

TERRY LYN MAGNO, PETITIONER, VS. THE HONORABLE COURT OF APPEALS, ANDREA DOMINGO, CHAIRMAN, COMMISSION ON IMMIGRATION AND DEPORTATION, JOHN DOE, PETER DOE, RICHARD DOE AND ROBIN ...

G.R. No. 101148. August 05, 1992

Ponente: PADILLA, J.

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PADILLA, J.:

Appealed to this Court by way of petition for certiorari, prohibition and mandamus with prayer for issuance of a restraining or status quo order is the denial by the Court of Appeals* of a petition for habeas corpus (CA-G.R. SP. No. 25442) wherein petitioner challenged as illegal and violative of constitutional due process her arrest without a warrant by agents of the Commission on Immigration and Deportation (CID) and her resultant detention at the CID Detention Center.

From the petition and supplemental petition, the relevant facts are:

In the evening of 17 July 1991, persons claiming to be agents of the CID picked up the petitioner from her home at 564 Rotary Circle cor. Bocobo St., Malate, Manila. She was whisked to the CID Detention Center and there held in custody without any formal charge.

Assailing the warrantless arrest and subsequent arbitrary detention, a petition for habeas corpus was filed before the Supreme Court. Said petition was referred to the Court of Appeals with the directive to decide the case on the merits.

Petitioner claimed that there are no charges against her; neither has she committed any offense for which she may be arrested or deprived of her liberty without any formal charge or judicial warrant. She is an American citizen but by virtue of her marriage to a Filipino citizen, she was granted permanent resident status in the Philippines since 1986.

Before the Court of Appeals, two (2) urgent motions for bail were filed. The first one invoked humanitarian considerations while the second feared summary deportation without due process of law. Resolution of the motions was however held in abeyance while hearings on the petition for habeas corpus were in progress.

Answering the petition for habeas corpus, the CID thru its then Commissioner Andrea Domingo averred that on 18 July 1991, a warrant of Arrest/Deportation was issued in the exercise of the Commissioner's powers under Sec. 29, par. (a), sub-par. 17 and Section 37, par. (a), sub-par. (7) of CA No. 613 otherwise known as the Philippine Immigration Act of 1940, as amended, which provides:

"Sec. 29. (a) The following classes of aliens shall be excluded from entry into the Philippines:

x x x

"(17) Persons not properly documented for admission as may be required under the provisions of this Act.

"Sec. 37. (a) The following aliens shall be arrested upon the warrant of the Commissioner of Immigration or of any other officer designated by him for the purpose and deported upon the warrant of the Commissioner of Immigration after a determination by the Board of Commissioners of the existence of the ground for deportation as charged against the alien:

x x x

"(7) Any alien who remains in the Philip-pines in violation of any limitation or condition under which he was admitted as a nonimmigrant."

Respondent Commissioner revoked the permanent resident status of petitioner because of representations by the US Government thru a letter of its Consul General Mr. Bruce Beardsley that petitioner's American passport has been revoked and that she is a fugitive from justice.

In the now assailed decision of the Court of Appeals, dated 14 August 1991, the appellate court upheld the legality of the arrest of the petitioner and her continued detention thus:

"The irregularity attendant to her arrest on July 17, 1991, as a result of which she was de-tained even before the warrant of arrest/deporta-tion had been issued on July 18, 1991 (which is two days later), would seem to have been cured by the issuance of the aforesaid warrant. Her deten-tion has now become lawful by virtue of the issuance of the warrant based on the Summary De-portation Order (Annex 6 to the Memorandum of Evidence filed by the respondent Commissioner). Furthermore, whatever irregularity in the arrest might have been committed is deemed waived by the herein petitioner's applications for bail (supra) even if such applications were not granted." (p. 4, par. 3)

Despite denial of the petition for habeas corpus, the appellate court's decision decreed that it was without prejudice to the continuation of proceedings before the Board of Commissioners, CID, to determine the issue of deportability pursuant to Sec. 103 of the Immigration Rules and Regulations.

