Republic of the Philippines
Supreme Court
Manila

EN BANC

PEDRO S. AGCAOILI, JR., ENCARNACION A. GAOR, JOSEPHINE P. CALAJATE, GENEDINE D. JAMBARO, EDEN C. BATTULAYAN, EVANGELINE C. TABULOG,
Petitioners,

MARIA IMELDA JOSEFA "IMEE" R. MARCOS,
Co-petitioner,

- versus -

THE HONORABLE REPRESENTATIVE RODOLFO C. FARIÑAS, THE HONORABLE REPRESENTATIVE JOHNNY T. PIMENTEL, Chairman of the Committee on Good Government and Public Accountability, and LT. GEN. ROLAND DETABALI (RET.), in his capacity as Sergeant-at-Arms of the House of Representatives,
Respondents,

THE COMMITTEE ON GOOD GOVERNMENT AND PUBLIC ACCOUNTABILITY,
Co-respondent.

G.R. No. 232395

Present:

CARPIO, *J.*,
VELASCO, JR.,
LEONARDO-DE CASTRO,
PERALTA,*
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
MARTIRES,
TIJAM,
REYES, JR.,*
GESMUNDO, *JJ.*

Promulgated:

July 3, 2018

* No Part.

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DECISION

TIJAM, *J.*:

Styled as an Omnibus Petition,[1] petitioners Pedro S. Agcaoili, Jr. (Agcaoili, Jr.), Encarnacion A. Gaor (Gaor), Josephine P. Calajate (Calajate), Genedine D. Jambaro (Jambaro), Eden C. Battulayan (Battulayan), Evangeline C. Tabulog (Tabulog) – all employees[2] of the Provincial Government of Ilocos Norte and storied as "Ilocos 6" – seek that the Court assume jurisdiction over the *Habeas Corpus* Petition[3] earlier filed by petitioners before the Court of Appeals (CA),[4] and upon assumption, to direct the CA to forward the records of the case to the Court for proper disposition and resolution.

Co-petitioner Maria Imelda Josefa "Imee" Marcos – the incumbent Governor of the Province of Ilocos Norte – joins the present petition by seeking the issuance of a writ of prohibition under Rule 65 of the Rules of Court for purposes of declaring the legislative investigation into House Resolution No. 882[5] illegal and in excess of jurisdiction, and to enjoin respondents Representatives Rodolfo C. Fariñas (Fariñas) and Johnny T. Pimentel and co-respondent Committee on Good Government and Public Accountability (House Committee) from further proceeding with the same. Co-petitioner prays for the issuance of a temporary restraining order and/or issuance of a writ of preliminary injunction, to restrain and enjoin respondents and co-respondent from conducting any further hearings or proceedings relative to the investigation pending resolution of the instant petition.

In common, petitioners and co-petitioner seek the issuance of a writ of *Amparo* to protect them from alleged actual and threatened violations of their rights to liberty and security of person.

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[1] *Rollo*, pp. 3-74.

[2] Petitioner Pedro S. Agacoili, Jr. belongs to the Provincial Planning and Development Office, petitioner Josephine P. Calajate is the Provincial Treasurer, petitioner Evangeline Tabulog is the Provincial Budget Officer, petitioner Eden Battulayan is the accountant IV and the Officer-in-Charge of the Provincial Accounting Office, petitioner Genedine Jambaro is from the Office of the Provincial Treasurer and petitioner Encarnacion Gaor is also from the Office of the Provincial Treasurer.

[3] Docketed as CA-G.R. SP No. 151029 entitled *Genedine D. Jambaro, et al. v. Lt. Gen. Roland M. Detabali (Ret.), Sergeant-at-Arms, House of Representatives*; *rollo*, pp. 191-195.

[4] Raffled to the CA's Special Fourth Division composed of Associate Justices Stephen C. Cruz, Nina G. Antonio-Valenzuela and Carmelita Salandanan-Manahan.

[5] The House Resolution was introduced and sponsored by respondent Farinas, representatives Juan Pablo P. Bondoc and Aurelio D. Gonzales, Jr. and was referred to the Committee on Rules chaired by respondent Farinas, and then referred to respondent Committee on Good Government and Public Accountability; *rollo*, pp. 78-79.

The Antecedents

On March 14, 2017, House Resolution No. 882 was introduced by respondent Fariñas, along with Representatives Pablo P. Bondoc and Aurelio D. Gonzales, Jr., directing House Committee to conduct an inquiry, in aid of legislation, pertaining to the use by the Provincial Government of Ilocos Norte of its shares from the excise taxes on locally manufactured virginia-type cigarettes for a purpose other than that provided for by Republic Act (R.A.) No. 7171.[6] The "whereas clause" of House Resolution No. 882 states that the following purchases by the Provincial Government of Ilocos Norte of vehicles in three separate transactions from the years 2011 to 2012 in the aggregate amount of ₱66,450,000.00 were in violation of R.A. No. 7171 as well as of R.A. No. 9184[7] and Presidential Decree (P.D.) No. 1445:[8]

> a. Check dated December 1, 2011, "to cash advance the amount needed for the purchase of 40 units Mini cab for distribution to the different barangays of Ilocos Norte as per supporting papers hereto attached to the amount of ...." EIGHTEEN MILLION SIX HUNDRED THOUSAND PESOS (PhP18,000,000.00);
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> b. Check dated May 25, 2012, "to cash advance the amount needed for the purchase of 5 units Buses as per supporting papers hereto attached to the amount of ..." FIFTEEN MILLION THREE HUNDRED THOUSAND PESOS (PhP15,300,000.00), which were all second hand units; and
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> c. Check dated September 12, 2012, "to cash advance payment of 70 units Foton Mini Truck for distribution to different municipalities of Ilocos Norte as per supporting papers hereto attached in the amount of ...." THIRTY TWO MILLION FIVE HUNDRED FIFTY THOUSAND PESOS (PhP32,550,000.00).[9]

Invitation Letters[10] dated April 6, 2017 were individually sent to petitioners for them to attend as resource persons the initial hearing on House Resolution No. 882 scheduled on May 2, 2017. In response, petitioners sent similarly-worded Letters[11] dated April 21, 2017 asking to be excused from the inquiry pending official instructions from co-petitioner Marcos as head of the agency.

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[6] AN ACT TO PROMOTE THE DEVELOPMENT OF THE FARMER IN THE VIRGINIA TOBACCO PRODUCING PROVINCES. Approved on January 9, 1992.

[7] Government Procurement Reform Act.

[8] Government Auditing Code Of The Philippines.

[9] *Rollo*, pp. 78-79.

[10] Id. at 82-87.

[11] Id. at 88-93.

Because of petitioners' absence at the May 2, 2017 hearing, a *subpoena ad testificandum* was issued by co-respondent House Committee on May 3, 2017 directing petitioners to appear and testify under oath at a hearing set on May 16, 2017.[12] Likewise, an invitation was sent to co-petitioner Marcos to appear on said hearing.[13]

Since the subpoena was received by petitioners only one day prior to the scheduled hearing, petitioners requested that their appearance be deferred to a later date to give them time to prepare. In their letters also, petitioners requested clarification as to what information co-respondent House Committee seeks to elicit and its relevance to R.A. No. 7171.[14] Co-petitioner Marcos, on the other hand, submitted a Letter[15] dated May 15, 2017 seeking clarification on the legislative objective of House Resolution No. 882 and its discriminatory application to the Province of Ilocos Norte to the exclusion of other virginia-type tobacco producing provinces.

Petitioners failed to attend the hearing scheduled on May 16, 2017. As such, the House Committee issued a Show Cause Order[16] why they should not be cited in contempt for their refusal without legal excuse to obey summons. Additionally, petitioners and co-petitioner Marcos were notified of the next scheduled hearing on May 29, 2017.[17]

In response to the Show Cause Order, petitioners reiterated that they received the notice only one day prior to the scheduled hearing date in alleged violation of the three-day notice rule under Section 8[18] of the House Rules Governing Inquiries.[19] Co-petitioner Marcos, on the other hand, reiterated the queries she raised in her earlier letter.

Nevertheless, at the scheduled committee hearing on May 29, 2017, all the petitioners appeared.[20] It is at this point of the factual narrative where the parties' respective interpretations of what transpired during the May 29, 2017 begin to differ.

