

**LUCIEN TRAN VAN NGHIA, REPRESENTED HEREIN BY HIS FIANCEE
ROSITA ERNIE, PETITIONER, VS. HON. RUFUS B. RODRIGUEZ,
COMMISSIONER ON IMMIGRATION, COL. ANGELITO Q. TAN, CHIEF
INTELLIG...**

G.R. No. 139758. January 31, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This is a petition for habeas corpus filed by Rosita Ernie on behalf of petitioner Lucien Tran Van Nghia.

Petitioner, a French national, was ordered by the Bureau of Immigration to leave the country in an order dated February 28, 1991.[1] He appealed the order to the Office of the President on April 4, 1994, which affirmed the Bureau's order and dismissed petitioner's appeal.[2] Petitioner was subsequently deported to Paris on April 11, 1996[3] and was barred from again entering the Philippines.

However, petitioner was able to enter the country on December 20, 1997, using the name Lucien Marcel Tran Van Nghia.[4] Thus, he was arrested by agents of the Bureau of Immigration and the Western Police District on November 24, 1998, for having entered the country illegally. He was subsequently charged with violation of Section 45(d) of the Philippine Immigration Act of 1940, as amended.[5]

On December 1998, petitioner filed a petition for habeas corpus before the Regional Trial Court, Manila, Branch 50. Petitioner alleged that he was arrested and maltreated by immigration and WPD agents, and that his continued detention is without legal basis.[6] The RTC denied his petition, after finding legal basis for the detention of petitioner.[7] Petitioner appealed the decision to the Court of Appeals but this appeal was later abandoned, after petitioner filed with this Court a petition for certiorari, docketed as G.R. No. 137025.[8]

On March 3, 1999, we dismissed the petition in G.R. No. 137025.[9]

Then on September 8, 1999, petitioner filed before this Court the present petition, alleging that his arrest and detention by the Bureau of Immigration are illegal, and praying for the issuance of a writ of habeas corpus.

Considering the foregoing procedural antecedents, we find that this is the second petition for habeas corpus filed by petitioner before the courts. It alleges substantially the same matters and contains the same prayer for the issuance of a writ of habeas corpus as the first one filed in 1998. Clearly, the present petition is barred by res judicata.

To stress what should be elementary: (a) since petitioner had previously filed a petition for habeas corpus with the RTC; (b) with the same allegations as those now before us; (c) although said petition was denied by the RTC, and (d) abandoned after having been appealed to the CA, and (e) finally dismissed by this Court, the present petition can not be given due course without abusing judicial processes.

However, petitioner insists that there is no res judicata since the previous case for habeas corpus was dismissed by

this Court, not on the merits but on technicalities. Petitioner also points out that the two petitions do not involve the same causes of action. He says the previous petition involves petitioner's arrest by immigration agents, while the present petition involves his continued detention.

We see no difference in petitioner's contrived distinction. His arguments do not persuade us. They are far from meritorious, as hereafter elucidated.

There is *res judicata* when (1) a judgment had become final; (2) such judgment was rendered on the merits; (3) such judgment was rendered by a court with jurisdiction over the subject matter and parties; and (4) there is identity of parties, subject matter, and causes of action in the previous and subsequent actions.[10]

A comparative examination of the petition filed before the RTC and the present petition reveals that, indeed, this petition presents the same matters and raises the same issues as those stated in the petition previously filed before the RTC. The parties and the causes of action are the same. The grounds relied upon by petitioner for the issuance of the writ had already been passed upon by the trial court, which dismissed the previous petition after finding legal basis for petitioner's continued detention by the Bureau of Immigration. Petitioner cannot now be allowed to litigate the same matters all over again.[11]

Petitioner claims that there are different causes of action for the two petitions he filed. Note, however, that as a rule there is identity of causes of action when there is identity of the facts essential to the maintenance of the two actions, or when the same evidence would support and establish said causes of action.[12] We see this situation obtaining in the present petition, in the light of the previous one filed by petitioner before the RTC. Both are anchored on the same fact of arrest and detention of petitioner by the Bureau of Immigration; and they have the same evidentiary requirements for either of them to be sustained.

Moreover, if *res judicata* could be found, despite a difference in the form and nature of the two actions,[13] what more in this case when the two actions filed are of the same form and nature? Unless petitioner can conjure exceptional arguments to sustain a second plea, we must sustain the view of the Office of the Solicitor General, that a party cannot re-litigate an issue already adjudicated in a previous case; that the present petition violates our rules of procedure; and that it should be dismissed outright because it is barred by prior judgment. Otherwise, we will wreak havoc on the orderly administration of justice.

In sum, we find the present petition to be utterly devoid of merit. The writ of habeas corpus will not issue where the person alleged to be restrained of his liberty is charged with an offense in the Philippines.[14] Here, petitioner is charged with violation of Section 45(d) of the Philippine Immigration Act of 1940, as amended, viz:

"Section 45. Any person who –

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(d) Being a alien, enters the Philippines without inspection and admission by the immigration officials, or obtains entry into the Philippines by willful, false or misleading representation or willful concealment of a material fact;

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shall be guilty of an offense, and upon conviction thereof, shall be fined not more than one thousand pesos, and imprisoned for not more than two years, and deported if he is an alien."

He is now detained because of said charge. And while we do not wish to pre-empt the judgment on the merits of the charge against him, we find his plea for release on a writ of habeas corpus at this time patently without merit.

WHEREFORE, the instant petition is DISMISSED. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Rollo, p. 25.

[2] Id. at 28.

[3] Id. at 30.

[4] Id. at 37.

[5] Id. at 32.

[6] Id. at 33-35.

[7] Id. at 38-40.

[8] Id. at 45.

[9] Id. at 45-46.

[10] *Stilianopulos v. The City of Legaspi*, G.R. No 133913, October 12, 1999, p. 22; *Concepcion v. Agana*, 268 SCRA 307, 318 (1997).

[11] *Carlet v. Court of Appeals*, 275 SCRA 97, 106 (1997).

[12] *Stilianopulos v. The City of Legaspi*, *supra*, at p. 23; *Carlet v. Court of Appeals*, *supra*, at 108.

[13] *Carlet v. Court of Appeals*, *supra*, at 108.

[14] RULES OF COURT, Rule 102, Sec. 4.

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