

GEN. EMMANUEL BAUTISTA, IN HIS CAPACITY AS THE CHIEF OF STAFF OF THE ARMED FORCES OF THE PHILIPPINES (AFP), GEN. EDUARDO AÑO, IN HIS CAPACITY AS COMMANDING OFFICER OF THE INTELL...*G.R. No. 221862. January 23, 2018*

Ponente: BERSAMIN, J.

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The privilege of the writ of amparo may be granted on the basis of the application of the totality of evidence standard. Such application may extend to the use of relevant circumstantial evidence. Hearsay testimony that is consistent with the admissible evidence adduced may also be admitted and appreciated. The flexibility in the admission of evidence derives from the recognition of the State's often virtual, monopoly of access to pertinent evidence, as well as from the recognition of the deliberate use of the State's power to destroy pertinent evidence being inherent in the practice of enforced disappearances.

The Case

By petition for review on certiorari,[1] the petitioners, namely: Gen. Emmanuel Bautista, Gen. Eduardo Año, Gen. Hernando Iriberry, Gen. Benito Antonio T. De Leon, and Chief Supt. Miguel De Mayo Laurel, hereby assail the decision promulgated on March 12, 2015 in CA-G.R. SP No. 00053-W/A,[2] whereby the Court of Appeals (CA) granted the privilege of the writs of amparo and habeas data in favor of respondent Atty. Maria Catherine Dannug-Salucon (Atty. Salucon), the petitioner thereat, as well as the resolution promulgated on December 2, 2015,[3] whereby the CA denied their motion for reconsideration.

Antecedents

After her admission to the Philippine Bar, Atty. Salucon initially worked for the Public Attorney's Office (PAO) before resigning to become a human rights advocate. She co-founded the National Union of People's Lawyers (NUPL), a national association of human rights advocates, law students and paralegals principally engaged in public interest cases and human rights advocacy. She also established her own law firm, and undertook the defense of several political detainees, most of whom were leaders or members of peasant and other sectoral organizations and people's organizations, including human rights defenders labeled or suspected to be members of the Communist Party of the Philippines (CPP) or the New People's Army (NPA) who had been harassed with allegedly trumped-up charges by the agents of the Government.

For purposes of this adjudication, we adopt the CA's summary of the factual antecedents derived from Atty. Salucon's petition for the issuance of the writs of amparo and habeas data, to wit:

On March 24, 2014, [respondent] was at a lunch meeting with the relatives of a detained political prisoner client who was allegedly among several leaders of people's organizations/sectoral organizations who were falsely charged in a murder and frustrated murder case pending before the Regional Trial Court (RTC) of

Lagawe, Ifugao. As they were discussing the security risks involved in the handling of the case, William Bugatti, her paralegal who was working with her on said case and who was also an activist and human rights defender, informed her that he had personally observed that surveillance was being conducted on them, including the respondent, especially during hearings for the above case. Thus, he suggested certain security measures for her own protection. [Respondent] realized the significance of Bugatti's advice when he was fatally gunned down later that evening. Parenthetically, [respondent] had asked him (sic) early that very day to identify the names, ranks and addresses of the handler/s of the prosecution witness in the Lagawe case, whom [respondent] suspected of lying on the witness stand.

That same evening, [respondent] was informed by a client x x x working as a civilian asset for the PNP Intelligence Section that the Regional Intelligence of the PNP, through the PNP Isabela Provincial Police Office, had issued a directive to PNP Burgos, Isabela, [respondent's] hometown, to conduct a background investigation on her and to confirm whether she was a "Red Lawyer". She also learned that she was being secretly followed by agents of the Intelligence Service of the Armed Forces of the Philippines (ISAFP) and that person looking like military/policemen had been asking people around her office about her whereabouts and routine. Further, respondent's name was reportedly included in the military's Watch List of so-called communist terrorist supporters rendering legal services.

On March 31, 2014, [respondent] again received a call from her confidential informant, confirming that she was indeed the subject of surveillance and that, in fact, he was tailed by ISAFP operatives when he came to [respondent's] office a few nights earlier. The day before, the confidential informant was allegedly cornered by three ISAFP operatives who interrogated him on the purpose of his visit to respondent's office. They also asked him why respondent was acquainted with known NPA members such as Randy Malayao and Grace Bautista, and why she was always the lawyer of several suspected communist terrorists.

Upon further investigation, respondent discovered the following things:

1)

On or about March 12, 19 and 21, 2014, when [respondent] had out-of-town hearings, different individuals riding on motorcycles and appearing to be soldiers approached one of the buko and tupig vendors in front of [respondent's] office. Each of them similarly questioned the vendors as to where [respondent] went, with whom, what time she usually returned to the office and who stayed behind in the office whenever she left. The vendor was surprised because the questions of the individuals were uniform on all occasions and they did not go into [respondent's] office despite the vendor's advice for them to talk to [respondent's] secretary. The above incidents were narrated to [respondent] by her driver, Regie Lutao Gamongan, who had gotten the information from the vendor.