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[12] Id. at 523.
[13] Id. at 12.
[14] Id. at 525-526.
[15] Id. at 108-112.
[16] Id. at 113-118.
[17] Id. at 113-119.
[18] Section 8 on the Attendance of Witnesses of the Rules Governing Inquiries provides:
Section 8. *Attendance of Witnesses*. - x x x

x x x x

Subpoena shall be served to a witness at least three (3) days before a scheduled hearing in order to give the witness every opportunity to prepare for the hearing and to employ counsel, should the witness desire. The *subpoena* shall be accompanied by a notice stating that should a witness wishes to confer with the secretary of the committee prior to the date of the hearing, the witness may convey such desire to the committee by mail, telephone or any other electronic communication device.
[19] *Rollo*, pp. 120-126.
[20] Id. at 527.

Legislative hearing on May 29, 2017 and the contempt citation

On one hand, petitioners allege that at the hearing of May 29, 2017, they were subjected to threats and intimidation.[21] According to petitioners, they were asked "leading and misleading questions" and that regardless of their answers, the same were similarly treated as evasive.[22]

Specifically, Jambaro claims that because she could not recall the transactions Farinas alluded to and requested to see the original copy of a document presented to her for identification, she was cited in contempt and ordered detained.[23] Allegedly, the same inquisitorial line of questioning was used in the interrogation of Gaor. When Gaor answered that she could no longer remember if she received a cash advance of ₱18,600,000.00 for the purchase of 40 units of minicab, Gaor was likewise cited in contempt and ordered detained.[24]

The same threats, intimidation and coercion were likewise supposedly employed on Calajate when she was asked by Fariñas if she signed a cash advance voucher in the amount of ₱18,600,000.00 for the purchase of the 40 units of minicabs. When Calajate refused to answer, she was also cited in contempt and ordered detained.[25]

Similarly, when Battulayan could no longer recall having signed a cash advance voucher for the purchase of minicabs, she was also cited in contempt and ordered detained.[26]

Agcaoili, Jr. was likewise cited in contempt and ordered detained when he failed to answer Fariñas's query regarding the records of the purchase of the vehicles.[27] Allegedly, the same threats and intimidation were employed by Fariñas in the questioning of Tabulog who was similarly asked if she remembered the purchase of 70 mini trucks. When Tabulog replied that she could no longer remember such transaction, she was also cited in contempt and ordered detained.[28]

On the other hand, respondents aver that petitioners were evasive in answering questions and simply claimed not to remember the specifics of the subject transactions. According to respondents, petitioners requested to be confronted with the original documents to refresh their memories when

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[21] Id. at 15.
[22] Id. at 14.
[23] Id. at 15.
[24] Id. at 16-17.
[25] Id. at 18-19.
[26] Id. at 20-22.
[27] Id. at 24.
[28] Id. at 25.

they knew beforehand that the Commission on Audit (COA) to which the original vouchers were submitted could no longer find the same.[29]

Proceedings before the CA

The next day, or on May 30, 2017, petitioners filed a Petition for *Habeas Corpus* against respondent House Sergeant-at-Arms Lieutenant General Detabali (Detabali) before the CA. The CA scheduled the petition for hearing on June 5, 2017 where the Office of the Solicitor General (OSG) entered its special appearance for Detabali, arguing that the latter was not personally served with a copy of the petition.[30] On June 2, 2017, the CA in its Resolution[31] issued a writ of *Habeas Corpus* ordering Detabali to produce the bodies of the petitioners before the court on June 5, 2017.

On June 5, 2017, Detabali again failed to attend. Instead, the Deputy Secretary General of the House of Representatives appeared to explain that Detabali accompanied several members of the House of Representatives on a Northern Luzon trip, thus his inability to attend the scheduled hearing.[32] A motion to dissolve the writ of *Habeas Corpus* was also filed on the ground that the CA had no jurisdiction over the petition.[33]

On June 6, 2017, petitioners filed a Motion for Provisional Release based on petitioners' constitutional right to bail. Detabali, through the OSG, opposed the motion.[34]

At the hearing set on June 8, 2017, Detabali again failed to attend. On June 9, 2017, the CA issued a Resolution[35] denying Detabali's motion to dissolve the writ of *Habeas Corpus* and granting petitioners' Motion for Provisional Release upon posting of a bond. Accordingly, the CA issued an Order of Release Upon Bond.[36] Attempts to serve said Resolution and Order of Release Upon Bond to Detabali were made but to no avail.[37]

On June 20, 2017, the House of Representatives called a special session for the continuation of the legislative inquiry.[38] Thereat, a *subpoena ad testificandum* was issued to compel co-petitioner Marcos to appear at the scheduled July 25, 2017 hearing.[39]

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[29] Id. at 527.
[30] Id. at 530-531.
[31] Id. at 198-200.
[32] Id. at 27.
[33] Id. at 531.
[34] Id.
[35] Id. at 224-229.
[36] Id. at 28.
[37] The process server of the CA first attempted to serve the Resolution and Order of Release Upon Bond to respondent Detabali on June 9, 2017 at around 7:00pm but that there was no one authorized to receive the same. Attempts to serve said court issuances were made on June 10, 2017 and June 13, 2017, but service was refused. Id. at 28-29.
[38] Id. at 533.
[39] Id. at 26.

The tension between the House of Representatives and the CA

During the June 20, 2017 hearing, House Committee unanimously voted to issue a Show Cause Order against the three Justices of the CA's Special Fourth Division,[40] directing them to explain why they should not be cited in contempt by the House of Representatives.[41] The House of Representatives was apparently dismayed over the CA's actions in the *Habeas Corpus* Petition, with House Speaker Pantaleon Alvarez quoted as calling the involved CA Justices "*mga gago*" and threatening to dissolve the CA.[42] Disturbed by this turn of events, the involved CA Justices wrote a letter dated July 3, 2017 addressed to the Court *En Banc* deferring action on certain pending motions[43] and administratively referring the same to the Court for advice and/or appropriate action.

Meanwhile, in the *Habeas Corpus* Petition, Detabali moved for the inhibition of CA Justices Stephen Cruz and Nina Antonio-Valenzuela while CA Justice Edwin Sorongon voluntarily inhibited himself.[44]

Subsequent Release of Petitioners and Dismissal of the Habeas Corpus Petition by the CA

On July 13, 2017 and while the *Habeas Corpus* Petition was still pending before the CA, petitioners and co-petitioner Marcos filed the instant Omnibus Petition.

During the congressional hearing on July 25, 2017 which petitioners and co-petitioner Marcos attended, and while the present Omnibus Petition is pending final resolution by the Court, respondent House Committee lifted the contempt order and ordered the release of petitioners. Consequently, petitioners were released on the same date.[45] Respondent House Committee held the continuance of the legislative hearings on August 9, 2017 and August 23, 2017.[46]

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[40] Composed of Justices Stephen C. Cruz (Acting Chairperson), Edwin D. Sorongon (Acting Senior Member who was designated by raffle as acting third member for the hearing on that day after Justice Carmelita Salandanan-Manahan went on official leave) and Nina G. Antonio-Valenzuela (Ponente-Junior Member).

[41] Id. at 30.

[42] Id. at 273.

[43] These then pending incidents were:

1. Lt. Gen. Detabali's Motion for Reconsideration ad cautela (to the Order of Release Upon Bond dated 9 June 2017) dated June 13, 2017;

2. Lt. Gen. Detabali's Motion to Deem the Case Submitted for Decision and to Resolve the Same on the Earliest Possible Time dated June 23, 2017; and

3. Lt. Gen. Detabali's Motion for Inhibition dated June 28, 2017.

[44] Id. at 31.

[45] Id. at 535.

[46] Id. at 1115.

On August 31, 2017, the CA issued a Resolution in the *Habeas Corpus* Petition considering the case as closed and terminated on the ground of mootness.[47]

The Arguments

For the assumption of jurisdiction over the Habeas Corpus Petition

Petitioners insist that the *Habeas Corpus* Petition then pending before the CA can be transferred to the Court on the strength of the latter's power to promulgate rules concerning the pleading, practice and procedure in all courts and its authority to exercise jurisdiction over all courts as provided under Sections 1[48] and 5(5),[49] Article VIII of the Constitution.

Additionally, petitioners stress that the Court exercises administrative supervision over all courts as provided under Section 6,[50] Article VIII of the Constitution, and pursuant to its authority as such, the Court has the power to transfer cases from one court to another which power it implements through Rule 4, Section 3(c)[51] of AM No. 10-4-20-SC.[52]

Citing *People of the Philippines v. Gutierrez, et al.*,[53] petitioners likewise argue that the administrative power of the Court to transfer cases from one court to another is based on its inherent power to protect the judiciary and prevent a miscarriage of justice.[54]

Respondents counter that the Omnibus Petition should be dismissed on the ground of mootness as petitioners were released from detention.

