

ROGELIO ABERCA, RODOLFO BENOSA, NESTOR BODINO, NOEL ETABAG, DANILO DE LA FUENTE, BELEN DIAZ-FLORES, MANUEL MARIO GUZMAN, ALAN JAZMINEZ, EDWIN LOPEZ, ALFREDO MANSOS, ALEX MARCELI...

G.R. No. 69866. April 15, 1988

Ponente: YAP, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-69866/>

YAP, J.:

This petition for certiorari presents vital issues not heretofore passed upon by this Court. It poses the question whether the suspension of the privilege of the writ of habeas corpus bars a civil action for damages for illegal searches conducted by military personnel and other violations of rights and liberties guaranteed under the Constitution. If such action for damages may be maintained, who can be held liable for such violations: only the military personnel directly involved and/or their superiors as well?

This case stems from alleged illegal searches and seizures and other violations of the rights and liberties of plaintiffs by various intelligence units of the Armed Forces of the Philippines, known as Task Force Makabansa (TFM), ordered by General Fabian Ver "to conduct pre-emptive strikes against known communist-terrorist (CT) underground houses in view of increasing reports about CT plans to sow disturbances in Metro Manila." Plaintiffs allege, among others, that complying with said order, elements of the TFM raided several places, employing in most cases defectively issued judicial search warrants; that during these raids, certain members of the raiding party confiscated a number of purely personal items belonging to plaintiffs; that plaintiffs were arrested without proper warrants issued by the courts; that for some period after their arrest, they were denied visits of relatives and lawyers; that plaintiffs were interrogated in violation of their rights to silence and counsel; that military men who interrogated them employed threats, tortures and other forms of violence on them in order to obtain incriminatory information or confessions and in order to punish them; that all violations of plaintiff's constitutional rights were part of a concerted and deliberate plan to forcibly extract information and incriminatory statements from plaintiffs and to terrorize, harass and punish them, said plans being previously known to and sanctioned by defendants.

Plaintiffs sought actual/compensatory damages amounting to P39,030.00; moral damages in the amount of at least P150,000.00 each or a total of P3,000,000.00; exemplary damages in the amount of at least P150,000.00 each or a total of P3,000,000.00; and attorney's fees amounting to not less than P200,000.00.

A motion to dismiss was filed by defendants, through their counsel, then Solicitor-General Estelito Mendoza, alleging that 1) plaintiffs may not cause a judicial inquiry into the circumstances of their detention in the guise of a damage suit because, as to them, the privilege of the writ of habeas corpus is suspended; 2) assuming that the courts can entertain the present action, defendants are immune from liability for acts done in the performance of their official duties; and 3) the complaint states no cause of action against the defendants. Opposition to said motion to dismiss was filed by plaintiffs Marco Palo, Danilo de la Fuente, Benjamin Sesgundo, Noel Etabag, Alfredo Mansos and Rolando Salutin on July 8, 1983, and by plaintiffs Edwin Lopez, Manuel Mario Guzman,

Alan Jasminez, Nestor Bodino, Carlos Palma, Arturo Tabara, Joseph Olayer, Rodolfo Benosa, Belen Diaz Flores, Rogelio Aberca, Alex Marcelino and Elizabeth Marcelino on July 21, 1983. On November 7, 1983, a Consolidated Reply was filed by defendants' counsel.

Then, on November 8, 1983, the Regional Trial Court, National Capital Region, Branch 95, Judge Willelmo C. Fortun, Presiding,[1] issued a resolution granting the motion to dismiss. It sustained, lock, stock and barrel, the defendants' contention 1) that plaintiffs may not cause a judicial inquiry into the circumstances of their detention in the guise of a damage suit because, as to them, the privilege of the writ of habeas corpus is suspended; 2) that assuming that the court can entertain the present action, defendants are immune from liability for acts done in the performance of their official duties; and 3) that the complaint states no cause of action against defendants, since there is no allegation that the defendants named in the complaint confiscated plaintiffs' purely personal properties in violation of their constitutional rights, and with the possible exception of Major Rodolfo Aguinaldo and Sergeant Bienvenido Balabo, committed acts of torture and maltreatment, or that the defendants had the duty to exercise direct supervision and control of their subordinates or that they had vicarious liability as employers under Article 2180 of the Civil Code. The lower court stated, "After a careful study of defendants' arguments, the court finds the same to be meritorious and must, therefore, be granted. On the other hand, plaintiffs' arguments in their opposition are lacking in merit."