2)

On March 31, 2014, a member of the Criminal Investigation Service (CIS) of the Criminal Investigation Detection Group (CIDG) came to the law office, asking for the [respondent], but without telling her secretary why he was looking for her. Upon learning that she was not there, he left, then returned again in the afternoon. However, he left again upon finding out that [respondent] had decided to stay at the Hall of Justice longer than expected.

3)

On the same day, [respondent] received a text message from the Chief Investigator of the CIDG, asking for a copy of the records of a human rights case involving three Bayan Muna members who were allegedly

arbitrarily arrested on the basis of trumped up charges for two counts of frustrated murder and tortured in the hands of the 86th Infantry Battalion intelligence operatives. Said case was dismissed by the Office of the Provincial Prosecutor during preliminary investigation. [Respondent] was surprised at the request because it was the third time that the investigator was requesting for a copy of the records and he could have easily secured the same from the Provincial Prosecutor's Office. Thus, [respondent] ignored the text message.

4)

On or about 7:30 AM on April 3, 2014, while [respondent's] driver, Gamongan, was waiting for her in front of her residence at Poblacion, Burgos, Isabela, a red "Wave" motorcycle with its plate number cased inside a tinted plastic cover, making it impossible to read the same, passed by their house. The motorcycle driver, who was of medium height, with dark complexion, a haircut and demeanor of a military/policeman, with a tattoo on his left, wearing a white sando shirt and with a pistol bag slung around his shoulder, looked intently at Gamongan as he passed by, "as if he wanted to do something wrong". After passing by the [respondent's] compound, the motorcycle rider suddenly made a u-turn and stared intently at Gamongan as he passed by. As he headed towards the highway, Gamongan noticed that the man was continually observing him through the side mirror. In relation to this incident, witness Gamongan executed a Judicial Affidavit and testified during the trial proceedings.

5)

On or about April 7 and 10, 2013, soldiers came to [respondent's] office in the guise of asking her to notarize documents. Since [respondent] was on out-of-town hearings, her secretary suggested names of other available notaries public. However, instead of leaving right away, the military men asked where [respondent] went and with whom, and insisted on leaving the document and picking it up later on when [respondent] arrived.

6)

On April 10, 2014, a known civilian asset of the Military Intelligence Group (MIG) in Isabela, who also happened to be the "close-in" secretary and part-time driver of an uncle who was a municipal circuit judge, came to [respondent's] office, trying to convince her to meet with the head of the MIG Isabela so that the latter could explain why [respondent] was being watched. However, [respondent] declined. The following day, the civilian asset returned and told her that she was being watched by the MIG because of a land dispute which she was handling at a court in Roxas, Isabela. [Respondent] did not believe him because, just a couple of days prior to that date, the MIG operatives had talked to the client/confidential informant who had first informed [respondent] of the purported surveillance operations on her, asking for [respondent's] phone number and inviting him to join them as civilian asset in their anti-insurgency operations.[4]

In her petition, thus, [respondent] posited that the above-described acts, taking into consideration previous incidents where human rights lawyers, human rights defenders, political activists and defenders, were killed or abducted after being labeled as "communists" and being subjected to military surveillance, may be interpreted as preliminary acts leading to the abduction and/or killing of [respondent]. Moreover, while [respondent] admitted that the purported military and police operatives who conducted, and were still conducting, surveillance and harassments on [respondent] were still unidentified, she maintained that the same were identified as members of the ISAFP, the Philippine Army and the police, and that there was no doubt that they all acted upon orders of their superiors within the chain of command. [Respondent] reported the incidents to the NUPL and the human rights group KARAPATAN (Alliance for the Advancement of People's Rights), who agreed to help her in filing the

instant petition. She also tried reporting the incidents to the National Bureau of Investigation (NBI) in Isabela, but, as of present, no positive report had been made identifying the individuals who conducted the alleged surveillance, although available information specifically pointed to the military and police units as the ones doing the surveillance.[5]

We also adopt the CA's summary of the petitioners' averments, as follows:

[Petitioners] categorically denied [respondent's] allegations that she was ever under surveillance by the military and/or police under the command of [petitioners'] officials. x x x

xxx [Petitioners] also objected to the impleading of other [petitioners] in their official capacities, allegedly under the doctrine of command responsibility. [Petitioners] maintained that the doctrine of command responsibility is a substantive rule that establishes criminal or administrative liability that is different from the purpose and approach under the Rule on the Writ of Amparo. Thus, it can only be invoked in a full-blown criminal or administrative case and not in a summary amparo proceeding.

x x x x

[Petitioners] [also] alleged that upon receipt of the CA Resolution promulgated on April 22, 2014 x x x, they immediately exerted efforts to conduct an inquiry and to gather information about the purported threats on the life, liberty and security of the [respondent], to wit:

- [Respondent] Secretary Gazmin maintained that, aside from sweeping allegations of surveillance and gathering of information made by alleged unidentified operatives from the military and the police on [respondent], the latter failed to particularize the instances of [petitioner] Sec. Gazmin's involvement in said surveillance and information gathering that would warrant his inclusion as party [respondent] in the case;

- Upon receipt of the CA's April 22, 2014 Resolution, [petitioner] Gen. Emmanuel T. Bautista issued a directive to the ISAFP Chief and Commander of the 5[th] Infantry Division to verify the alleged surveillance operations conducted on [respondent]. In addition, he enjoined the concerned unit/s to immediately investigate and/or submit to the Higher Headquarters pertinent investigation results already conducted, if any, relative to the complained acts. Finally, [petitioner] Gen. Bautista affirmed the continuation of efforts to establish the surrounding circumstances of [respondent's] allegations and to bring those responsible, including any military personnel, if shown to have participated or to have had complicity in the commission of the alleged acts, to the court of justice.

