



Republic of the Philippines
Supreme Court
Manila

EN BANC

ARTHUR BALAO, WINSTON
BALAO, NONETTE BALAO,
JONILYN BALAO-STRUGAR,
and BEVERLY LONGID,
Petitioners,

G.R. No. 186050

- versus -

EDUARDO ERMITA,
GILBERTO TEODORO,
RONALDO PUNO,
NORBERTO GONZALES, Gen.
ALEXANDER YANO, Gen.
JESUS VERZOSA, Brig. Gen.
REYNALDO MAPAGU, Lt.
P/Dir. EDGARDO DOROMAL,
Maj. Gen. ISAGANI
CACHUELA, Commanding
Officer of the AFP-ISU based in
Baguio City, PSS EUGENE
MARTIN, and several JOHN
DOES,

Respondents.

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SECRETARY EDUARDO
ERMITA, SECRETARY
GILBERTO TEODORO,
SECRETARY RONALDO
PUNO, SECRETARY
NORBERTO GONZALES,
GEN. ALEXANDER YANO,
P/DGEN. JESUS VERZOSA,
BRIG. GEN. REYNALDO
MAPAGU, MAJ. GEN.
ISAGANI CACHUELA, and
POL. SR. SUPT. EUGENE

G.R. No. 186059

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
MENDOZA,

MARTIN,

Petitioners,

- versus -

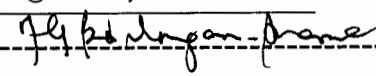
**ARTHUR BALAO, WINSTON
BALAO, NONETTE BALAO,
JONILYN BALAO-STRUGAR,
and BEVERLY LONGID,**

Respondents.*

PERLAS-BERNABE,**JARDELEZA,******LEONEN,****CAGUIOA,*******MARTIRES,****TIJAM, and****REYES, JR., JJ.**

Promulgated:

August 1, 2017

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RESOLUTION

PERLAS-BERNABE, J.:

Before the Court is the Report¹ dated June 13, 2017 submitted by the Regional Trial Court of La Trinidad, Benguet, Branch 63 (RTC) in compliance with the Court's directives contained in the Resolution² dated June 21, 2016 in the above-captioned consolidated cases.

The Facts

The present matter arose from a petition for the issuance of a writ of *amparo* filed by the relatives of James M. Balao (James) before the RTC, alleging that he was abducted by five (5) unidentified men on September 17, 2008 in La Trinidad, Benguet because of his activist/political leanings as founding member of the Cordillera Peoples Alliance (CPA).³ The RTC granted the privilege of the writ of *amparo*, thereby commencing the conduct of several investigations by the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) to determine the whereabouts and the circumstances behind the disappearance of James.⁴ In its Formal Report⁵ dated November 12, 2014 submitted to the RTC, the PNP stated that they encountered problems in gathering evidence that would lead to the resolution of the case, and thus, proposed that their investigation be terminated. Meanwhile, the AFP overturned the suspicions behind the

* As titled in the Decision. See *rollo* (G.R. No. 186059), Vol. II, p. 1130. Public Respondent then President Gloria Macapagal-Arroyo was dropped as party-respondent in the petition for writ of *amparo* in the December 13, 2011 Decision (see *id.* at 1161).

** No part.

*** On leave.

¹ *Rollo* (G.R. No. 186050), Vol. IV, pp. 2019-2023.

² *Id.* at 2005-2016.

³ See *id.* at 2006.

⁴ See *id.* at 2007.

⁵ See Formal Report (Re: Order dated August 1, 2014); *id.* at 1889-1907. Issued by Police Senior Superintendent Commander, SITG Balao Rodolfo S. Azurin, Jr.

involvement of an active service officer of the army, *i.e.*, Major Ferdinand Bruce Tokong, in James's abduction, which likewise led to a standstill in its own investigation.⁶ As a result, the RTC recommended, among others, the archiving of the case, considering that the ongoing investigation had reached an impasse.⁷ Eventually, the consolidated cases were brought to the Court.⁸