A motion to set aside the order dismissing the complaint and a supplemental motion for reconsideration was filed by the plaintiffs on November 18, 1983, and November 24, 1983, respectively. On December 9, 1983, the defendants filed a comment on the aforesaid motion of plaintiffs, furnishing a copy thereof to the attorneys of all the plaintiffs, namely, Attys. Jose W. Diokno, Procopio Beltran, Rene Sarmiento, Efren Mercado, Augusto Sanchez, Antonio L. Rosales, Pedro. B. Ella, Jr., Arno V. Sanidad, Alexander Padilla, Joker Arroyo, Rene Saguisag, Ramon Esguerra and Felicitas Aquino.

On December 15, 1983, Judge Fortun issued an order voluntarily inhibiting himself from further proceeding in the case and leaving the resolution of the motion to set aside the order of dismissal to Judge Lising, "to preclude any suspicion that he (Judge Fortun) cannot resolve [the] aforesaid pending motion with the cold neutrality of an impartial judge and to put an end to plaintiffs' assertion that the undersigned has no authority or jurisdiction to resolve said pending motion." This order prompted plaintiffs to file an amplificatory motion for reconsideration signed in the name of the Free Legal Assistance Group (FLAG) of Mabini Legal Aid Committee, by Attys. Joker P. Arroyo, Felicitas Aquino and Arno Sanidad on April 12, 1984. On May 2, 1984, the defendants filed a comment on said amplificatory motion for reconsideration.

In an order dated May 11, 1984, the trial court, Judge Esteban Lising, Presiding, without acting on the motion to set aside order of November 8, 1983, issued an order, as follows:

"It appearing from the records that, indeed, the following plaintiffs, Rogelio Aberca, Danilo de la Fuente and Marco Palo, represented by counsel, Atty. Jose W. Diokno, Alan Jasminez, represented by counsel, Atty. Augusto Sanchez, Spouses Alex Marcelino and Elizabeth Protacio-Marcelino, represented by counsel, Atty. Procopio Beltran, Alfredo Mansos, represented by counsel, Atty. Rene Sarmiento, and Rolando Salutin, represented by counsel, Atty. Efren Mercado, failed to file a motion to reconsider the Order of November 8, 1983, dismissing the complaint, nor interposed an appeal therefrom within the reglementary period, as prayed for by the defendants, said Order is now final against said plaintiffs."

Assailing the said order of May 11, 1984, the plaintiffs filed a motion for reconsideration on May 28, 1984, alleging that it was not true that plaintiffs Rogelio Aberca, Danilo de la Fuente, Marco Palo, Alan Jasminez, Alex Marcelino, Elizabeth Protacio-Marcelino, Alfredo Mansos and Rolando Salutin failed to file a motion to reconsider the order of November 8, 1983 dismissing the complaint, within the reglementary period. Plaintiffs

claimed that the motion to set aside the order of November 8, 1983 and the amplificatory motion for reconsideration was filed for all the plaintiffs, although signed by only some of the lawyers.