- [Petitioner] Major Gen. Eduardo M. Año denied the ISAFP's involvement in the alleged surveillance operations on and harassment of [respondent], and the inclusion of [petitioner's] name in an alleged watchlist. In fact, petitioner Major Gen. Año claimed that he only came to know of [respondent's] name upon receipt of the Petition, which he described as a mere product of a fabricated story intended to discredit him, in particular, and the ISAFP as a whole. Nonetheless, upon obtaining a copy of the Petition from the Judge Advocate General and the AFP Radio Message directing his unit to submit results of the verification and inquiry on the Petition, [petitioner] Major Gen. Año immediately instructed the Group Commanders of the MIG 1 and 2 to coordinate closely with the military and the PNP in the area to ensure that no harassment or surveillance will be conducted on [respondent].

- Upon receipt of [the CA Resolution], [petitioner] Lt. Gen. Hernando DCA Iriberry immediately informed the Army Judge Advocate, the legal arm of the Philippine Army, of the same. Having no information on the nature and circumstances surrounding the case, he coordinated with his staff to look into the matter. Even prior to the radio message from the Chief of Staff dated April 25, 2014, directing him to conduct verification on the alleged surveillance on [respondent], [petitioner] Lt. Gen. Iriberry had already taken the initiative to issue a directive to the Commanding General of the 5[th] Infantry Division in Gamu, Isabela, to verify and inquire into the allegations in the Petitioner pertaining to any operation which may have been conducted or which was in

anyway (sic) related to the transgression of human rights of [respondent]. Finally, he undertook that, should there be any finding that any army personnel was involved or had committed any of the allegations in the Petition, such personnel shall be dealt with accordingly pursuant to existing laws and AFP regulations.

- [Petitioner] Major Gen. Benito Antonio T. De Leon pointed out that he assumed command of the 5[th] Infantry (STAR) Division only on April 4, 2014, thus, the alleged surveillance operations would have been conducted prior to his assumption of said office. Since he assumed command of said unit, he had not given any orders to his men to conduct surveillance or "casing" operations against any persons within the unit's area of operation, nor did he receive any similar orders from his superiors. Nonetheless, even prior to the receipt of the directive from the higher headquarters and a copy of the Petition, [petitioner] Major Gen. De Leon, on his own volition and upon gaining information through print media of the filing of the petition, exerted efforts to verify with the intelligence unit commanders under his command whether there was any standing instruction or order for them to conduct "casing" or surveillance operations against [respondent], to which the commanders responded in the negative. In addition, he averred that he immediately sent out radio messages to his subordinates to be law-abiding and that human rights violations have no place in the military.

- [Petitioner] PCSupt. Miguel de Mayo Laurel clarified that he was currently the Acting Regional Director of the Police Regional Office 2, and not the Chief of the Isabela Provincial Police Office, as indicated in the Petition. Said Petition was only emailed by the Legal Service of Camp Crame to the Office of the Regional Legal Service, which provided [petitioner] PCSupt. Laurel a copy of the same. [Petitioner] PCSupt. Laurel maintained that their Office had no memorandum order relating to [respondent's] allegations, nor are there any documents in their possession concerning [respondent]. Thus, PCSupt. Laurel immediately sent a Memorandum directing the Provincial Director of the Isabela Provincial Police Office and the Chief of the Regional Intelligence Division of Police Regional Office 2, two of the units mentioned in the Petition which were under his operational control, to submit their comments and all relevant information and pertinent documents relative to the allegations made by [respondent] and to identify the persons who are responsible for the alleged harassment and threats on [respondent's] life, liberty and security. In response thereto, PSSupt. Ramos, Jr., the Provincial Director of the Isabela Provincial Police Office, reported that no directive was ever issued to PNP Burgos, Isabela, to conduct a background investigation and to confirm [respondent's] alleged status as a "Red Lawyer", or to threaten, intimidate or harass, and conduct continuous surveillance on her. He likewise denied that his office was in possession of any data or information which may or would likely violate [respondent's] right to privacy or be used as a justification to harass or intimidate her. Meanwhile, the Chief of the Regional Intelligence Division likewise denied the existence of any order or directive to conduct a background investigation and to confirm [respondent] as a "Red Lawyer", or that their office was in possession of any data or information on [respondent]. Finally, [petitioner] PCSupt. Laurel ordered the Isabela Provincial Police Office and the PSSupt. Ramos, Jr. to investigate the alleged threats on the life, liberty and security of [respondent], and to identify the persons, if any, who are responsible for the same.

