SECRETARY LEILA M. DE LIMA, DIRECTOR NONNATUS R. ROJAS AND DEPUTY DIRECTOR REYNALDO 0. ESMERALDA, PETITIONERS, VS. MAGTANGGOL B. GATDULA, RESPONDENT.

G.R. No. 204528. February 19, 2013

Ponente: LEONEN, J.

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LEONEN, J.:

Submitted for our resolution is a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction to enjoin "the Regional Trial Court, Branch 26, in Manila from implementing its Decision x x x in Civil Case No. 12-127405 granting respondent's application for the issuance of inspection and production orders x x x."[1] This is raised through a Petition for Review on Certiorari under Rule 45 from the "Decision" rendered by the Regional Trial Court dated 20 March 2012.

From the records, it appears that on 27 February 2012, respondent Magtanggol B. Gatdula filed a Petition for the Issuance of a Writ of Amparo in the Regional Trial Court of Manila.[2] This case was docketed as In the Matter of the Petition for Issuance of Writ of Amparo of Atty. Magtanggol B. Gatdula, SP No. 12-127405. It was raffled to the sala of Judge Silvino T. Pampilo, Jr. on the same day.

The Amparo was directed against petitioners Justice Secretary Leila M. De Lima, Director Nonnatus R. Rojas and Deputy Director Reynaldo O. Esmeralda of the National Bureau of Investigation (DE LIMA, ET AL. for brevity). Gatdula wanted De Lima, et al. "to cease and desist from framing up Petitioner [Gatdula] for the fake ambush incident by filing bogus charges of Frustrated Murder against Petitioner [Gatdula] in relation to the alleged ambush incident."[3]

Instead of deciding on whether to issue a Writ of Amparo, the judge issued summons and ordered De Lima, et al. to file an Answer.[4] He also set the case for hearing on 1 March 2012. The hearing was held allegedly for determining whether a temporary protection order may be issued. During that hearing, counsel for De Lima, et al. manifested that a Return, not an Answer, is appropriate for Amparo cases.[5]

In an Order dated 2 March 2012,[6] Judge Pampilo insisted that "[s] ince no writ has been issued, return is not the required pleading but answer".[7] The judge noted that the Rules of Court apply suppletorily in Amparo cases.[8] He opined that the Revised Rules of Summary Procedure applied and thus required an Answer.[9]

Judge Pampilo proceeded to conduct a hearing on the main case on 7 March 2012.[10] Even without a Return nor an Answer, he ordered the parties to file their respective memoranda within five (5) working days after that hearing. Since the period to file an Answer had not yet lapsed by then, the judge also decided that the memorandum of De Lima, et al. would be filed in lieu of their Answer.[11]

On 20 March 2012, the RTC rendered a "Decision" granting the issuance of the Writ of Amparo. The RTC also granted the interim reliefs prayed for, namely: temporary protection, production and inspection orders. The production and inspection orders were in relation to the evidence and reports involving an on-going investigation

of the attempted assassination of Deputy Director Esmeralda. It is not clear from the records how these pieces of evidence may be related to the alleged threat to the life, liberty or security of the respondent Gatdula.

In an Order dated 8 October 2012, the RTC denied the Motion for Reconsideration dated 23 March 2012 filed by De Lima, et al.

Petitioners Sec. De Lima, et al. thus came to this Court assailing the RTC "Decision" dated 20 March 2012 through a Petition for Review on Certiorari (With Very Urgent Application for the Issuance of a Temporary Restraining Order/Writ of Preliminary Injunction) via Rule 45, as enunciated in Section 19 of the Rule on the Writ of Amparo (A.M. No. 07-9-12-SC, 25 September 2007), viz:

> SEC. 19. Appeal. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both. x x x (Emphasis supplied).

It is the Court's view that the "Decision" dated 20 March 2012 granting the writ of Amparo is not the judgment or final order contemplated under this rule. Hence, a Petition for Review under Rule 45 may not yet be the proper remedy at this time.

The RTC and the Parties must understand the nature of the remedy of Amparo to put its procedures in the proper context.