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[47] Id. at 1442.

[48] Sec. 1. The judicial power shall be vested in one Supreme Court and in such lower courts as may be established by law.

Judicial power includes the duty of the courts of justice to settle actual controversies involving rights which are legally demandable and enforceable, and to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government."

[49] Sec. 5. The Supreme Court shall have the following powers;

x x x x

5. Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the integrated bar, and legal assistance to the under-privileged. x x x.

[50] Sec. 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

[51] Rule 4. THE EXERCISE OF ADMINISTRATIVE FUNCTION

Sec. 3. *Administrative functions of the Court.* -The administrative functions of the Court *en banc* consist of, but are not limited to, the following:

x x x x

(c) the transfer of cases, from one court, administrative area or judicial region, to another, or the transfer of venue of the trial of cases to avoid miscarriage of justice.

[52] INTERNAL RULES OF THE SUPREME COURT.

[53] 146 Phil. 761 (1970).

[54] *Rollo*, p. 36.

In any case, respondents argue that petitioners cannot compel the Court to assume jurisdiction over the *Habeas Corpus* Petition pending before the CA as assumption of jurisdiction is conferred by law. Respondents also argue that the Omnibus Petition is dismissible on the grounds of misjoinder of action and for failure to implead indispensable parties, *i.e.*, the CA in the petition to assume jurisdiction over the *Habeas Corpus* Petition and the Congress in the prohibition and *Amparo* petitions. Respondents also argue that petitioners committed forum shopping when they filed the present Omnibus Petition at a time when a motion for reconsideration before the CA was still pending resolution.

For the issuance of a Writ of Prohibition

Co-petitioner Marcos assails the nature of the legislative inquiry as a fishing expedition in violation of petitioners' right to due process and is allegedly discriminatory to the Province of Ilocos Norte.

Respondents counter that a petition for prohibition is not the proper remedy to enjoin legislative actions. House Committee is not a tribunal, corporation, board or person exercising judicial or ministerial function but a separate and independent branch of government. Citing *Holy Spirit Homeowners Association, Inc. v. Defensor*,[55] and *The Senate Blue Ribbon Committee v. Hon. Majaducon*,[56] respondents argue that prohibition does not lie against legislative or quasi-legislative functions.

For the issuance of a Writ of Amparo

Petitioners contend that their rights to liberty and personal security were violated as they have been detained, while co-petitioner Marcos is continuously being threatened of arrest.[57]

In opposition, respondents maintain that the writ of *Amparo* and writ of *Habeas Corpus* are two separate remedies which are incompatible and therefore cannot co-exist in a single petition. Further, respondents argue that the issuance of a writ of *Amparo* is limited only to cases of extrajudicial killings and enforced disappearances which are not extant in the instant case.

The Issues

Encapsulated, the issues for resolution are:

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[55] 529 Phil. 573 (2006).
[56] 455 Phil. 61 (2003).
[57] *Rollo*, p. 55.

1. Whether or not the instant Omnibus Petition which seeks the release of petitioners from detention was rendered moot by their subsequent release from detention?

2. Whether or not the Court can assume jurisdiction over the *Habeas Corpus* Petition then pending before the CA?

3. Whether or not the subject legislative inquiry on House Resolution No. 882 may be enjoined by a writ of prohibition?

4. Whether or not the instant Omnibus Petition sufficiently states a cause of action for the issuance of a writ of *Amparo*?[58]

Ruling of the Court

We dismiss the Omnibus Petition.

I.
The Petition to Assume Jurisdiction over *Habeas Corpus* Petition

The release of persons in whose behalf the application for a Writ of Habeas Corpus was filed renders the petition for the issuance thereof moot and academic

The writ of *Habeas Corpus* or the "great writ of liberty"[59] was devised as a "speedy and effectual remedy to relieve persons from unlawful restraint, and as the best and only sufficient defense of personal freedom."[60] The primary purpose of the writ "is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal."[61] Under the Constitution, the privilege of the writ of *Habeas Corpus* cannot be suspended except in cases of invasion or rebellion when the public safety requires it.[62]

As to what kind of restraint against which the writ is effective, case law[63] deems any restraint which will preclude freedom of action as sufficient. Thus, as provided in the Rules of Court under Section 1, Rule 102 thereof, a writ of *Habeas Corpus* "shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or

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[58] Id. at 339.
[59] *Morales, Jr. v. Minister Enrile, et al.*, 206 Phil. 466, 495 (1983).
[60] *Villavicencio v. Lukban*, 39 Phil. 778, 788 (1919).
[61] Id. at 790.
[62] Article III, Section 15.
[63] Id.

by which the rightful custody of any person is withheld from the person entitled thereto."

On the other hand, Section 4, Rule 102 spells the instances when the writ of *Habeas Corpus* is not allowed or when the discharge thereof is authorized:

> Sec. 4. *When writ not allowed or discharge authorized.* — If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment.

Accordingly, a Writ of *Habeas Corpus* may no longer be issued if the person allegedly deprived of liberty is restrained under a lawful process or order of the court[64] because since then, the restraint has become legal.[65] In the illustrative case of *Ilagan v. Hon. Ponce Enrile*,[66] the Court dismissed the petition for *habeas corpus* on the ground of mootness considering the filing of an information before the court. The court pronounced that since the incarceration was now by virtue of a judicial order, the remedy of *habeas corpus* no longer lies.

Like so, in *Duque v. Capt. Vinarao*,[67] the Court held that a petition for *habeas corpus* can be dismissed upon voluntary withdrawal of the petitioner. Further, in *Pestaño v. Corvista*,[68] it was pronounced that where the subject person had already been released from the custody complained of, the petition for *habeas corpus* then still pending was considered already moot and academic and should be dismissed. This pronouncement was carried on in *Olaguer v. Military Commission No. 34*,[69] where the Court reiterated that the release of the persons in whose behalf the application for a writ of *habeas corpus* was filed is effected, the petition for the issuance of the writ becomes moot and academic.[70] Thus, with the subsequent release of all the petitioners from detention, their petition for *habeas corpus* has been rendered moot. The rule is that courts of justice constituted to pass upon substantial rights will not consider questions where no actual interests are

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[64] *See In Re: Petition for Habeas Corpus of Villar v. Director Bugarin*, 224 Phil. 161, 170 (1985).

[65] *In the Matter of the Petition for Habeas Corpus of Harvey v. Hon. Santiago*, 245 Phil. 809, 816 (1988), citing *Cruz v. Gen. Montoya*, 159 Phil. 601, 604-605 (1975).

[66] *Integrated Bar of the Philippines v. Hon. Ponce Enrile*, 223 Phil. 561 (1985).

[67] 159 Phil. 809 (1975).

[68] 81 Phil. 53 (1948).

[69] 234 Phil. 144 (1987).

[70] Id. at 151.

involved and thus, will not determine a moot question as the resolution thereof will be of no practical value.[71]

Far compelling than the question of mootness is that the element of illegal deprivation of freedom of movement or illegal restraint is jurisdictional in petitions for *habeas corpus*. Consequently, in the absence of confinement and custody, the courts lack the power to act on the petition for *habeas corpus* and the issuance of a writ thereof must be refused.

Any lingering doubt as to the justiciability of the petition to assume jurisdiction over the *Habeas Corpus* Petition before the CA is ultimately precluded by the CA Resolution considering the petition closed and terminated. With the termination of the *Habeas Corpus* Petition before the CA, petitioners' plea that the same be transferred to this Court, or that the Court assume jurisdiction thereof must necessarily be denied.

Nevertheless, the Court, in exceptional cases, decides moot questions

Although as above-enunciated, the general rule is that mootness of the issue warrants a dismissal, the same admits of certain exceptions.

In *Prof. David v. Pres. Macapagal-Arroyo*,[72] the Court summed up the four exceptions to the rule when Courts will decide cases, otherwise moot, thus: *first*, there is a grave violation of the Constitution; *second*, the exceptional character of the situation and the paramount public interest is involved; *third*, when constitutional issue raised requires formulation of controlling principles to guide the bench, the bar, and the public; and *fourth*, the case is capable of repetition yet evading review.[73] At the least, the presence of the second and fourth exceptions to the general rule in the instant case persuades us to proceed.