Without filing a motion for reconsideration of the appellate court's decision, petitioner filed with this Court the present petition for certiorari, prohibition, mandamus, with prayer for a restraining or status quo order.

Acting on the petition, the Court En Banc in a resolution dated 27 August 1991 required herein respondents to comment thereon; further, a temporary restraining order (TRO) was issued ordering respondents to cease and desist from causing or allowing the deportation or transportation elsewhere of petitioner.

Prior to the issuance of the TRO on 26 August 1991, petitioner filed with this Court an Urgent Motion for Bail invoking:

"1. Art. III, Sec. 13 of the Constitution which guarantees all persons, before conviction, the right to bail, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong.

2. This Court's resolution in the case of Catherine Siy vs. Andrea Domingo, Commissioner, Commission on Immigration and Deportation (G.R. No. 97152) and Antonio Siy vs. Andrea Domingo (G.R. No. 97159) promulgated on 20 March 1991 which ordered the release from detention of petitioners therein who, like herein petitioner, had permanent resident status, pending termination of deportation proceedings.

3. The fact that deportation proceedings against her have not even commenced."

Granting the motion for bail, this Court in a resolution dated 29 August 1991 held:

"Finding the urgent motion meritorious, and for humanitarian reasons (petitioner being the mother of two (2) minor children, one aged seven (7) years and the other two (2) years), the Court Resolved to GRANT the

motion. Petitioner is ordered released from her detention by Immigration Authorities, upon her posting of a cash bond in the amount of P5,000.00 or a surety bond in the same amount issued by a reputable and solvent surety company acceptable to this Court, conditioned upon her appearance before the Deportation Board, whenever required, in relation to the deportation proceedings against her."

Public respondents in their comment thru the Solicitor General pray for the dismissal of the present petition for certiorari, etc. because:

1. By posting a bond to secure provisional liberty, petitioner has waived her right to question the legality and regularity of her arrest.
2. By opting to pursue relief before the Board of Commissioners, BID, she should be deemed to have abandoned the instant petition because the Supreme Court would preempt the Board of Commissioners if it resolved issues pertaining to deportability of petitioner. The Board has jurisdiction in the first instance to determine said issues.

Petitioner's reply to the comment, aside from traversing the allegations therein, asks this Tribunal to divest the BID of jurisdiction and to render judgment confirming/or declaring that petitioner is a Filipino citizen by virtue of her marriage to a citizen of this country, dismissing the deportation case, cancelling the bail bond and forthwith setting her at liberty.

The Solicitor General in his rejoinder reiterates that the petition at bar is premature and that there are factual issues that render petitioner's citizenship controversial. These, he avers, must first be settled in the proper forum.

One of the reliefs prayed for in the main petition has been granted by the 23 August 1991 Resolution (*supra*) which allowed petitioner to post bail for her provisional release. Petitioner's release from detention has rendered this petition moot and academic insofar as it questions the legality of her arrest and detention. A habeas corpus proceeding "x x x shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty x x x." (Rule 102, Sec. 1, Revised Rules of Court)

Validity of the arrest has ceased to be an issue especially because a decision in the deportation proceeding will not result in petitioner's permanent or prolonged detention but exclusion or departure from this country. Her subsequent commitment to the custody of the CID, if, after the proceedings before the proper forum, she is found to be an undesirable alien, will have no more connection with the questioned warrantless arrest and subsequent detention on the night of 17 July 1991.

Petitioner's claim to Filipino citizenship cannot be settled before this Court at this instance. As correctly pointed out by the Solicitor General's rejoinder to petitioner's reply, there are factual issues that make petitioner's citizenship controversial. The Supreme Court is not a trier of facts; the factual controversies must first be resolved before the Bureau of Immigration and Deportation.

ACCORDINGLY, the petition is DISMISSED for being moot and academic, without prejudice to the outcome of the deportation proceedings against the petitioner.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., Romero, Nocon, and Bellosillo, JJ., concur.

* Decision penned by Justice Serafin V.C. Guingona, and concurred in by Justices Luis A. Javellana and Jorge S. Imperial.

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