In its resolution of September 21, 1984, the respondent court dealt with both motions 1) to reconsider its order of May 11, 1984 declaring that with respect to certain plaintiffs, the resolution of November 8, 1983 had already become final, and 2) to set aside its resolution of November 8, 1983 granting the defendants' motion to dismiss. In the dispositive portion of the order of September 21, 1984, the respondent court resolved:

(1) That the motion to set aside the order of finality, dated May 11, 1984, of the Resolution of dismissal of the complaint of plaintiffs Rogelio Aberca, Danilo de la Fuente, Marco Palo, Alan Jasminez, Alex Marcelino, Elizabeth Protacio-Marcelino, Alfredo Mansos and Rolando Salutin is denied for lack of merit;

(2) For lack of cause of action as against the following defendants, to wit:

- Gen Fabian Ver
- Col. Fidel Singson
- Col. Rolando Abadilla
- Lt. Col. Conrado Lantoria, Jr.
- Col. Galileo Kintanar
- Col. Panfilo Lacson
- Capt. Danilo Pizaro
- 1Lt. Pedro Tango
- Lt. Romeo Ricardo
- Lt. Raul Bacalso

the motion to set aside and reconsider the Resolution of dismissal of the present action or complaint, dated November 8, 1983, is also denied; but in so far as it affects and refers to defendants, to wit:

- Major Rodolfo Aguinaldo, and
- Master Sgt. Bienvenido Balaba,

the motion to reconsider and set aside the Resolution of dismissal dated November 3, 1983 is granted and the Resolution of dismissal is, in this respect, reconsidered and modified."

Hence, petitioners filed the instant petition for certiorari on March 15, 1985 seeking to annul and set aside the respondent court's resolution of November 8, 1983, its order of May 11, 1984, and its resolution dated September 21, 1984. Respondents were required to comment on the petition, which it did on November 9, 1985. A reply was filed by petitioners on August 26, 1986.

We find the petition meritorious and decide to give it due course.

At the heart of petitioners' complaint is Article 32 of the Civil Code which provides:

ART. 32. Any public officer or employee, or any private individual who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:

(1)

Freedom of religion;

(2)

Freedom of speech;

(3)

Freedom to write for the press or to maintain a periodical publication;

(4)

Freedom from arbitrary or illegal detention;

(5)

Freedom of suffrage;

(6)

The right against deprivation of property without due process of law;

(7)

The right to a just compensation when private property is taken for public use;

(8)

The right to the equal protection of the laws;

(9)

The right to be secure in one's person, house, papers, and effects against unreasonable searches and seizures;

(10)

The liberty of abode and of changing the same;

(11)

The privacy of communication and correspondence;

(12)

The right to become a member of associations or societies for purposes not contrary to law;

(13)

The right to take part in a peaceable assembly to petition the Government for redress of grievances;

(14)

The right to be free from involuntary servitude in any form;

(15)

The right of the accused against excessive bail;

(16)

The right of the accused to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witness in his behalf;

(17)

Freedom from being compelled to be a witness against one's self, or from being forced to confess guilt, or from being induced by a promise of immunity or reward to make such confession, except when the person confessing becomes a State witness;

(18)

Freedom from excessive fines, or cruel and unusual punishment, unless the same is imposed or inflicted in accordance with a statute which has not been judicially declared unconstitutional; and

(19)

Freedom of access to the courts.

In any of the cases referred to in this article, whether or not the defendant's act or omission constitutes a criminal offense, the aggrieved party has a right to commence an entirely separate and distinct civil action for damages, and for other relief. Such civil action shall proceed independently of any criminal prosecution (if the latter be instituted), and may be proved by a preponderance of evidence.

The indemnity shall include moral damages. Exemplary damages may also be adjudicated.

The responsibility herein set forth is not demandable from a judge unless his act or omission constitutes a violation of the Penal Code or other penal statute.

It is obvious that the purpose of the above codal provision is to provide a sanction to the deeply cherished rights and freedoms enshrined in the Constitution. Its message is clear: no man may seek to violate those sacred rights with impunity. In times of great upheaval or of social and political stress, when the temptation is strongest to yield - borrowing the words of Chief Justice Claudio Teehankee - to the law of force rather than the force of law, it is necessary to remind ourselves that certain basic rights and liberties are immutable and cannot be sacrificed to the transient needs or imperious demands of the ruling power. The rule of law must prevail, or else liberty will perish. Our commitment to democratic principles and to the rule of law compels us to reject the view which reduces law to nothing but the expression of the will of the predominant power in the community. "Democracy cannot be a reign of progress, of liberty, of justice, unless the law is respected by him who makes it and by him for whom it is made. Now this respect implies a maximum of faith, a minimum of idealism. On going to the bottom of the matter, we discover that life demands of us a certain residuum of sentiment which is not derived from reason, but which reason nevertheless controls." [2]