The Court's Ruling in the June 21, 2016 Resolution

In a Resolution⁹ dated June 21, 2016, the Court partially adopted the RTC's recommendations, and accordingly: (a) rejected the recommendation of the RTC to archive the cases; (b) relieved the AFP and the Commission on Human Rights from their respective obligations to investigate James's abduction; and (c) directed the PNP to further investigate the angle presented by Bryan Gonzales (Gonzales) and to ascertain the identities of "Uncle John" and "Rene" who are persons of interest in these cases.¹⁰ In light of the foregoing, the Court gave the PNP a period of six (6) months to complete its investigation on the aforesaid matter, and thereafter, turn over its results to the RTC. The RTC, in turn, shall then submit its full report and recommendation to the Court.¹¹

The Court held that while it may appear that the investigation conducted by the AFP had reached an impasse, records disclose that the testimony of Gonzales, an asset of the Military Intelligence Group 1 and a cousin of James, alluded to the possibility that James could have been abducted by members of the CPA. In the same testimony, "Uncle John" and "Rene" were mentioned as CPA members who were James's housemates. Thus, there was still an active lead worth pursuing by the PNP, which means that the recommendation to archive the case was premature.¹²

Proceedings after the June 21, 2016 Resolution

On June 20, 2017, the RTC submitted its Report¹³ dated June 13, 2017 to the Court.

Collating the findings of the PNP in its Compliance Report¹⁴ dated March 14, 2017, and the attached Investigation Report¹⁵ dated March 10,

⁶ See Investigation Report dated September 29, 2015; *rollo* (G.R. No. 186059), Vol. II, pp. 1285-1288. See also discussions in the RTC's Final Report dated January 15, 2016; *id.* at 1271-1272.

⁷ See Final Report; *id.* at 1283.

⁸ See *rollo* (G.R. No. 186050), Vol. IV, p. 2007.

⁹ *Id.* at 2005-2016.

¹⁰ *Id.* at 2014.

¹¹ *Id.* at 2014-2015.

¹² See *id.* at 2012-2014.

¹³ *Id.* at 2019-2023. Submitted by Judge Jennifer P. Humiding.

¹⁴ See Compliance Report to Order dated August 15, 2016; *id.* at 2027A-2028.

¹⁵ See Investigation Report re James Balao Case; *id.* at 2029-2030.

2017 and Investigation/Compliance Report¹⁶ dated May 18, 2017, the RTC disclosed that the PNP, through Senior Police Officer 2 Franklin Dulawan, interviewed Gonzales and presented thirty-two (32) photographs of James, most of them taken between the years 1992 to 2001, in order to allow him to review the faces therein and reveal the identities of “Uncle John” and “Rene.” Unfortunately, Gonzales was unable to give any information regarding their identities due to the lapse of time. Similarly, other witnesses named Florence Luken (Luken) and Danette Balao Fontanilla (Fontanilla) could neither identify the said persons of interest.¹⁷

As such, the RTC concluded that the investigation has reached another impasse for failure to uncover relevant leads,¹⁸ and once more recommended to archive the cases, to be revived upon motion by any of the parties should a significant lead arise. Further, the RTC asked the Court to relieve the PNP of its mandate to investigate the matter and to submit reportorial requirements until new witnesses or relevant evidence appear or are discovered.¹⁹

The Issue Before the Court

The issue for the Court’s resolution is whether or not it should adopt the recommendations of the RTC in its Report dated June 13, 2017 relative to these cases.

The Court’s Ruling

The Court adopts and approves the recommendations of the RTC.

As mentioned in the Court’s June 21, 2016 Resolution, “archiving of cases is a procedural measure designed to temporarily defer the hearing of cases **in which no immediate action is expected**, but where no grounds exist for their outright dismissal. Under this scheme, **an inactive case is kept alive but held in abeyance until the situation obtains in which action thereon can be taken**. To be sure, the *Amparo* rule sanctions the archiving of cases, provided that it is impelled by a valid cause, such as when the witnesses fail to appear due to threats on their lives or to similar analogous causes that would prevent the court from **effectively** hearing and conducting the *amparo* proceedings x x x.”²⁰ Section 20 of A.M. No. 07-9-12-SC, entitled “The Rule on the Writ of *Amparo*,”²¹ reads:

¹⁶ See Investigation/Compliance Report to Court Order dated March 31, 2017; *id.* at 2035-2037.