[Petitioners] also noted that [respondent's] testimony consisted of mere unverified accounts from an unknown person whose identity [respondent] did not want to reveal. Moreover, [respondent's] allegations against [petitioners] and their respective offices were, at best, mere conclusions on her part, a mere impression that [respondent] had based on the physical appearance of the men looking for her, as described by her staff and according to her own personal assessment of the circumstances. However, [respondent] could not categorically identify and link any of the said individuals to [petitioners], claiming only that they were military-looking men.[6]

In substantiation of her petition, Atty. Salucon and her driver, Reggie Lutao Gamongan, testified. She also submitted documentary evidence consisting of the several criminal informations filed in various courts against her clients who were either political detainees, leaders or members of peasant and other sectoral and people's organizations, human rights defenders or suspected NPA members, and the complainants were either military or police officers and personnel.

On the part of the petitioners, Maj. Gen. De Leon and Sr. Supt. Ramos, Jr. testified. Submitted as additional evidence by the petitioners were relevant memoranda, letters, and radio messages.

On March 12, 2015, the CA rendered the assailed decision granting the privilege of the writs of amparo and habeas data,[7] disposing thusly:

Considering the foregoing, we find that petitioner has substantially proven by substantial evidence her entitlement to the writs of amparo and habeas data. Moreover, she was able to substantially establish that respondents PCSupt. Laurel, Lt. Gen. Irriberi, Major Gen. Año and Gen. Bautista are responsible and accountable for the violation of respondent's rights to life, liberty and security on the basis of the unjustified surveillance operations and acts of harassment and intimidation committed against petitioner and/or lack of any fair and effective official investigation as to her allegations. On the other hand, while it is true that respondent Major Gen. De Leon assumed his office only after the occurrence of the subject incidents, he is still currently in the best position to conduct the necessary investigation and perform all other responsibilities or obligations required, if any, by the writ of amparo and habeas data. However, the instant petition should be dismissed as against respondent President Aquino on the ground of immunity from suit, against respondent Secretary Gazmin for lack of merit and against former PNP Dir. Gen. Purisima for being moot and academic.

WHEREFORE, the instant Petition for the Issuance of the Writs of Amparo and Habeas Data is GRANTED.

Accordingly, respondents PCSupt. Miguel De Mayo Laurel, in his capacity as Acting Regional Director of the Police Regional Office 2; Gen. Hernando Irriberi, in his capacity as the Commanding General of the Philippine Army; Gen. Eduardo Año, in his capacity as the Commanding Officer of the ISAFP; and Gen. Emmanuel Bautista, in his capacity as the Chief of Staff of the AFP, are hereby DIRECTED to exert extraordinary diligence and efforts, not only to protect the life, liberty and security of petitioner Atty. Maria Catherine Dannug-Salucon and the immediate members of her family, but also to conduct further investigation to determine the veracity of the alleged surveillance operation and acts of harassment and intimidation committed against petitioner, as well as to identify and find the person/s responsible for said violations and bring them to competent court. The foregoing respondents are likewise DIRECTED to SUBMIT a quarterly report of their actions to this Court, as a way of PERIODIC REVIEW to enable this Court to monitor the action of respondents.

The above-named respondents are likewise DIRECTED to produce and disclose to this Court any and all facts, information, statements, records, photographs, dossiers, and all other evidence, documentary or otherwise, pertaining to petitioner Atty. Maria Catherine Dannug-Salucon, for possible destruction upon order of this Court.

In the event that herein respondents no longer occupy their respective posts, the directives mandated in this Decision are enforceable against the incumbent officials holding the relevant positions. Failure to comply with the foregoing shall constitute contempt of court.

Finally, the instant petition is hereby DISMISSED with respect to the following respondents: President Benigno Simeon C. Aquino III, on the ground of immunity from suits; Secretary of National Defense Voltaire Gazmin, for lack of merit; and PNP Gen. Alan Purisima, for being moot and academic.

SO ORDERED.[8]

On December 2, 2015, the CA denied the petitioners' motion for reconsideration filed by the Office of the Solicitor General,[9] ruling:

WHEREFORE, the instant Motion for Reconsideration is DENIED.

The undated Manifestation of the Solicitor General is NOTED. Accordingly, let the pleadings, orders and notices be sent to the incumbent officials holding the relevant positions in this case.

SO ORDERED.[10]

Hence, this appeal.

Issues

The petitioners submit in support of their appeal that the issues to be considered and resolved by the Court are the following:

- Whether or not the CA erred in admitting and considering Atty. Salucon's evidence despite being largely based on hearsay information;
- Whether or not the CA erred in finding Atty. Salucon's evidence sufficient to justify the granting of the privilege of the writs of amparo and habeas data;
- Whether or not the CA erred in ruling that the hearsay evidence of Atty. Salucon, assuming its admissibility for the sake of argument, satisfied the requirement of substantial evidence;
- Whether or not the CA erred in granting the privilege of the writ of habeas data despite the failure of Atty. Salucon to produce evidence showing that the petitioners were in possession of facts, information, statements, photographs or documents pertaining to her; and
- Whether or not the CA erred in directing the petitioners to exert extraordinary diligence and efforts to conduct further investigation in order to determine the veracity of Atty. Salucon's alleged harassment and surveillance.[11]

Ruling of the Court

The appeal lacks merit.