Seeking to justify the dismissal of plaintiffs' complaint, the respondents postulate the view that as public officers they are covered by the mantle of state immunity from suit for acts done in the performance of official duties or functions. In support of said contention, respondents maintain that -

"Respondents are members of the Armed Forces of the Philippines. Their primary duty is to safeguard public safety and order. The Constitution no less provides that the President may call them "to prevent or suppress lawless violence, invasion, insurrection or rebellion, or imminent danger thereof." (Constitution, Article VII, Section 9).

On January 17, 1981, the President issued Proclamation No. 2045 lifting martial law but providing for the continued suspension of the privilege of the writ of habeas corpus in view of the remaining dangers to the security of the nation. The proclamation also provided "that the call to the Armed Forces of the Philippines to prevent or suppress lawless violence, insurrection, rebellion and subversion shall continue to be in force and effect."

Petitioners allege in their complaint that their causes of action proceed from respondent General Ver's order to Task Force Makabansa to launch preemptive strikes against communist terrorist underground houses in Metro Manila. Petitioners claim that this order and its subsequent implementation by elements of the task force resulted in the violation of their constitutional rights against unlawful searches, seizures and arrest, rights to counsel and to silence, and the right to property and that, therefore, respondents Ver and the named members of the task force should be held liable for damages.

But, by launching a preemptive strike against communist terrorists, respondent members of the armed forces merely performed their official and constitutional duties. To allow petitioners to recover from respondents by way of damages for acts performed in the exercise of such duties run contrary to the policy considerations to shield respondents as public officers from undue interference with their duties and from potentially disabling threats of liability (*Aarlon v. Fitzgerald*, 102 S. Ct. 2731; *Forbes v. Chuoco Tiaco*, 16 Phil. 534), and upon the necessity of protecting the performance of governmental and public functions from being harassed unduly or constantly interrupted by private suits (*McCallan v. State*, 35 Cal. App. 605; *Metran v. Paredes*, 79 Phil. 819).

x x x x x

The immunity of public officers from liability arising from the performance of their duties is now a settled jurisprudence (*Alzua v. Johnson*, 21 Phil. 308; *Zulueta v. Nicolas*, 102 Phil. 944; *Spalding v. Vilas*, 161 US 483;

40 L. Ed. 780, 16 S. Ct. 631; Barr v. Mateo, 360; Butz v. Economon, 438 US 478; 57 L. Ed. 2d 895, 98 S. Ct. 2894; Scheuer v. Rhodes, 416 US 232; Forbes v. Chuoco Tiaco, supra; Miller v. de Leune, 602 F. 2d 198; Sami v. US, 617 F. 2d 755).

Respondents-defendants who merely obeyed the lawful orders of the President and his call for the suppression of the rebellion involving petitioners enjoy such immunity from suit."^[3]

We find respondents' invocation of the doctrine of state immunity from suit totally misplaced. The cases invoked by respondents actually involved acts done by officers in the performance of official duties within the ambit of their powers. As held in Forbes, etc. vs. Chuoco Tiaco and Crossfield:^[4]

"No one can be held legally responsible in damages or otherwise for doing in a legal manner what he had authority, under the law, to do. Therefore, if the Governor-General had authority, under the law to deport or expel the defendants, and circumstances justifying the deportation and the method of carrying it out are left to him, then he cannot be held liable in damages for the exercise of this power. Moreover, if the courts are without authority to interfere in any manner, for the purpose of controlling or interfering with the exercise of the political powers vested in the chief executive authority of the Government, then it must follow that the courts cannot intervene for the purpose of declaring that he is liable in damages for the exercise of this authority."