The Court's administrative supervision over lower courts does not equate to the power to usurp jurisdiction already acquired by lower courts

Jurisdiction over petitions for *habeas corpus* and the adjunct authority to issue the writ are shared by this Court and the lower courts.

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[71] *Korea Exchange Bank v. Judge Gonzales*, 520 Phil. 690, 701 (2006).
[72] 522 Phil. 705 (2006).
[73] Id. at 754.

The Constitution vests upon this Court original jurisdiction over petitions for *habeas corpus.*[74] On the other hand, Batas Pambansa (B.P.) Blg. 129,[75] as amended, gives the CA original jurisdiction to issue a writ of *habeas corpus* whether or not in aid of its appellate jurisdiction.[76] The CA's original jurisdiction over *Habeas Corpus* petitions was re-stated in R.A. No. 7902.[77] Similarly, B.P. Blg. 129 gives the RTCs original jurisdiction in the issuance of a writ of *Habeas Corpus.*[78] Family courts have concurrent jurisdiction with this Court and the CA in petitions for *habeas corpus* where the custody of minors is at issue,[79] with the Family courts having exclusive jurisdiction to issue the ancillary writ of *Habeas Corpus* in a petition for custody of minors filed before it.[80] In the absence of all RTC judges in a province or city, special jurisdiction is likewise conferred to any Metropolitan Trial Judge, Municipal Trial Judge or Municipal Circuit Trial Judge to hear and decide petitions for a writ of *Habeas Corpus.*[81]

These conferment of jurisdiction finds procedural translation in Rule 102, Section 2 which provides that an application for a writ of *Habeas Corpus* may be made before this Court, or any member thereof, or the Court of Appeals or any member thereof, and if so granted, the same shall be enforceable anywhere in the Philippines.[82] An application for a writ of *Habeas Corpus* may also be made before the RTCs, or any of its judges, but if so granted, is enforceable only within the RTC's judicial district.[83] The writ of *Habeas Corpus* granted by the Court or by the CA may be made returnable before the court or any member thereof, or before the RTC or any judge thereof for hearing and decision on the merits.[84]

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[74] Article III, Section 5(1).

[75] The Judiciary Reorganization Act Of 1980.

[76] Section 9 of B.P. Blg. 129.

[77] AN ACT EXPANDING THE JURISDICTION OF THE COURT OF APPEALS, AMENDING FOR THE PURPOSE SECTION NINE OF BATAS PAMBANSA BLG. 129, AS AMENDED, KNOWN AS THE JUDICIARY REORGANIZATIO ACT OF 1980. Approved on February 23, 1995.

[78] Section 21 of B.P. Blg. 129.

[79] R.A. No. 8369 or The Family Courts Act Of 1997 and A.M. No. 03-03-04-SC Re: PROPOSED RULE ON CUSTODY OF MINORS AND WRIT OF HABEAS CORPUS IN RELATION TO CUSTODY OF MINORS. Section 20 of which provides that:

Section 20. *Petition for writ of habeas corpus.*- A verified petition for a writ of *habeas corpus* involving custody of minors shall be filed with the Family Court. The writ shall be enforceable within its judicial region to which the Family Court belongs.

x x x x

The petition may likewise be filed with the Supreme Court, Court of Appeals, or with any of its members and, if so granted, the writ shall be enforceable anywhere in the Philippines. The writ may be made returnable to a Family Court or to any regular court within the region where the petitioner resides or where the minor may be found for hearing and decision on the merits.

x x x x

See also *In the Matter of Application for the Issuance of a Writ of Habeas Corpus Richard Brian Thornton for and in behalf of the minor child Sequeira Jennifer Delle Francisco Thornton v. Adelfa Francisco Thornton,* 480 Phil. 224 (2004).

[80] A.M. No. 03-04-04-SC, April 22, 2003.

[81] Section 35 of B.P. Blg. 129.

[82] Rule 102, Section 2 of the Rules of Court.

[83] Id.

[84] Id.

It is clear from the foregoing that this Court, the CA and the RTC enjoy concurrent jurisdiction over petitions for *habeas corpus*. As the *Habeas Corpus* Petition was filed by petitioners with the CA, the latter has acquired jurisdiction over said petition to the exclusion of all others, including this Court. This must be so considering the basic postulate that jurisdiction once acquired by a court is not lost upon the instance of the parties but continues until the case is terminated.[85] A departure from this established rule is to run the risk of having conflicting decisions from courts of concurrent jurisdiction and would unwittingly promote judicial interference and instability.

Rule 102 in fact supports this interpretation. Observe that under Section 6, Rule 102, the return of the writ of *Habeas Corpus* may be heard by a court apart from that which issued the writ.[86] In such case, the lower court to which the writ is made returnable by the issuing court shall proceed to decide the petition for *habeas corpus*. In *Medina v. Gen. Yan*[87] and *Saulo v. Brig. Gen. Cruz, etc.*,[88] the Court held that by virtue of such designation, the lower court "acquire[s] the power and authority to determine the merits of the [petition for *habeas corpus*.]" Indeed, when a court acquires jurisdiction over the petition for *habeas corpus*, even if merely designated to hear the return of the writ, such court has the power and the authority to carry the petition to its conclusion.

Petitioners are without unbridled freedom to choose which between this Court and the CA should decide the *habeas corpus* petition. Mere concurrency of jurisdiction does not afford the parties absolute freedom to choose the court to which the petition shall be filed. After all, the hierarchy of courts "also serves as a general determinant of the appropriate forum for petitions for the extraordinary writs."[89]

Further, there appears to be no basis either in fact or in law for the Court to assume or wrest jurisdiction over the *Habeas Corpus* Petition filed with the CA.

Petitioners' fear that the CA will be unable to decide the *Habeas Corpus* petition because of the assault[90] it suffered from the House of Representatives is unsubstantiated and therefore insufficient to justify their plea for the Court to over-step into the jurisdiction acquired by the CA. There is no showing that the CA will be or has been rendered impotent by the threats it received from the House of Representatives.[91] Neither was

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[85] *Deltaventures Resources, Inc. v. Hon. Cabato*, 384 Phil. 252, 261 (2000).
[86] Rule 102, Section 6 of the Rules of Court.
[87] 158 Phil. 286, 298 (1974).
[88] 109 Phil. 378, 382 (1960).
[89] *Chamber of Real Estate and Builders Assn. (CREBA) v. Sec. of Agrarian Reform*, 635 Phil. 283, 300 (2010) citing *Heirs of Bertuldo Hinog v. Melicor*, 495 Phil. 422, 432 (2005).
[90] *Rollo*, p. 25.
[91] Id. at 273.

there any compelling reason advanced by petitioners that the non-assumption by this Court of the *habeas corpus* petition will result to an iniquitous situation for any of the parties.

Neither can the Court assume jurisdiction over the then pending *Habeas Corpus* Petition by invoking Section 6, Article VIII of the Constitution and Section 3(c), Rule 4 of A.M. No. 10-4-20-SC which both refer to the Court's exercise of administrative supervision over all courts.

Section 6, Article VIII of the Constitution provides:

> Sec. 6. The Supreme Court shall have administrative supervision over all courts and the personnel thereof.

This Constitutional provision refers to the administrative supervision that the Department of Justice previously exercised over the courts and their personnel. The deliberations of the Constitutional Commission enlighten:

> MR. GUINGONA: x x x.
>
> The second question has reference to Section 9, about the administrative supervision over all courts to be retained in the Supreme Court. I was wondering if the Committee had taken into consideration the proposed resolution for the transfer of the administrative supervision from the Supreme Court to the Ministry of Justice. But as far as I know, none of the proponents had been invited to explain or defend the proposed resolution.
>
> Also, I wonder if the Committee also took into consideration the fact that the UP Law Constitution Project in its Volume I, entitled: Annotated Provision had, in fact, made this an alternative proposal, the transfer of administrative supervision from the Supreme Court to the Ministry of Justice.
>
> Thank you.
>
> MR. CONCEPCION: May I refer the question to Commissioner Regalado?
>
> THE PRESIDING OFFICER (Mr. Sarmiento): Commissioner Regalado is recognized.
>
> MR. REGALADO: Thank you, Mr. Presiding Officer.
>
> We did invite Minister Neptali Gonzales, who was the proponent for the transfer of supervision of the lower courts to the Ministry of Justice. I even personally called up and sent a letter or a short note inviting him, but the good Minister unfortunately was enmeshed in a lot of official commitments. We wanted to hear him because the Solicitor General of his office, Sedfrey Ordoñez, appeared before us, and asked for the maintenance of the present arrangement wherein the supervision over lower courts is with the Supreme Court. But aside from that, although

> there were no resource persons, we did further studies on the feasibility of transferring the supervision over the lower courts to the Ministry of Justice. All those things were taken into consideration motu proprio.[92]

Administrative Supervision in Section 38, paragraph 2, Chapter 7, Book IV of the Administrative Code is defined as follows:

> (2) Administrative Supervision.—(a) Administrative supervision which shall govern the administrative relationship between a department or its equivalent and regulatory agencies or other agencies as may be provided by law, shall be limited to the authority of the department or its equivalent to generally oversee the operations of such agencies and to insure that they are managed effectively, efficiently and economically but without interference with day-to-day activities; or require the submission of reports and cause the conduct of management audit, performance evaluation and inspection to determine compliance with policies, standards and guidelines of the department; to take such action as may be necessary for the proper performance of official functions, including rectification of violations, abuses and other forms of maladministration; and to review and pass upon budget proposals of such agencies but may not increase or add to them[.]