I.

The CA properly admitted Atty. Salucon's proof even if it supposedly consisted of circumstantial evidence and hearsay testimonies

In *Razon, Jr. v. Tagitis*,^[12] the Court adopted the standard of totality of evidence for granting the privilege of the writ of amparo, explaining:

Not to be forgotten in considering the evidentiary aspects of Amparo petitions are the unique difficulties presented by the nature of enforced disappearances, heretofore discussed, which difficulties this Court must frontally meet if the Amparo Rule is to be given a chance to achieve its objectives. These evidentiary difficulties compel the Court to adopt standards appropriate and responsive to the circumstances, without transgressing the due process requirements that underlie every proceeding.

xxxx

The fair and proper rule, to our mind, is to consider all the pieces of evidence adduced in their totality, and to consider any evidence otherwise inadmissible under our usual rules to be admissible if it is consistent with the admissible evidence adduced. In other words, we reduce our rules to the most basic test of reason — i.e., to the relevance of the evidence to the issue at hand and its consistency with all other pieces of adduced evidence. Thus, even hearsay evidence can be admitted if it satisfies this basic minimum test.

We note in this regard that the use of flexibility in the consideration of evidence is not at all novel in the Philippine legal system. In child abuse cases, Section 28 of the Rule on Examination of a Child Witness is expressly recognized as an exception to the hearsay rule. This Rule allows the admission of the hearsay testimony of a child describing any act or attempted act of sexual abuse in any criminal or non-criminal

proceeding, subject to certain prerequisites and the right of cross-examination by the adverse party. The admission of the statement is determined by the court in light of specified subjective and objective considerations that provide sufficient indicia of reliability of the child witness. These requisites for admission find their counterpart in the present case under the above-described conditions for the exercise of flexibility in the consideration of evidence, including hearsay evidence, in extrajudicial killings and enforced disappearance cases.[13]

Razon, Jr. v. Tagitis cited the ruling in Velasquez Rodriguez,[14] wherein the Inter-American Court of Human Rights (IACHR) took note that enforced disappearances could generally be proved only through circumstantial or indirect evidence or by logical inference; and that it would be impossible otherwise to prove that an individual had been made to disappear because of the State's virtual monopoly of access to pertinent evidence, or because the deliberate use of the State's power to destroy pertinent evidence was inherent in the practice of enforced disappearances. Hence, the reliance on circumstantial evidence and hearsay testimony of witnesses is permissible. In this respect, Razon, Jr. v. Tagitis observed that Velasquez Rodriguez rendered an informative discussion on the appreciation of evidence to establish enforced disappearances, to wit:

Velasquez stresses the lesson that flexibility is necessary under the unique circumstances that enforced disappearance cases pose to the courts; to have an effective remedy, the standard of evidence must be responsive to the evidentiary difficulties faced. On the one hand, we cannot be arbitrary in the admission and appreciation of evidence, as arbitrariness entails violation of rights and cannot be used as an effective counter-measure; we only compound the problem if a wrong is addressed by the commission of another wrong. On the other hand, we cannot be very strict in our evidentiary rules and cannot consider evidence the way we do in the usual criminal and civil cases; precisely, the proceedings before us are administrative in nature where, as a rule, technical rules of evidence are not strictly observed. Thus, while we must follow the substantial evidence rule, we must observe flexibility in considering the evidence we shall take into account.[15]

Under the totality of evidence standard, hearsay testimony may be admitted and appreciated depending on the facts and circumstances unique to each petition for the issuance of the writ of amparo provided such hearsay testimony is consistent with the admissible evidence adduced. Yet, such use of the standard does not unquestioningly authorize the automatic admissibility of hearsay evidence in all amparo proceedings. The matter of the admissibility of evidence should still depend on the facts and circumstances peculiar to each case. Clearly, the flexibility in the admissibility of evidence adopted and advocated in Razon, Jr. v. Tagitis is determined on a case-to-case basis.

II.

The respondent presented substantial evidence sufficient to justify the issuance of the writ of amparo

The petition for the writ of amparo partakes of a summary proceeding that requires only substantial evidence to make the appropriate interim and permanent reliefs available to the petitioner. The Rules of Court and jurisprudence have long defined substantial evidence as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[16] It is to be always borne in mind that such proceeding is not an action to determine criminal guilt requiring proof beyond reasonable doubt, or to allocate liability for damages based on preponderance of evidence, or to adjudge administrative responsibility requiring substantial evidence.[17]

The facts and circumstances enumerated by the respondent's petition consisted of the following:

a)

She was a human rights lawyer who had taken criminal cases in which the accused were political detainees,

including human rights defenders or suspected members of the CPP-NPA, and the complainants were military or police officials or personnel;

b)

Her paralegal William Bugatti informed her that he had personally observed various individuals conducting surveillance operations of their movements (i.e., the respondent and Bugatti) specially during the trial of a case in Ifugao involving a political detainee who was a leader of a people's or sectoral organization;

c)