It may be that the respondents, as members of the Armed Forces of the Philippines, were merely responding to their duty, as they claim, "to prevent or suppress lawless violence, insurrection, rebellion and subversion" in accordance with Proclamation No. 2054 of President Marcos, despite the lifting of martial law on January 27, 1981, and in pursuance of such objective, to launch pre-emptive strikes against alleged communist terrorist underground houses. But this cannot be construed as a blanket license or a roving commission untrammelled by any constitutional restraint, to disregard or transgress upon the rights and liberties of the individual citizen enshrined in and protected by the Constitution. The Constitution remains the supreme law of the land to which all officials, high or low, civilian or military, owe obedience and allegiance at all times.

Article 32 of the Civil Code which renders any public officer or employee or any private individual liable in damages for violating the Constitutional rights and liberties of another, as enumerated therein, does not exempt the respondents from responsibility. Only judges are excluded from liability under the said article, provided their acts or omissions do not constitute a violation of the Penal Code or other penal statute.

This is not to say that military authorities are restrained from pursuing their assigned task or carrying out their mission with vigor. We have no quarrel with their duty to protect the Republic from its enemies, whether of the left or of the right, or from within or without, seeking to destroy or subvert our democratic institutions and imperil their very existence. What we are merely trying to say is that in carrying out this task and mission, constitutional and legal safeguards must be observed, otherwise, the very fabric of our faith will start to unravel. In the battle of competing ideologies, the struggle for the mind is just as vital as the struggle of arms. The linchpin in that psychological struggle is faith in the rule of law. Once that faith is lost or compromised, the struggle may well be abandoned.

We do not find merit in respondents' suggestion that plaintiffs' cause of action is barred by the suspension of the privilege of the writ of habeas corpus. Respondents contend that "Petitioners cannot circumvent the suspension of the privilege of the writ by resorting to a damage suit aimed at the same purpose - a judicial inquiry into the alleged illegality of their detention. While the main relief they ask by the present action is indemnification for alleged damages they suffered, their causes of action are inextricably based on the same claim of violations of their constitutional rights that they invoked in the habeas corpus case as grounds for release from detention. Were the petitioners allowed the present suit, the judicial inquiry barred by the suspension of the privilege of the writ

will take place. The net result is that what the courts cannot do, i.e. override the suspension ordered by the President, petitioners will be able to do by the mere expedient of altering the title of their action."

We do not agree. We find merit in petitioners' contention that the suspension of the privilege of the writ of habeas corpus does not destroy petitioners' right and cause of action for damages for illegal arrest and detention and other violations of their constitutional rights. The suspension does not render valid an otherwise illegal arrest or detention. What is suspended is merely the right of the individual to seek release from detention through the writ of habeas corpus as a speedy means of obtaining his liberty.

Moreover, as pointed out by petitioners, their right and cause of action for damages are explicitly recognized in P.D. No. 1755 which amended Article 1146 of the Civil Code by adding the following to its text:

"However, when the action (for injury to the rights of the plaintiff or for a quasi-delict) arises from or out of any act, activity or conduct of any public officer involving the exercise of powers or authority arising from Martial Law including the arrest, detention and/or trial of the plaintiff, the same must be brought within one (1) year."

Petitioners have a point in contending that even assuming that the suspension of the privilege of the writ of habeas corpus suspends petitioners' right of action for damages for illegal arrest and detention, it does not and cannot suspend their rights and causes of action for injuries suffered because of respondents' confiscation of their private belongings, the violation of their right to remain silent and to counsel and their right to protection against unreasonable searches and seizures and against torture and other cruel and inhuman treatment.

However, we find it unnecessary to address the constitutional issue pressed upon us. On March 25, 1986, President Corazon C. Aquino issued Proclamation No. 2, revoking Proclamation Nos. 2045 and 2045-A and lifting the suspension of the privilege of the writ of habeas corpus. The question therefore has become moot and academic.

This brings us to the crucial issue raised in this petition. May a superior officer under the notion of respondeat superior be answerable for damages, jointly and severally with his subordinates, to the person whose constitutional rights and liberties have been violated?