The remedy of the Writ of Amparo is an equitable and extraordinary remedy to safeguard the right of the people to life, liberty[12] and security[13] as enshrined in the 1987 Constitution.[14] The Rule on the Writ of Amparo was issued as an exercise of the Supreme Court's power to promulgate rules concerning the protection and enforcement of constitutional rights.[15] It aims to address concerns such as, among others, extrajudicial killings and enforced disappearances.[16]

Due to the delicate and urgent nature of these controversies, the procedure was devised to afford swift but decisive relief.[17] It is initiated through a petition[18] to be filed in a Regional Trial Court, Sandiganbayan, the Court of Appeals, or the Supreme Court.[19] The judge or justice then makes an "immediate" evaluation[20] of the facts as alleged in the petition and the affidavits submitted "with the attendant circumstances detailed".[21] After evaluation, the judge has the option to issue the Writ of Amparo[22] or immediately dismiss the case. Dismissal is proper if the petition and the supporting affidavits do not show that the petitioner's right to life, liberty or security is under threat or the acts complained of are not unlawful. On the other hand, the issuance of the writ itself sets in motion presumptive judicial protection for the petitioner. The court compels the respondents to appear before a court of law to show whether the grounds for more permanent protection and interim reliefs are necessary.

The respondents are required to file a Return[23] after the issuance of the writ through the clerk of court. The Return serves as the responsive pleading to the petition.[24] Unlike an Answer, the Return has other purposes aside from identifying the issues in the case. Respondents are also required to detail the actions they had taken to determine the fate or whereabouts of the aggrieved party.

If the respondents are public officials or employees, they are also required to state the actions they had taken to: (i) verify the identity of the aggrieved party; (ii) recover and preserve evidence related to the death or disappearance of the person identified in the petition; (iii) identify witnesses and obtain statements concerning the death or disappearance; (iv) determine the cause, manner, location, and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance; and (vi) bring the suspected offenders before a competent court.[25] Clearly these matters are important to the judge so that s/he can calibrate the means and methods that will be required to further the protections, if any, that will be due to the petitioner.

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There will be a summary hearing[26] only after the Return is filed to determine the merits of the petition and whether interim reliefs are warranted. If the Return is not filed, the hearing will be done ex parte.[27]

After the hearing, the court will render the judgment within ten (10) days from the time the petition is submitted for decision.[28]

If the allegations are proven with substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate.[29] The judgment should contain measures which the judge views as essential for the continued protection of the petitioner in the Amparo case. These measures must be detailed enough so that the judge may be able to verify and monitor the actions taken by the respondents. It is this judgment that could be subject to appeal to the Supreme Court via Rule 45.[30] After the measures have served their purpose, the judgment will be satisfied. In Amparo cases, this is when the threats to the petitioner's life, liberty and security cease to exist as evaluated by the court that renders the judgment. Parenthetically, the case may also be terminated through consolidation should a subsequent case be filed – either criminal or civil.[31] Until the full satisfaction of the judgment, the extraordinary remedy of Amparo allows vigilant judicial monitoring to ensure the protection of constitutional rights.

The "Decision" dated 20 March 2012 assailed by the petitioners could not be the judgment or final order that is appealable under Section 19 of the Rule on the Writ of Amparo. This is clear from the tenor of the dispositive portion of the "Decision", to wit:

The Branch Clerk of Court of Court [sic] is hereby DIRECTED to issue the Writ of Amparo.

Likewise, the Branch Clerk of Court is hereby DIRECTED to effect the service of the Writ of Amparo in an expeditious manner upon all concerned, and for this purpose may call upon the assistance of any military or civilian agency of the government.

This "Decision" pertained to the issuance of the writ under Section 6 of the Rule on the Writ of Amparo, not the judgment under Section 18. The "Decision" is thus an interlocutory order, as suggested by the fact that temporary protection, production and inspection orders were given together with the decision. The temporary protection, production and inspection orders are interim reliefs that may be granted by the court upon filing of the petition but before final judgment is rendered.[32]

The confusion of the parties arose due to the procedural irregularities in the RTC.

First, the insistence on filing of an Answer was inappropriate. It is the Return that serves as the responsive pleading for petitions for the issuance of Writs of Amparo. The requirement to file an Answer is contrary to the intention of the Court to provide a speedy remedy to those whose right to life, liberty and security are violated or are threatened to be violated. In utter disregard of the Rule on the Writ of Amparo, Judge Pampilo insisted on issuing summons and requiring an Answer.