On the day Bugatti informed her about his observation, and she instructed him to discover the names, ranks, and addresses of the handlers of the Prosecution witness in the Ifugao case, he was fatally gunned down;

d)

On the same day Bugatti was gunned down, a client of hers who was working as a civilian asset for the PNP Intelligence Section reported to her that the Regional Intelligence Unit of the PNP, through the PNP Isabela Provincial Office, issued a directive to conduct a background investigation to confirm if she was a "Red Lawyer;"

e)

Said civilian asset also informed her that she was being secretly followed by ISAFP agents, and that individuals who appeared to be military or police personnel had been asking people around her office regarding her routine and whereabouts;

f)

Her secretary informed her that a member of the CIS-CIDG and some purported military personnel had gone to her law office on several occasions inquiring on her whereabouts;

g)

On the same day said CIS-CIDG member went to her law office, she received a text message from the Chief Investigator of the CIDG requesting, for the third time, a copy of the records of a case she was handling;

h)

Gamongan, her driver who testified in support of the petition, notified her that a vendor outside her law office had told him that several motorcycle-riding personnel of the military had approached said vendor on separate instances asking about her whereabouts and the persons she was with, her routine and schedule, as well as the persons who were left at the law office whenever she went out;

i)

Gamongan also testified about an incident that occurred while he was waiting outside her house in which a motorcycle-riding man, who looked like he was military or police based on his haircut and demeanor, had driven by her house twice intently observing him and the house "as if he wanted to do something bad;"

j)

A known civilian asset of the Military Intelligence Group (MIG) tried to convince her to have a meeting with MIG Isabela so that he could explain why she was being watched; and

k)

Upon her refusal of the invitation to meet, the civilian asset returned the next day telling her that she was being watched by the MIG because of a land dispute case she was then handling for a client.[18]

Upon due consideration of the foregoing, the CA opined that it would be all the more difficult to obtain direct evidence to prove the respondent's entitlement to the privilege of the writ of amparo because no extrajudicial killing or enforced disappearance had yet occurred. Indeed, her petition referred to acts that merely threatened to violate her rights to life, liberty and security, or that could be appreciated only as preliminary steps to her probable extrajudicial killing or enforced disappearance. Even so, it would be uncharacteristic for the courts, especially this Court, to simply fold their arms and ignore the palpable threats to her life, liberty and security and just wait for the irreversible to happen to her. The direct evidence might not come at all, given the abuse of the State's power to destroy evidence being inherent in enforced disappearances or extrajudicial killings.

There was no question about the relevance of the hearsay testimony with which the respondent sought to establish some of the facts and circumstances she alleged. Flexibility needed to be adopted in the appreciation and consideration of such facts and circumstances despite hearsay being inadmissible under other judicial situations. Such flexibility accorded with the following instruction in *Razon, Jr. v. Tagitis*,[19] to wit:

x x x In an Amparo petition, however, this requirement must be read in light of the nature and purpose of the proceeding, which addresses a situation of uncertainty; the petitioner may not be able to describe with certainty how the victim exactly disappeared, or who actually acted to kidnap, abduct or arrest him or her, or where the victim is detained, because these information may purposely be hidden or covered up by those who caused the disappearance. In this type of situation, to require the level of specificity, detail and precision that the petitioners apparently want to read into the Amparo Rule is to make this Rule a token gesture of judicial concern for violations of the constitutional rights to life, liberty and security.

To read the Rules of Court requirement on pleadings while addressing the unique Amparo situation, the test in reading the petition should be to determine whether it contains the details available to the petitioner under the circumstances, while presenting a cause of action showing a violation of the victim's rights to life, liberty and security through State or private party action. The petition should likewise be read in its totality, rather than in terms of its isolated component parts, to determine if the required elements — namely, of the disappearance, the State or private action, and the actual or threatened violations of the rights to life, liberty or security — are present.[20]

Verily, proceedings related to the petition for the issuance of the writ of amparo should allow not only direct evidence, but also circumstantial evidence. The Rules of Court has made no distinction between direct evidence of a fact and evidence of circumstances from which the existence of a fact may be inferred.[21] One kind of

evidence is not superior to the other, for the trier of facts must weigh the evidence upon admission. Only in the event of a conviction in a criminal case does the Rules of Court require that the circumstantial evidence should consist of a combination of several circumstances that "produce a conviction beyond reasonable doubt." [22] Yet, under *Razon, Jr. v. Tagitis*, even hearsay testimony may be considered by the amparo court provided such testimony can lead to conclusions consistent with the admissible evidence adduced. [23] What the respondent obviously established is that the threats to her right to life, liberty and security were neither imaginary nor contrived, but real and probable. The gunning down of her paralegal Bugatti after he had relayed to her his observation that they had been under surveillance was the immediate proof of the threat. The purpose and noble objectives of the special rules on the writ of amparo may be rendered inutile if the rigid standards of evidence applicable in ordinary judicial proceedings were not tempered with such flexibility.

III.