Thus, administrative supervision merely involves overseeing the operations of agencies to ensure that they are managed effectively, efficiently and economically, but without interference with day-to-day activities.[93]

Thus, to effectively exercise its power of administrative supervision over all courts as prescribed by the Constitution, Presidential Decree No. 828, as amended by Presidential Decree No. 842, created the Office of the Court Administrator. Nowhere in the functions of the several offices in the Office of the Court Administrator is it provided that the Court can assume jurisdiction over a case already pending with another court.[94]

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[92] RECORDS, CONSTITUTIONAL COMMISSION, Vol. I, pp. 456-457 (July 11, 1986).

[93] Executive Order No. 292, Book IV, Chapter 7, Section 38(2).

[94] Circular No. 36-97 in part provides:

The Supreme Court, in its Resolution dated 24 October 1996, declared it necessary, in view of past experience and future needs, to reorganize and further strengthen the Office of the Court Administrator as its principal arm in performing its constitutional duty. In the same Resolution, the Supreme Court provided for, among others, the creation of the following offices in the Office of the Court Administrator.

1. *Office of Administrative Services.* - This Office provides services relating to personnel policy and administration; appointments and personnel actions; salary adjustments; salary policy, housing and other loans; applications for resignation; applications for retirement, Medicare and employees' compensation benefits; policies, programs and projects for the employees' welfare; personnel records of attendance; applications for leave; records of leave credits; recommendations for the separation and/or dropping from the service of personnel for violation of leave laws, rules and regulations; certificates of service; reports on judges with cases undecided beyond the prescribed ninety-day period; the procurement program for supplies, materials and equipment; the proper inventory, storage and distribution of supplies, materials and equipment; the issuance of memoranda receipt covering the equipment and vehicles distributed; the disposal of unserviceable property in accordance with existing rules and regulations; the centralized and organized mailing system of outgoing mail; the receipt and distribution of incoming mail; the storage, retrieval and disposition of personnel records of officials and employees of the Office of the Court Administrator and lower court judges and personnel; the maintenance of offices, facilities, furniture, equipment and motor vehicles.

2. *Financial Management Office.* - This Office provides services involving the preparation of vouchers and the processing of payrolls for the payment of salaries with corresponding deductions, all

Rule 4, Section 3(c) of A.M. No. 10-4-20-SC, on the other hand provides:

> Sec. 3. Administrative Functions of the Court. - The administrative functions of the Court *en banc* consist of, but are not limited to, the following:
>
> x x x x
>
> (c) the **transfer of cases, from one court, administrative area or judicial region, to another, or the transfer of venue** of the trial of cases to avoid miscarriage of justice[.] (Emphasis ours)

Clearly, the administrative function of the Court to transfer cases is a matter of venue, rather than jurisdiction. As correctly pointed out by respondents, the import of the Court's pronouncement in *Gutierrez*[95] is the recognition of the incidental and inherent power of the Court to transfer the trial of cases from one court to another of *equal rank* in a neighboring site, whenever the imperative of securing a fair and impartial trial, or of preventing a miscarriage of justice, so demands.[96] Such incidental and inherent power cannot be interpreted to mean an authority on the part of the Court to determine which court should hear specific cases without running

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allowances, all fringe benefits as well as financial assistance and burial aid for all officials and employees of the Office of the Court Administrator and the lower courts, including the payment of gratuities and the money value of terminal leave benefits of all retired, resigned, terminated and deceased officials; processes commercial vouchers for purchases of office supplies, materials and equipment for the Office of the Court Administrator and the lower courts; processes bond applications of accountable officers and fees of counsel *de officio*; prepares and transmits remittances to the BIR, GSIS, SCSLA, JUSLA and other associations and governments agencies, processes loan applications, refunds and other benefits, maintains books of accounts of the Office of the Court Administrator and the lower courts; records collections and deposits originating from the lower courts; accepts collections for the Judiciary Development Fund [JDF], General Fund, etc., and postal money orders; deposits and remits all daily collections with the depository bank, reconciles collections and payrolls of the JDF, continuous forms and modified disbursement scheme; prepares budget proposals; requests the release of allotments and cash allocations; and submits financial reports as requested by the different government agencies.

3. *Court Management Office.* - This Office provides services relating to judicial supervision and monitoring; judicial assignment and placement; circuitization and decircuitization and the delineation of the territorial area of the lower courts; case data compilation, analysis and validation; implementation of the National Crime Information System; fiscal monitoring, audit and reconciliation; performance evaluation; review of work systems, procedures and processes; and formulation of long-range and annual plans, programs and projects for the Office of the Court Administrator and the lower courts.

4. *Legal Office.* - This Office receives complaints against justices of the Court of Appeals and the Sandiganbayan and judges and personnel of the lower courts; monitors the status of complaints and reports thereon; collates data on all administrative complaints and cases; prepares clearances requested by the Court of Appeals and Sandiganbayan justices, judges and personnel of the lower courts; processes and initiates preliminary inquiry and formal investigation of administrative complaints; evaluates and submits reports thereon to the Supreme Court; takes appropriate action on applications for transfer of venue of cases, transfer of detention prisoners, authority to teach, engage in the practice of profession or business, or appear as counsel in personal cases; and prepares comments on executive and legislative referrals/matters affecting the courts.

5. *Publication and Information Office.* - This Office serves as the source of general information on the lower courts and on the policies, plans, activities and accomplishments of the Office of the Court Administrator and the lower courts; ensures the dissemination of accurate and proper information on the Office of the Court Administrator and the lower courts; and prepares and distributes mass media materials in support of the objectives and activities of the Judiciary.

x x x x

[95] Supra note 53.

[96] Id. at 771.

afoul with the doctrine of separation of powers between the Judiciary and the Legislative.

II.
The Petition for Prohibition

Under the Court's expanded jurisdiction, the remedy of prohibition may be issued to correct errors of jurisdiction by any branch or instrumentality of the Government

Respondents principally oppose co-petitioner Marcos' petition for prohibition on the ground that a writ of prohibition does not lie to enjoin legislative or quasi-legislative actions. In support thereof, respondents cite the cases of *Holy Spirit Homeowners Association*[97] and *The Senate Blue Ribbon Committee.*[98]

Contrary to respondents' contention, nowhere in *The Senate Blue Ribbon Committee* did the Court finally settle that prohibition does not lie against legislative functions.[99] The import of the Court's decision in said case is the recognition of the Constitutional authority of the Congress to conduct inquiries in aid of legislation in accordance with its duly published rules of procedure and provided that the rights of persons appearing in or affected by such inquiries shall be respected. Thus, if these Constitutionally-prescribed requirements are met, courts have no authority to prohibit Congressional committees from requiring the attendance of persons to whom it issues a subpoena.

On the other hand, the Court's pronouncement in *Holy Spirit Homeowners Association* should be taken in its proper context. The principal relief sought by petitioners therein was the invalidation of the implementing rules issued by the National Government Center Administration Committee pursuant to its quasi-legislative power. Hence, the Court therein stated that prohibition is not the proper remedy but an ordinary action for nullification, over which the Court generally exercises not primary, but appellate jurisdiction.[100]

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[97] Supra note 55.

[98] Supra note 56.

[99] *Rollo*, p. 563.

[100] CONSTITUTION, Article VIII, Section 5 states: The Supreme Court shall have the following powers:

x x x x

(2) Review, revise, reverse, modify, or affirm on appeal or *certiorari*, as the law or the Rules of Court may provide, final judgments and orders of lower courts in:

(a) All cases in which the constitutionality or validity of any treaty, international or executive agreement, law, presidential decrees, proclamation, order, instruction, ordinance, or regulation is in question.