Respondents contend that the doctrine of respondeat superior is inapplicable to the case. We agree. The doctrine of respondeat superior has been generally limited in its application to principal and agent or to master and servant (i.e. employer and employee) relationship. No such relationship exists between superior officers of the military and their subordinates.

Be that as it may, however, the decisive factor in this case, in our view, is the language of Article 32. The law speaks of an officer or employee or person "directly" or "indirectly" responsible for the violation of the constitutional rights and liberties of another. Thus, it is not the actor alone (i.e. the one directly responsible) who must answer for damages under Article 32; the person indirectly responsible has also to answer for the damages or injury caused to the aggrieved party.

By this provision, the principle of accountability of public officials under the Constitution^[5] acquires added meaning and assumes a larger dimension. No longer may a superior official relax his vigilance or abdicate his duty to supervise his subordinates, secure in the thought that he does not have to answer for the transgressions committed by the latter against the constitutionally protected rights and liberties of the citizen. Part of the factors that propelled people power in February 1986 was the widely held perception that the government was callous or indifferent to, if not actually responsible for, the rampant violations of human rights. While it would certainly be too naive to expect that violators of human rights would easily be deterred by the prospect of facing damage suits,

it should nonetheless be made clear in no uncertain terms that Article 32 of the Civil Code makes the persons who are directly, as well as indirectly, responsible for the transgression joint tortfeasors.

In the case at bar, the trial court dropped defendants General Fabian Ver, Col. Fidel Singson, Col. Rolando Abadilla, Col. Gerardo Lantoria, Jr., Col. Galileo Kintanar, Col. Panfilo Lacson, Capt. Danilo Pizarro, 1st Lt. Pedro Tango, Lt. Romeo Ricardo and Lt. Ricardo Bacalso from the complaint on the assumption that under the law, they cannot be held responsible for the wrongful acts of their subordinates. Only Major Rodolfo Aguinaldo and Master Sgt. Bienvenido Balaba were kept as defendants on the ground that they alone "have been specifically mentioned and identified to have allegedly caused injuries on the persons of some of the plaintiffs, which acts of alleged physical violence constitute a delict or wrong that gave rise to a cause of action." But such finding is not supported by the record, nor is it in accord with law and jurisprudence.

Firstly, it is wrong to limit the plaintiffs' action for damages to "acts of alleged physical violence" which constituted delict or wrong. Article 32 clearly specifies as actionable the act of violating or in any manner impeding or impairing any of the constitutional rights and liberties enumerated therein, among others -

- Freedom from arbitrary arrest or illegal detention;
- The right against deprivation of property without due process of law;
- The right to be secure in one's person, house, papers and effects against unreasonable searches and seizures;
- The privacy of communication and correspondence;
- Freedom from being compelled to be a witness against one's self, or from being forced to confess guilt, or from being induced by a promise of immunity or reward to make a confession, except when the person confessing becomes a state witness.

The complaint in this litigation alleges facts showing with abundant clarity and details, how plaintiffs' constitutional rights and liberties mentioned in Article 32 of the Civil Code were violated and impaired by defendants. The complaint speaks of, among others, searches made without search warrants or based on irregularly issued or substantially defective warrants; seizures and confiscation, without proper receipts, of cash and personal effects belonging to plaintiffs and other items of property which were not subversive and illegal nor covered by the search warrants; arrest and detention of plaintiffs without warrant or under irregular, improper and illegal circumstances; detention of plaintiffs at several undisclosed places of "safehouses" where they were kept incommunicado and subjected to physical and psychological torture and other inhuman, degrading and brutal treatment for the purpose of extracting incriminatory statements. The complaint contains a detailed recital of abuses perpetrated upon the plaintiffs violative of their constitutional rights.

Secondly, neither can it be said that only those shown to have participated "directly" should be held liable. Article 32 of the Civil Code encompasses within the ambit of its provisions those directly, as well as indirectly, responsible for its violation.