¹⁷ See *Id.* at 2020-2021.

¹⁸ *Id.* at 2022.

¹⁹ *Id.* at 2022-2023.

²⁰ *Id.* at 2014; citation omitted. See also *Balao v. Ermita*, G.R. Nos. 186050 and 186059, June 21, 2016.

²¹ (October 24, 2007).

Section 20. *Archiving and Revival of Cases.* – The court shall not dismiss the petition, but shall archive it, if upon its determination it cannot proceed for a valid cause such as the failure of petitioner or witnesses to appear due to threats on their lives.

A periodic review of the archived cases shall be made by the *amparo* court that shall, *motu proprio* or upon motion by any party, order their revival when ready for further proceedings. The petition shall be dismissed with prejudice upon failure to prosecute the case after the lapse of two (2) years from notice to the petitioner of the order archiving the case.


The clerks of court shall submit to the Office of the Court Administrator a consolidated list of archived cases under this Rule not later than the first week of January of every year.

Based on the report submitted by the RTC, it appears that the PNP had indeed conducted the required investigation on the angle presented by Gonzales and further attempted to ascertain the identities of “Uncle John” and Rene” who are persons of interest in these cases. This notwithstanding, none of the material witnesses, namely, Gonzales himself, Luken, and Fontanilla, could provide any information on the identities of these persons, despite having been presented with various photographs of James and his companions. As such, the investigation of the PNP on James’s case has once more reached an impasse without, this time, any other active leads left to further pursue. Given this situation, the Court therefore concludes that the archiving of the case is now appropriate and perforce, adopts and approves the recommendations of the RTC in its June 13, 2017 Report.


WHEREFORE, the Court hereby resolves to **ADOPT** and **APPROVE** the recommendations of the Regional Trial Court of La Trinidad, Benguet, Branch 63 in its Report dated June 13, 2017.


Let these cases be **ARCHIVED** without prejudice to their revival upon due motion by any of the parties; and the Philippine National Police be **RELIEVED** from its mandate to investigate the case and to submit reportorial requirements until new witnesses or relevant evidence appear or are discovered.

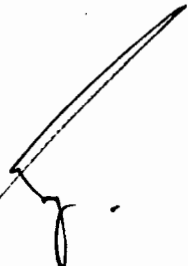
SO ORDERED.



ESTELA M. PERLAS-BERNABE
Associate Justice


WE CONCUR:

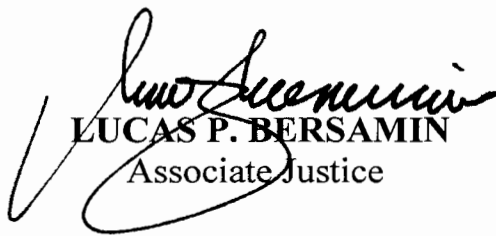

MARIA LOURDES P. A. SERENO
 Chief Justice


ANTONIO T. CARPIO
 Associate Justice


PRESBITERO J. VELASCO, JR.
 Associate Justice

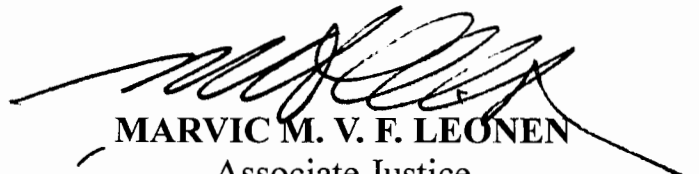

TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice



JOSE CATRAL MENDOZA
 Associate Justice



MARVIC M. V. F. LEONEN
 Associate Justice

No Part
FRANCIS H. JARDELEZA
 Associate Justice

On Leave
ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


SAMUEL R. MARTIRES
 Associate Justice


NOEL GIMENEZ TIJAM
 Associate Justice


ANDRES B. REYES, JR.
 Associate Justice

CERTIFICATION

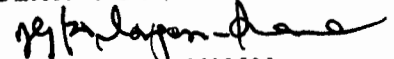
I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO

Chief Justice

CERTIFIED XEROX COPY:



FELIPA B. ANAMA

**CLERK OF COURT, EN BANC
SUPREME COURT**