In any case, the availability of the remedy of prohibition for determining and correcting grave abuse of discretion amounting to lack or excess of jurisdiction on the part of the Legislative and Executive branches has been categorically affirmed by the Court in *Judge Villanueva v. Judicial and Bar Council*,[101] thus:

> With respect to the Court, however, the remedies of *certiorari* and prohibition are necessarily broader in scope and reach, and the writ of *certiorari* or prohibition may be issued to correct errors of jurisdiction committed not only by a tribunal, corporation, board or officer exercising judicial, quasi-judicial or ministerial functions but also to set right, undo and restrain any act of grave abuse of discretion amounting to lack or excess of jurisdiction by any branch or instrumentality of the Government, even if the latter does not exercise judicial, quasi-judicial or ministerial functions. This application is expressly authorized by the text of the second paragraph of Section 1, supra.
>
> Thus, petitions for *certiorari* and prohibition are appropriate remedies to raise **constitutional issues and to review and/or prohibit or nullify the acts of legislative and executive officials**.[102] (Citation omitted and emphasis ours)

The above pronouncement is but an application of the Court's judicial power which Section 1,[103] Article VIII of the Constitution defines as the duty of the courts of justice (1) to settle actual controversies involving rights which are legally demandable and enforceable, and (2) to determine whether or not there has been a grave abuse of discretion amounting to lack or excess of jurisdiction on the part of any branch or instrumentality of the Government. Such innovation under the 1987 Constitution later on became known as the Court's "traditional jurisdiction" and "expanded jurisdiction," respectively.[104]

While the requisites for the court's exercise of either concept of jurisdiction remain constant, note that the exercise by the Court of its "expanded jurisdiction" is not limited to the determination of grave abuse of discretion to quasi-judicial or judicial acts, but extends to *any* act involving the exercise of discretion on the part of the government. Indeed, the power of the Court to enjoin a legislative act is beyond cavil as what the Court did in *Garcillano v. The House of Representatives Committees on Public Information, et al.*[105] when it enjoined therein respondent committees from conducting an inquiry in aid of legislation on the notorious "Hello Garci"

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x x x x

[101] 757 Phil. 534 (2015).

[102] Id. at 544, citing *Araullo, et al. v. President Benigno S.C. Aquino III, et al.*, 737 Phil. 457, 531 (2014).

[103] Supra note 48.

[104] *See Francisco, Jr. v. The House of Representatives*, 460 Phil. 830, 883, 909-910 (2003).

[105] 595 Phil. 775 (2008).

tapes for failure to comply with the requisite publication of the rules of procedure.

Co-petitioner Marcos failed to show that the subject legislative inquiry violates the Constitution or that the conduct thereof was attended by grave abuse of discretion amounting to lack or in excess of jurisdiction

While there is no question that a writ of prohibition lies against legislative functions, the Court finds no justification for the issuance thereof in the instant case.

The power of both houses of Congress to conduct inquiries in aid of legislation is expressly provided by the Constitution under Section 21, Article VI thereof, which provides:

> Sec. 21. The Senate or the House of Representatives or any of its respective committee **may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure.** The rights of persons appearing in, or affected by, such inquiries shall be respected. (Emphasis ours)

Even before the advent of the 1987 Constitution, the Court in *Arnault v. Nazareno*[106] recognized that the power of inquiry is an "essential and appropriate auxiliary to the legislative function."[107] In *Senate of the Philippines v. Exec. Sec. Ermita*,[108] the Court categorically pronounced that the power of inquiry is broad enough to cover officials of the executive branch, as in the instant case.[109]

Although expansive, the power of both houses of Congress to conduct inquiries in aid of legislation is not without limitations. Foremost, the inquiry must be in furtherance of a legitimate task of the Congress, *i.e.*, legislation, and as such, "investigations conducted solely to gather incriminatory evidence and punish those investigated" should necessarily be struck down.[110] Further, the exercise of the power of inquiry is circumscribed by the above-quoted Constitutional provision, such that the investigation must be "in aid of legislation in accordance with its duly published rules of procedure" and that "the rights of persons appearing in or affected by such inquiries shall be respected."[111] It is jurisprudentially

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[106] 87 Phil. 29 (1950).

[107] Id. at 45.

[108] 522 Phil. 1 (2006).

[109] Id. at 34.

[110] *Neri v. Senate Committee on Accountability of Public Officers and Investigations, et al.*, 586 Phil. 135, 189 (2008).

[111] *Standard Chartered Bank v. Senate Committee on Banks*, 565 Phil. 744, 758 (2007) citing *Bengzon, Jr. v. Senate Blue Ribbon Committee*, 280 Phil. 829, 841 (1991).

settled that the rights of persons under the Bill of Rights must be respected, including the right to due process and the right not to be compelled to testify against one's self.

In this case, co-petitioner Marcos primordially assails the nature of the legislative inquiry as a fishing expedition in alleged violation of her right to due process and to be discriminatory to the Province of Ilocos Norte. However, a perusal of the minutes of legislative hearings so far conducted reveals that the same revolved around the use of the Province of Ilocos Norte's shares from the excise tax on locally manufactured virginia-type cigarettes through cash advances which co-petitioner Marcos herself admits[112] to be the "usual practice" and was actually allowed by the Commission on Audit (COA).[113] In fact, the cause of petitioners' detention was not the perceived or gathered illegal use of such shares but the rather unusual inability of petitioners to recall the transactions despite the same having involved considerable sums of money.

Like so, co-petitioner Marcos' plea for the prevention of the legislative inquiry was anchored on her apprehension that she, too, will be arrested and detained by House Committee. However, such remains to be an apprehension which does not give cause for the issuance of the extraordinary remedy of prohibition. Consequently, co-petitioner Marcos' prayer for the ancillary remedy of a preliminary injunction cannot be granted, because her right thereto has not been proven to be clear and unmistakable. In any event, such injunction would be of no useful purpose given that the instant Omnibus Petition has been decided on the merits.[114]

III.
The Petition for the Issuance of a Writ of *Amparo*

The filing of the petition for the issuance of a writ of Amparo before this Court while the Habeas Corpus Petition before the CA was still pending is improper

Even in civil cases pending before the trial courts, the Court has no authority to separately and directly intervene through the writ of *Amparo*, as elucidated in *Tapuz, et al. v. Hon. Judge Del Rosario, et al.*,[115] thus:

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[112] *Rollo*, p. 535.

[113] Id. at 112.

[114] Section 1 of Rule 58 of the Rules of Court, preliminary injunction is defined as an order granted at any stage of an action or proceeding *prior to the judgment or final order,* requiring a party or a court, agency or a person to refrain from a particular act or acts. It may also require the performance of a particular act or acts, in which case it shall be known as a preliminary mandatory injunction.

[115] 577 Phil. 636 (2008).

> Where, as in this case, there is an ongoing civil process dealing directly with the possessory dispute and the reported acts of violence and harassment, we see no point in separately and directly intervening through a writ of Amparo in the absence of any clear *prima facie* showing that the right to life, liberty or security — the *personal* concern that the writ is intended to protect — is immediately in danger or threatened, or that the danger or threat is continuing. We see no legal bar, however, to an application for the issuance of the writ, *in a proper case*, by motion in a pending case on appeal or on *certiorari*, applying by analogy the provisions on the co-existence of the writ with a separately filed criminal case.[116] (Italics in the original)

Thus, while there is no procedural and legal obstacle to the joining of a petition for *habeas corpus* and a petition for *Amparo*,[117] the peculiarity of the then pendency of the *Habeas Corpus* Petition before the CA renders the direct resort to this Court for the issuance of a writ of *Amparo* inappropriate.

The privilege of the writ of Amparo is confined to instances of extralegal killings and enforced disappearances, or threats thereof

Even if the Court sets aside this procedural *faux pas*, petitioners and co-petitioner Marcos failed to show, by *prima facie* evidence, entitlement to the issuance of the writ. Much less have they exhibited, by substantial evidence, meritorious grounds to the grant of the petition.

Section 1 of the Rule on the writ of *Amparo* provides:

> SECTION 1. *Petition.* The petition for a *writ of Amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.
>
> The writ shall cover extralegal killings and enforced disappearances.