Judge Pampilo's basis for requiring an Answer was mentioned in his Order dated 2 March 2012:

> Under Section 25 of the same rule [on the Writ of Amparo], the Rules of Court shall apply suppletorily insofar as it is not inconsistent with the said rule.
>
> Considering the summary nature of the petition, Section 5 of the Revised Rules of Summary Procedure shall apply.
>
> Section 5. Answer – Within ten (10) days from service of summons, the defendant shall file his Answer to the complaint and serve a copy thereof on the plaintiff. x x x

WHEREFORE, based on the foregoing, the respondents are required to file their Answer ten (days) from receipt of this Order.[33]

The 1991 Revised Rules of Summary Procedure is a special rule that the Court has devised for the following circumstances:

> SECTION 1. Scope. – This rule shall govern the summary procedure in the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts in the following cases falling within their jurisdiction:
>
> A. Civil Cases:
>
> (1) All cases of forcible entry and unlawful detainer, x x x. (2) All other cases, except probate proceedings, where the total amount of the plaintiff's claim does not exceed x x x.
>
> B. Criminal Cases:
>
> (1) Violations of traffic laws, rules and regulations; (2) Violations of the rental law;
>
> (3) Violations of municipal or city ordinances;
>
> (4) All other criminal cases where the penalty prescribed by law for the offense charged is imprisonment not exceeding six months, or a fine not exceeding one thousand pesos (P1,000.00), or both, x x x.
>
> x x x x

It is clear from this rule that this type of summary procedure only applies to MTC/MTCC/MCTCs. It is mind-boggling how this rule could possibly apply to proceedings in an RTC. Aside from that, this Court limited the application of summary procedure to certain civil and criminal cases. A writ of Amparo is a special proceeding. It is a remedy by which a party seeks to establish a status, a right or particular fact.[34] It is not a civil nor a criminal action, hence, the application of the Revised Rule on Summary Procedure is seriously misplaced.

The second irregularity was the holding of a hearing on the main case prior to the issuance of the writ and the filing of a Return. Without a Return, the issues could not have been properly joined.

Worse, is the trial court's third irregularity: it required a memorandum in lieu of a responsive pleading (Answer) of De Lima, et al.

The Return in Amparo cases allows the respondents to frame the issues subject to a hearing. Hence, it should be done prior to the hearing, not after. A memorandum, on the other hand, is a synthesis of the claims of the party litigants and is a final pleading usually required before the case is submitted for decision. One cannot substitute for the other since these submissions have different functions in facilitating the suit.

More importantly, a memorandum is a prohibited pleading under the Rule on the Writ of Amparo.[35]

The fourth irregularity was in the "Decision" dated 20 March 2012 itself. In the body of its decision, the RTC stated:

> "Accordingly this court GRANTS the privilege of the writ and the interim reliefs prayed for by the petitioner." (Emphasis supplied).

This gives the impression that the decision was the judgment since the phraseology is similar to Section 18 of the Rule on the Writ of Amparo:

> "SEC. 18. Judgment. — The court shall render judgment within ten (10) days from the time the petition is

> submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied." (Emphasis supplied).

The privilege of the Writ of Amparo should be distinguished from the actual order called the Writ of Amparo. The privilege includes availment of the entire procedure outlined in A.M. No. 07-9-12-SC, the Rule on the Writ of Amparo. After examining the petition and its attached affidavits, the Return and the evidence presented in the summary hearing, the judgment should detail the required acts from the respondents that will mitigate, if not totally eradicate, the violation of or the threat to the petitioner's life, liberty or security.

A judgment which simply grants "the privilege of the writ" cannot be executed. It is tantamount to a failure of the judge to intervene and grant judicial succor to the petitioner. Petitions filed to avail of the privilege of the Writ of Amparo arise out of very real and concrete circumstances. Judicial responses cannot be as tragically symbolic or ritualistic as "granting the privilege of the Writ of Amparo."

The procedural irregularities in the RTC affected the mode of appeal that petitioners used in elevating the matter to this Court.