The responsibility of the defendants, whether direct or indirect, is amply set forth in the complaint. It is well established in our law and jurisprudence that a motion to dismiss on the ground that the complaint states no cause of action must be based on what appears on the face of the complaint.[6] To determine the sufficiency of the cause of action, only the facts alleged in the complaint, and no others, should be considered.[7] For this purpose, the motion to dismiss must hypothetically admit the truth of the facts alleged in the complaint.[8]

Applying this test, it is difficult to justify the trial court's ruling, dismissing for lack of cause of action the complaint against all defendants, except Major Rodolfo Aguinaldo and Master Sgt. Bienvenido Balaba. The

complaint contained allegations against all the defendants which, if admitted hypothetically, would be sufficient to establish a cause or causes of action against all of them under Article 32 of the Civil Code.

This brings us to the last issue. Was the trial court correct in dismissing the complaint with respect to plaintiffs Rogelio Aberca, Danilo de la Fuente, Marco Palo, Alan Jazminez, Alex Marcelino, Elizabeth Protacio-Marcelino, Alfredo Mansos and Rolando Salutin, on the basis of the alleged failure of said plaintiffs to file a motion for reconsideration of the court's resolution of November 8, 1983, granting the respondent's motion to dismiss?

It is undisputed that a timely motion to set aside said order of November 8, 1983 was filed by "plaintiffs, through counsel." True, the motion was signed only by Atty. Joker P. Arroyo, counsel for Benjamin Ssegundo; Atty. Antonio Rosales, counsel for Edwin Lopez and Manuel Martin Guzman; Atty. Pedro B. Ella, Jr., counsel for Nestor Bodino and Carlos Palma; Atty. Arno V. Sanidad, counsel for Arturo Tabara; Atty. Felicitas S. Aquino, counsel for Joseph Olayer; and Atty. Alexander Padilla, counsel for Rodolfo Benosa.

But the body of the motion itself clearly indicated that the motion was filed on behalf of all the plaintiffs. And this must have been also the understanding of defendants' counsel himself for when he filed his comment on the motion, he furnished copies thereof, not just to the lawyers who signed the motion, but to all the lawyers of plaintiffs, to wit: Attys. Jose W. Diokno, Procopio Beltran, Rene Sarmiento, Efren Mercado, Augusto Sanchez, Antonio Rosales, Pedro Ella, Jr., Arno Sanidad, Alexander Padilla, Joker Arroyo, Rene Saquisag, Ramon Esguerra and Felicitas S. Aquino.

In filing the motion to set aside the resolution of November 8, 1983, the signing attorneys did so on behalf of all the plaintiffs. They needed no specific authority to do that. The authority of an attorney to appear for and in behalf of a party can be assumed, unless questioned or challenged by the adverse party or the party concerned, which was never done in this case. Thus, it was grave abuse on the part of respondent judge to take it upon himself to rule that the motion to set aside the order of November 8, 1953 dismissing the complaint was filed only by some of the plaintiffs, when by its very language it was clearly intended to be filed by and for the benefit of all of them. It is obvious that the respondent judge took umbrage under a contrived technicality to declare that the dismissal of the complaint had already become final with respect to some of the plaintiffs whose lawyers did not sign the motion for reconsideration. Such action tainted with legal infirmity cannot be sanctioned.

Accordingly, we grant the petition and annul and set aside the resolution of the respondent court, dated November 8, 1983, its order dated May 11, 1984 and its resolution dated September 21, 1984. Let the case be remanded to the respondent court for further proceedings. With costs against private respondents.

SO ORDERED.

Fernan, Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, and Griño-Aquino, JJ., concur.

Teehankee, C.J., concurs with separate opinion.

Gutierrez, Jr., J., in the result.

Padilla, J., no part. Related to counsel for Rodolfo Benosa.

[1] The Presiding Judge of Branch 95, Judge Esteban M. Lising, was allowed to go on leave, per resolution of the Supreme Court on October 18, 1983, and Judge Willelmo C. Fortun was authorized to take cognizance of all kinds of cases of Branch 95 during the former's absence.