In the landmark case of *Secretary of National Defense, et al. v. Manalo, et al.*,[118] the Court categorically pronounced that the *Amparo* Rule, as it presently stands, is confined to extralegal killings and enforced disappearances, or to threats thereof, and jurisprudentially defined these two instances, as follows:

> [T]he *Amparo* Rule was intended to address the intractable problem of "extralegal killings" and "enforced disappearances," its coverage, in its present form, is confined to these two instances or to threats thereof. "Extralegal killings" are killings committed without due process of law,

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[116] Id. at 656.
[117] *See So v. Hon. Judge Tacla, Jr., et al.*, 648 Phil. 149 (2010).
[118] 589 Phil. 1 (2008)

> *i.e.*, without legal safeguards or judicial proceedings. On the other hand, enforced disappearances are attended by the following characteristics: an arrest, detention or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such persons outside the protection of law.[119] (Citations omitted)

The above definition of "enforced disappearance" appears in the Declaration on the Protection of All Persons from Enforced Disappearances[120] and is as statutorily defined in Section 3(g)[121] of R. A. No. 9851.[122] Thus, in *Navia, et al. v. Pardico*,[123] the elements constituting "enforced disappearance," are enumerated as follows:

> (a) that there be an arrest, detention, abduction or any form of deprivation of liberty;
>
> (b) that it be carried out by, or with the authorization, support or acquiescence of, the State or a political organization;
>
> (c) that it be followed by the State or political organization's refusal to acknowledge or give information on the fate or whereabouts of the person subject of the *Amparo* petition; and,
>
> (d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.[124]

In *Lozada, Jr., et al. v. President Macapagal-Arroyo, et al.*,[125] the Court reiterates that the privilege of the writ of *Amparo* is a remedy available to victims of extra-judicial killings and enforced disappearances or threats of a similar nature, regardless of whether the perpetrator of the unlawful act or omission is a public official or employee or a private individual.[126]

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[119] Id. at 37-38.

[120] Adopted by General Assembly Resolution 47/133 of 18 December 1992.

[121] Sec. 3. *For the purposes of this Act, the term*:

x x x x

(g) "Enforced or involuntary disappearance of persons" means the arrest, detention, or abduction of persons by, or with the authorization support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time.

[122] AN ACT DEFINING AND PENALIZING CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND OTHER CRIMES AGAINST HUMANITY, ORGANIZING JURISDICTION, DESIGNATING SPECIAL COURTS, AND FOR RELATED PURPOSES. Approved December 11, 2009.

[123] 688 Phil. 266 (2012).

[124] Id. at 279.

[125] 686 Phil. 536 (2012).

[126] Id. at 276.

Here, petitioners and co-petitioner Marcos readily admit that the instant Omnibus Petition does not cover extralegal killings or enforced disappearances, or threats thereof. Thus, on this ground alone, their petition for the issuance of a writ of *Amparo* is dismissible.

Despite this, petitioners insist that their rights to liberty and security were violated because of their unlawful detention. On the other hand, co-petitioner Marcos seeks the protective writ of *Amparo* on the ground that her right to liberty and security are being threatened by the conduct of the legislative inquiry on House Resolution No. 882. But even these claims of actual and threatened violations of the right to liberty and security fail to impress.

To reiterate, the writ of *Amparo* is designed to protect and guarantee the (1) right to life; (2) right to liberty; and (3) right to security of persons, free from fears and threats that vitiate the quality of life. In *Rev. Fr. Reyes v. Court of Appeals, et al.*,[127] the Court had occasion to expound on the rights falling within the protective mantle of the writ of *Amparo*, thus:

> The rights that fall within the protective mantle of the Writ of *Amparo* under Section 1 of the Rules thereon are the following: (1) right to life; (2) right to liberty; and (3) right to security.
>
> In *Secretary of National Defense et al. v. Manalo et al.*, the Court explained the concept of *right to life* in this wise:
>
> > While the right to life under Article III, Section 1 guarantees essentially the right to be alive- upon which the enjoyment of all other rights is preconditioned - the right to security of person is a guarantee of the secure quality of this life, *viz*: "The life to which each person has a right is not a life lived in fear that his person and property may be unreasonably violated by a powerful ruler. Rather, it is a life lived with the assurance that the government he established and consented to, will protect the security of his person and property. The ideal of security in life and property . . . pervades the whole history of man. It touches every aspect of man's existence." In a broad sense, the right to security of person "emanates in a person's legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation. It includes the right to exist, and the right to enjoyment of life while existing, and it is invaded not only by a deprivation of life but also of those things which are necessary to the enjoyment of life according to the nature, temperament, and lawful desires of the individual."

[127] 621 Phil. 519 (2009).

The *right to liberty*, on the other hand, was defined in the *City of Manila, et al. v. Hon. Laguio, Jr.*, in this manner:

> Liberty as guaranteed by the Constitution was defined by Justice Malcolm to include "the right to exist and the right to be free from arbitrary restraint or servitude. The term cannot be dwarfed into mere freedom from physical restraint of the person of the citizen, but is deemed to embrace the right of man to enjoy the facilities with which he has been endowed by his Creator, subject only to such restraint as are necessary for the common welfare." x x x

Secretary of National Defense et al. v. Manalo et al., thoroughly expounded on the import of the *right to security*, thus:

> A closer look at the right to security of person would yield various permutations of the exercise of this right.
>
> ***First*, the right to security of person is "freedom from fear."** In its "whereas" clauses, the **Universal Declaration of Human Rights** (UDHR) enunciates that "a world in which human beings shall enjoy freedom of speech and belief and **freedom from fear** and want has been proclaimed as the highest aspiration of the common people." x x x Some scholars postulate that "freedom from fear" is not only an aspirational principle, but essentially an individual international human right. It is the "right to security of person" as the word "security" itself means "freedom from fear." Article 3 of the UDHR provides, *viz*:
>
> > Everyone has the right to life, liberty and **security of person**.
> >
> > x x x x
>
> The Philippines is a signatory to both the UDHR and the ICCPR.
>
> In the context of Section 1 of the *Amparo* Rule, "freedom from fear" is the right and any **threat to the rights to life, liberty or security** is the **actionable wrong**. Fear is a state of mind, a reaction; **threat** is a stimulus, a **cause of action**. Fear caused by the same stimulus can range from being baseless to well-founded as people react differently. The degree of fear can vary from one person to another with the variation of the prolificacy of their imagination, strength of character or past experience with the stimulus. Thus, in the *Amparo* context, it is more correct to say that the "right to security" is actually the "**freedom from threat.**" Viewed in this light, the "threatened with violation" Clause in the latter part of Section 1 of the *Amparo* Rule is a form of violation of the right to security mentioned in the earlier part of the

provision.

> ***Second*, the right to security of person is a guarantee of bodily and psychological integrity or security.** Article III, Section II of the 1987 Constitution guarantees that, as a general rule, ones body cannot be searched or invaded without a search warrant. Physical injuries inflicted in the context of extralegal killings and enforced disappearances constitute more than a search or invasion of the body. It may constitute dismemberment, physical disabilities, and painful physical intrusion. As the degree of physical injury increases, the danger to life itself escalates. Notably, in criminal law, physical injuries constitute a crime against persons because they are an affront to the bodily integrity or security of a person.
>
> x x x x
>
> ***Third*, the right to security of person is a guarantee of protection of ones rights by the government.** In the context of the writ of *Amparo*, this right is **built into the guarantees of the right to life and liberty** under Article III, Section 1 of the 1987 Constitution **and the right to security of person** (as freedom from threat and guarantee of bodily and psychological integrity) under Article III, Section 2. The right to security of person in this third sense is a corollary of the policy that the State guarantees full respect for human rights under Article II, Section 11 of the 1987 Constitution. As the government is the chief guarantor of order and security, the Constitutional guarantee of the rights to life, liberty and security of person is rendered ineffective if government does not afford protection to these rights especially when they are under threat. Protection includes conducting effective investigations, organization of the government apparatus to extend protection to victims of extralegal killings or enforced disappearances (or threats thereof) and/or their families, and bringing offenders to the bar of justice. x x x.[128] (Citations omitted and emphasis and italics in the original)

Nevertheless, and by way of caution, the rule is that a writ of *Amparo* shall not issue on amorphous and uncertain grounds. Consequently, every petition for the issuance of a writ of *Amparo* should be supported by justifying allegations of fact, which the Court in *Tapuz*[129] laid down as follows:

> "(a) The personal circumstances of the petitioner;

[128] Id. at 530-532.
[129] Supra note 115.