It is the responsibility of counsels for the parties to raise issues using the proper procedure at the right time. Procedural rules are meant to assist the parties and courts efficiently deal with the substantive issues pertaining to a case. When it is the judge himself who disregards the rules of procedure, delay and confusion result.

The Petition for Review is not the proper remedy to assail the interlocutory order denominated as "Decision" dated 20 March 2012. A Petition for Certiorari, on the other hand, is prohibited.[36] Simply dismissing the present petition, however, will cause grave injustice to the parties involved. It undermines the salutary purposes for which the Rule on the Writ of Amparo were promulgated.

In many instances, the Court adopted a policy of liberally construing its rules in order to promote a just, speedy and inexpensive disposition of every action and proceeding.[37] The rules can be suspended on the following grounds: (1) matters of life, liberty, honor or property, (2) the existence of special or compelling circumstances, (3) the merits of the case, (4) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (5) a lack of any showing that the review sought is merely frivolous and dilatory, and (6) the other party will not be unjustly prejudiced thereby.[38]

WHEREFORE, in the interest of justice, as a prophylactic to the irregularities committed by the trial court judge, and by virtue of its powers under Article VIII, Section 5 (5) of the Constitution, the Court RESOLVES to:

> (1) NULLIFY all orders that are subject of this Resolution issued by Judge Silvino T. Pampilo, Jr. after respondent Gatdula filed the Petition for the Issuance of a Writ of Amparo;
>
> (2) DIRECT Judge Pampilo to determine within forty-eight (48) hours from his receipt of this Resolution whether the issuance of the Writ of Amparo is proper on the basis of the petition and its attached affidavits.

The Clerk of Court is DIRECTED to cause the personal service of this Resolution on Judge Silvino T. Pampilo, Jr. of Branch 26 of the Regional Trial Court of Manila for his proper guidance together with a WARNING that further deviation or improvisation from the procedure set in A.M. No. 07-9-12-SC shall be meted with severe consequences.

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SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, and Perlas-Bernabe, JJ., concur.

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[1] Rollo, p. 63.

[2] Id. at 81-95.

[3] Id. at 92.

[4] Id. at 10.

[5] Id.

[6] Id. at 182-183.

[7] Id. at 182.

[8] Rule on the Writ of Amparo, A.M. No. 07-9-12-SC, 25 September 2007, Sec. 25.

[9] Rollo, p. 183.

[10] Id. at 12.

[11] Id. at 13.

[12] CONSTITUTION, Art III, Sec. 1.

[13] CONSTITUTION, Art. III, Sec. 2.

[14] Secretary of Defense v. Manalo, G.R. No. 180906, 7 October 2008, 568 SCRA 1 at 43. This case is a landmark decision wherein Chief Justice Reynato Puno, the proponent of the creation of the Rule on the Writ of Amparo, explains the historical and constitutional roots of the remedy.

[15] CONSTITUTION, Art. VIII, Sec. 5 (5).

[16] Secretary of Defense v. Manalo, supra at 42.

[17] Id.

[18] Rule on the Writ of Amparo, A.M. No. 07-9-12-SC, 25 September 2007, Sec. 1.

[19] Id. at Sec. 3.

[20] Id. at Sec. 6, states “x x x Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. x x x”. (Emphasis supplied)

[21] Id. at Sec. 5 (c).

[22] Id. at Sec. 6.

[23] Id. at Sec. 9.

[24] Annotation to the Writ of Amparo at 7 < http://sc.judiciary.gov.ph/Annotation_Amparo.pdf> (visited 6 Feb. 2013).

[25] Rule on the Writ of Amparo, A.M. No. 07-9-12-SC, 25 September 2007, Sec. 9.

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[26] Id. at Sec. 13.

[27] Id. at Sec. 12.

[28] Id. at Sec. 18.

[29] Id.

[30] Id. at Sec. 19.

[31] Id. at Sec. 23.

[32] Id. at Sec.14.

[33] Rollo, p. 183.

[34] RULES OF COURT, Rule 1, Sec. 3 (c).

[35] Rule on the Writ of Amparo, A.M. No. 07-9-12-SC, 25 September 2007, Sec. 11 (j).

[36] Id. at Sec.11 (l).

[37] RULES OF COURT, Rule 1, Sec. 6.

[38] Ginete v. CA, 357 Phil. 36, 54 (1998).

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