[2] Joseph Charmont, French Legal Philosophy, Mcmillan Co., New York, 1921, pp. 72-73.

[3] Rollo, pp. 240-241; 244.

[4] 16 Phil. 534, 578.

[5] Section 1, Article XI.

[6] *Azur v. Provincial Board*, 27 SCRA 50, 57 *Garcon v. Redemptorist Fathers*, 17 SCRA 341.

[7] *Adamos v. J. M. Tuazon*, 25 SCRA 529; *Socorro v. Vargas*, 25 SCRA 592, 596; *La Suerte Cigar & Cigarette Factory vs. Central Azucarera de Davao*, 23 SCRA 686, 690.

[8] *Garcon vs. Redemptorist Fathers*, *supra*; *PNB vs. Hipolito*, 13 SCRA 20.

CONCURRING OPINION

TEEHANKEE, C.J.:

The Court's judgment at bar makes clear that all persons, be they public officers or employees, or members of the military or police force or private individuals who directly or indirectly obstruct, defeat, violate or in any manner impede or impair the constitutional rights and civil liberties of another person, stand liable and may be sued in court for damages as provided in Art. 32 of the Civil Code.

The case at bar specifically upholds and reinstates the civil action for damages filed in the court below by petitioners-plaintiffs for illegal searches conducted by military personnel and other violations of their constitutional rights and liberties. At the same time it rejects the automatic application of the principle of respondeat superior or command responsibility that would hold a superior officer jointly and severally accountable for damages, including moral and exemplary, with his subordinates who committed such transgressions. However, the judgment gives the caveat that a superior officer must not abdicate his duty to properly supervise his subordinate for he runs the risk of being held responsible for gross negligence and of being held under the cited provision of the Civil Code as indirectly and solidarily accountable with the tortfeasor.

The rationale for this rule of law was best expressed by Brandeis in this wise; "In a government of laws, existence of the government will be imperilled if it fails to observe the law scrupulously. Our government is the potent omnipresent teacher. For good or ill, it teaches the whole people by example. Crime is contagious. If the government becomes the law breaker, it breeds contempt for the law, it invites every man to become a law unto himself, it invites anarchy. To declare that in the administration of criminal law the end justifies the means would bring terrible retribution." [1]

As the writer stressed in *Hildawa vs. Enrile* [2] which was an action to enjoin the operations of the dreaded secret marshals during the past regime, "In a democratic state, you don't stoop to the level of criminals. If we stoop to what they do, then we're no better than they there would be no difference." x x x The Supreme Court stands as the guarantor of the Constitutional and human rights of all persons within its jurisdiction and cannot abdicate its basic role under the Constitution that these rights be respected and enforced. The spirit and letter of the Constitution negates as contrary to the basic precepts of human rights and freedom that a person's life be snuffed out without due process in a split second even if he is caught in flagrante delicto - unless it was called for as an act of self-defense by the law agents using reasonable means to prevent or repel an unlawful aggression on the part of the deceased."

Needless to say, the criminal acts of the "Sparrow Units" or death squads of the NPA which have infiltrated the cities and suburbs and performed their despicable killings of innocent civilians and military and police officers constitute an equally perverse violation of the sanctity of human life and must be severely condemned by all who

adhere to the Rule of Law.

It need only be pointed out that one of the first acts of the present government under President Corazon C. Aquino after her assumption of office in February, 1986 was to file our government's ratification and access to all human rights instruments adopted under the auspices of the United Nations, declaring thereby the government's commitment to observe the precepts of the United Nations Charter and the Universal Declaration of Human Rights. More than this, pursuant to our Constitution which the people decisively ratified on February 2, 1987, the independent office of the Commission on Human Rights has been created and organized with ample powers to investigate human rights violations and take remedial measures against all such violations by the military as well as by the civilian groups.

[1] *Olmstead vs. U.S.*, 277 U.S. 438; dissenting opinion.

[2] 138 SCRA 146, 161.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.