> (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
>
> *(c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;*
>
> *(d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;*
>
> (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
>
> (f) The relief prayed for.
>
> The petition may include a general prayer for other just and equitable reliefs."
>
> The writ shall issue if the Court is preliminarily satisfied with the *prima facie* existence of the ultimate facts determinable from the supporting affidavits that detail the circumstances of how and to what extent a threat to or violation of the rights to life, liberty and security of the aggrieved party was or is being committed.[130] (Citations omitted and italics in the original)

Even more telling is the rule that the writ of *Amparo* cannot be issued in cases where the alleged threat has ceased and is no longer imminent or continuing.[131]

In this case, the alleged unlawful restraint on petitioners' liberty has effectively ceased upon their subsequent release from detention. On the other hand, the apprehension of co-petitioner Marcos that she will be detained is, at best, merely speculative. In other words, co-petitioner Marcos has failed to show any clear threat to her right to liberty actionable through a petition for a writ of *Amparo*.

In *Mayor William N. Mamba, et al. v. Leomar Bueno*,[132] the Court held that:

> Neither did petitioners and co-petitioner successfully establish the existence of a threat to or violation of their right to security. In an *Amparo* action, the parties must establish their respective claims by substantial evidence. Substantial evidence is that amount of evidence which a reasonable mind might accept as adequate to support a

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[130] Id. at 652-653.

[131] *Tapuz, et al. v. Hon. Judge Del Rosario, et al.*, supra note 115, at 656.

[132] G.R. No. 191416, February 7, 2017.

> conclusion. It is more than a mere imputation of wrongdoing or violation that would warrant a finding of liability against the person charged.[133]

Here, it appears that petitioners and co-petitioner Marcos even attended and participated in the subsequent hearings on House Resolution No. 882 without any untoward incident. Petitioners and co-petitioner Marcos thus failed to establish that their attendance at and participation in the legislative inquiry as resource persons have seriously violated their right to liberty and security, for which no other legal recourse or remedy is available. Perforce, the petition for the issuance of a writ of *Amparo* must be dismissed.

IV.
Congress' Power to Cite in Contempt and to Compel Attendance of Court Justices

It has not escaped the attention of the Court that the events surrounding the filing of the present Omnibus Petition bear the unsavory impression that a display of force between the CA and the Congress is impending. Truth be told, the letter of the CA Justices to the Court *En Banc* betrays the struggle these CA Justices encountered in view of the Congressional power to cite in contempt and consequently, to arrest and detain. These Congressional powers are indeed awesome. Yet, such could not be used to deprive the Court of its Constitutional duty to supervise judges of lower courts in the performance of their official duties. The fact remains that the CA Justices are non-impeachable officers. As such, authority over them primarily belongs to this Court and to no other.

To echo the Court's ruling in *Maceda v. Ombudsman Vasquez*:[134]

> [T]he Supreme Court [has] administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk. By virtue of this power, it is only the Supreme Court that can oversee the judges' and court personnel's compliance with all laws, and take the proper administrative action against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.[135]

It is this very principle of the doctrine of separation of powers as enshrined under the Constitution that urges the Court to carefully tread on areas falling under the sole discretion of the legislative branch of the government. In point is the power of legislative investigation which the Congress exercises as a Constitutional prerogative.

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[133] Id.
[134] 293 Phil. 503 (1993).
[135] Id. at 506.

Concomitantly, the principle of separation of powers also serves as one of the basic postulates for exempting the Justices, officials and employees of the Judiciary and for excluding the Judiciary's privileged and confidential documents and information from *any* compulsory processes which very well includes the Congress' power of inquiry in aid of legislation.[136] Such exemption has been jurisprudentially referred to as judicial privilege as implied from the exercise of judicial power expressly vested in one Supreme Court and lower courts created by law.[137]

However, as in all privileges, the exercise thereof is not without limitations. The invocation of the Court's judicial privilege is understood to be limited to matters that are part of the internal deliberations and actions of the Court in the exercise of the Members' adjudicatory functions and duties. For the guidance of the bench, the Court herein reiterates its *Per Curiam* Resolution[138] dated February 14, 2012 on the production of court records and attendance of court officials and employees as witnesses in the then impeachment complaint against former Chief Justice Renato C. Corona, insofar as it summarized the documents or communications considered as privileged as follows:

> (1) Court actions such as the result of the raffle of cases and the actions taken by the Court on each case included in the agenda of the Court's session on acts done material to pending cases, except where a party litigant requests information on the result of the raffle of the case, pursuant to Rule 7, Section 3 of the Internal Rules of the Supreme Court (IRSC);
>
> (2) Court deliberations or the deliberations of the Members in court sessions on cases and matters pending before the Court;
>
> (3) Court records which are "predecisional" and "deliberative" in nature, in particular, documents and other communications which are part of or related to the deliberative process, *i.e*, notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations, and similar papers;
>
> (4) Confidential information secured by justices, judges, court officials and employees in the course of their official functions, mentioned in (2) and (3) above, are privileged even after their term of office.
>
> (5) Records of cases that are still pending for decision are privileged materials that cannot be disclosed, except only for pleadings, orders and resolutions that have been made available by the court to the general public.
>
> x x x x

By way of qualification, judicial privilege is unavailing on matters external to the Judiciary's deliberative adjudicatory functions and duties. Justice Antonio T. Carpio discussed in his Separate Opinion to the *Per*

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[136] *Senate of the Philippines v. Exec. Sec. Ermita*, supra note 108, at 49.

[137] CONSTITUTION, Article VIII, Section 1.

[138] *En Banc* Resolution entitled *In Re: Production of Court Records and Documents and the Attendance of Court officials and employees as witnesses under the subpoenas of February 10, 2012 and the various letters for the Impeachment Prosecution Panel dated January 19 and 25, 2012.*

Curiam Resolution, by way of example, the non-confidential matters as including those "information relating to the commission of crimes or misconduct, or violations of the Code of Judicial Conduct, or any violation of a law or regulation," and those outside the Justices' adjudicatory functions such as "financial, budgetary, personnel and administrative matters relating to the operations of the Judiciary."

As a guiding principle, the purpose of judicial privilege, as a child of judicial power, is principally for the effective discharge of such judicial power. If the matter upon which Members of the Court, court officials and employees privy to the Court's deliberations, are called to appear and testify do not relate to and will not impair the Court's deliberative adjudicatory judicial power, then judicial privilege may not be successfully invoked.

The Court had occasion to illustrate the application of the rule on judicial privilege and its qualifications to impeachment proceedings as follows:

> [W]here the ground cited in an impeachment complaint is bribery, a Justice may be called as a witness in the impeachment of another Justice, as bribery is a matter external to or is not connected with the adjudicatory functions and duties of a magistrate. A Justice, however, may not be called to testify on the arguments the accused Justice presented in the internal debates as these constitute details of the deliberative process.[139]

Nevertheless, the traditional application of judicial privilege cannot be invoked to defeat a positive Constitutional duty. Impeachment proceedings, being *sui generis*,[140] is a Constitutional process designed to ensure accountability of impeachable officers, the seriousness and exceptional importance of which outweighs the claim of judicial privilege.

To be certain, the Court, in giving utmost importance to impeachment proceedings even as against its own Members, recognizes not the superiority of the power of the House of Representatives to initiate impeachment cases and the power of the Senate to try and decide the same, but the superiority of the impeachment proceedings as a Constitutional process intended to safeguard public office from culpable abuses. In the words of Chief Justice Maria Lourdes P. A. Sereneo in her Concurring and Dissenting Opinion to the *Per Curiam* Resolution, the matter of impeachment is of such paramount societal importance that overrides the generalized claim of judicial privilege and as such, the Court should extend respect to the Senate acting as an Impeachment Court and give it wide latitude in favor of its function of exacting accountability as required by the Constitution.

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[139] Id.

[140] *Gonzales III v. Office of the President of the Philippines, et al.* 725 Phil. 380, 407 (2014).

With the foregoing disquisition, the Court finds it unnecessary to discuss the other issues raised in the Omnibus Petition.

WHEREFORE, the Omnibus Petition is **DISMISSED**.

SO ORDERED.

NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice

PRESBITERO J. VELASCO, JR.
Associate Justice

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(No Part)
DIOSDADO M. PERALTA
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARIANO C. DEL CASTILLO
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

SAMUEL R. MARTIRES
Associate Justice

(No Part)
ANDRES B. REYES, JR.
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

ANTONIO T. CARPIO
Senior Associate Justice
(Per Section 12, R.A. 296,
The Judiciary Act of 1948, as amended)

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court