The CA had sufficient basis to issue the writ of habeas data at the respondent's behest

The writ of habeas data is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party. [24] It is an independent and summary remedy designed to protect the image, privacy, honor, information, and freedom of information of an individual, and to provide a forum to enforce one's right to the truth and to informational privacy. [25] It seeks to protect a person's right to control information regarding oneself, particularly in instances in which such information is being collected through unlawful means in order to achieve unlawful ends. [26]

In its decision, the CA, issuing the privilege of the writ of habeas data, directed the petitioners "to produce and disclose to this Court any and all facts, information, statements, records, photographs, dossiers, and all other evidence, documentary or otherwise, pertaining to petitioner Atty. Maria Catherine Dannug-Salucon, for possible destruction upon order of this Court."

The directive was factually and procedurally warranted. There was no question that the civilian asset of the PNP Intelligence Section relayed to the respondent that there was a standing order issued by the PNP Isabela Provincial Police Office to the PNP office in Burgos, Isabela to conduct a background investigation in order to confirm if she was a "Red Lawyer." She was also under actual surveillance by different individuals who looked like they were members of the military or police establishments. The objective of these moves taken against her was unquestionably to establish a pattern of her movements and activities, as well as to obtain the records of the cases she was handling for her various clients. These and other established circumstances fully warranted within the context of the Rule on the Writ of Habeas Data the directive of the CA for the handing over and destruction of all information and data on her in order to protect her privacy and security.

IV.

The directive of the CA for the petitioners to exert extraordinary diligence in conducting further investigations was valid and proper

Section 9 of the Rule on the Writ of Amparo requires the amparo respondent to state in the return the actions that have been or will still be taken: (a) to verify the identity of the aggrieved party; (b) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible; (c) to identify witnesses and obtain statements from them

concerning the death or disappearance; (d) to 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; (e) to identify and apprehend the person or persons involved in the death or disappearance; and (f) to bring the suspected offenders before a competent court.

Section 17 of the Rule on the Writ of Amparo ordains the diligence required of a public official or employee who is named as a respondent in the petition for the writ of amparo, to wit:

Section 17. Burden of Proof and Standard of Diligence Required. -The parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade the responsibility or liability.

In *Razon, Jr. v. Tagitis*,^[27] the Court spelled out the two-fold burden that the public authorities had to discharge in situations of extrajudicial killings and enforced disappearances, viz.:

Our intervention is in determining whether an enforced disappearance has taken place and who is responsible or accountable for this disappearance, and to define and impose the appropriate remedies to address it. The burden for the public authorities to discharge in these situations, under the Rule on the Writ of Amparo, is twofold. The first is to ensure that all efforts at disclosure and investigation are undertaken under pain of indirect contempt from this Court when governmental efforts are less than what the individual situations require. The second is to address the disappearance, so that the life of the victim is preserved and his or her liberty and security restored. In these senses, our orders and directives relative to the writ are continuing efforts that are not truly terminated until the extrajudicial killing or enforced disappearance is fully addressed by the complete determination of the fate and the whereabouts of the victim, by the production of the disappeared person and the restoration of his or her liberty and security, and, in the proper case, by the commencement of criminal action against the guilty parties.^[28]

In *Ladaga v. Mapagu*,^[29] the Court precisely indicated that the failure of an amparo petitioner to establish by substantial evidence the involvement of military or police forces was not a hindrance to the Court ordering the conduct of further investigations, to wit:

Emphasizing the extraordinary character of the amparo remedy, the Court ruled in the cases of *Roxas* and *Razon, Jr.* that an amparo petitioner's failure to establish by substantial evidence the involvement of government forces in the alleged violation of rights is never a hindrance for the Court to order the conduct of further investigation where it appears that the government did not observe extraordinary diligence in the performance of its duty to investigate the complained abduction and torture or enforced disappearance. The Court directed further investigation in the case of *Roxas* because the modest efforts of police investigators were effectively putting petitioner's right to security in danger with the delay in identifying and apprehending her abductors. In *Razon, Jr.*, the Court found it necessary to explicitly order the military and police officials to pursue with extraordinary diligence the investigation into the abduction and disappearance of a known activist because not only did the police investigators conduct an incomplete and one-sided investigation but they blamed their ineffectiveness to the reluctance and unwillingness of the relatives to cooperate with the authorities.^[30]

It should not be a surprise at all, therefore, that the CA commanded the petitioners as the amparo respondents “to

exert extraordinary diligence and efforts, not only to protect the life, liberty and security of petitioner Atty. Maria Catherine Dannug-Salucon and the immediate members of her family, but also to conduct further investigation to determine the veracity of the alleged surveillance operation and acts of harassment and intimidation committed against petitioner, as well as to identify and find the person/s responsible for said violations and bring them to competent court." Needless to stress, the directive was unassailable.

