as posing prima facie a case of human rights violation because it involves an impairment of the civil rights of said private respondents, under the definition of civil rights cited by the majority opinion (pp. 20-21) and which the CHR has unquestioned authority to investigate

(Section 18, Art. XIII, 1987 Constitution).

Human rights demand more than lip service and extend beyond impressive displays of placards at street corners. Positive action and results are what count. Certainly, the cause of human rights is not enhanced when the very constitutional agency tasked to protect and vindicate human rights is transformed by us, from the start, into a tiger without dentures but with maimed legs to boot. I submit the CHR should be given a wide latitude to look into and investigate situations which may (or may not ultimately) involve human rights violations.

ACCORDINGLY, I vote to DISMISS the petition and to remand the case to the CHR for further proceedings.

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