The petitioners (and their successors in office), by merely issuing orders to their subordinates under their respective commands and relying on the latter's reports without conducting independent investigations on their own to determine the veracity of the respondent's allegations, did not discharge the two-fold burden. Thereby, they did not exercise extraordinary diligence. They are reminded of the following dictum regarding the conduct of investigations that the Court pronounced in *In the Matter of the Petition for the Writ of Amparo and Habeas Data in favor of Noriel Rodriguez*:^[31]

More importantly, respondents also neglect to address our ruling that the failure to conduct a fair and effective investigation similarly amounted to a violation of or threat to Rodriguez's rights to life, liberty, and security. The writ's curative role is an acknowledgment that the violation of the right to life, liberty, and security may be caused not only by a public official's act, but also by his omission. Accountability may attach to respondents who are imputed with knowledge relating to the enforced disappearance and who carry the burden of disclosure; or those who carry, but have failed to discharge, the burden of extraordinary diligence in the investigation of the enforced disappearance. The duty to investigate must be undertaken in a serious manner and not as a mere formality preordained to be ineffective.^[32]

The petitioners' recommendation for the creation of an independent body to investigate both the harassments suffered by the respondent and the surveillance conducted against her is rejected as an act of evasion. The military and police establishments certainly had the competence and resources to conduct such investigation. Although they have predicated the recommendation on what transpired in *Roxas v. Arroyo*,^[33] the awkward situation sought to be avoided under *Roxas v. Arroyo* - "wherein the very persons alleged to be involved in an enforced disappearance or extrajudicial killing are, at the same time, the very ones tasked by law to investigate the matter"^[34] - did not obtain herein. For one, there was no conclusive proof of the actual authorship of the unauthorized surveillance conducted against the respondent. Thus, it was speculative on the part of the petitioners and their successors in office to simply say that the investigation, if conducted by them, would be biased or one-sided. They could not escape the responsibility of conducting the investigation with extraordinary diligence by deflecting the responsibility to other investigatory agencies of the Government. The duty of extraordinary diligence pertains to them, and to no other. Moreover, their higher ranks or positions in the AFP and PNP hierarchies put them in the best position to obtain or acquire information and to ensure that the investigation to be conducted would quickly yield results in view of the investigation going to focus on their subordinate personnel.

It would be within the context of Section 9 of the Rule on the Writ of Amparo if the petitioners and their successors in office should instead exhibit a readiness and willingness to undertake the investigations if only to shed light soon enough on whether or not their subordinates and personnel over whom they exercised authority and control had been involved at all in the surveillance of the respondent and the making of threats against her personal security.

WHEREFORE, the Court DENIES the petition for review on certiorari for its lack of merit; AFFIRMS the decision and resolution promulgated by the Court of Appeals on March 12, 2015 and December 2, 2015, respectively, in CA-G.R. SP No. 00053-W/A; and REMANDS this case to the Court of Appeals for the monitoring of the investigation to be hereafter undertaken in accordance with the decision promulgated by the Court of Appeals on March 12, 2015, and for the validation of the results of the investigation.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Del Castillo, Perlas-Bernabe, Leonen, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.

Jardeleza, J., no part.

Caguioa and Martires, JJ., on leave.

[1] Rollo, pp. 3-36.

[2] Id. at 44-64; penned by Associate Justice Hakim S. Abdulwahid (retired), with Associate Justice Romeo F. Barza (now Presiding Justice) and Associate Justice Zenaida T. Galapate-Laguilles concurring.

[3] Id. at 67-74; penned by Associate Justice Barza, with Associate Justice Magdangal M. De Leon and Associate Justice Galapate-Laguilles concurring.

[4] Id. at 46-48.

[5] Id. at 48-49.

[6] Id. at 49-53.

[7] Supra note 2.

[8] Id. at 63-64.

[9] Supra note 3.

[10] Id. at 73-74.

[11] Rollo, pp. 13-14.

[12] G.R. No. 182498, December 3, 2009, 606 SCRA 598.

[13] Id. at 689-693.

[14] I/A Court H.R. Velasquez Rodriguez Case, Judgment of July 29, 1988, Series C No. 4.

[15] Supra note 12, at 691-692.

[16] Section 5, Rule 133 of the Rules of Court; Ang Tibay v. Court of Industrial Relations, 69 Phil. 635 (1940).

[17] In the Matter of the Petition for the Writ of Amparo and Habeas Data in favor of Noriel Rodriguez, G.R. No. 191805, 193160, April 16, 2013, 696 SCRA 390, 395-396.

[18] Rollo, pp. 56-58.

[19] Supra note 12.

[20] Id. at 653-654.

[21] People v. Ramos, G.R. No. 104497, January 18, 1995, 240 SCRA 191, 199.

[22] Section 4, Rule 133 of the Rules of Court.

[23] See also Saez v. Macapagal-Arroyo, G.R. No. 183533, September 25, 2012, 681 SCRA 678, 690.

[24] Section 1, Rule on the Writ of Habeas Data, A.M. No. 08-1-16-SC (February 2, 2008).

[25] *Vivares v. St. Theresa's College*, G.R. No. 202666, September 29, 2014, 737 SCRA 92, 106.

[26] *Gamboa v. Chan*, G.R. No. 193636, July 24, 2012, 677 SCRA 385, 400.

[27] *Supra* note 12.

[28] *Id.* at 667-668.

[29] G.R. No. 189689, 189690 and 189691, November 13, 2012, 685 SCRA 322.

[30] *Id.* at 345-346.

[31] *Supra* note 17.

[32] *Id.* at 398.

[33] G.R. No. 189155, September 7, 2010, 630 SCRA 211.

[34] *Id.* at p. 241.

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