



Republic of the Philippines
Supreme Court
Manila

EN BANC

IN THE MATTER OF THE
PETITION FOR WRIT OF
AMPARO AND WRIT OF HABEAS
CORPUS IN FAVOR OF ALICIA
JASPER S. LUCENA;

G.R. No. 252120

RELISSA SANTOS LUCENA AND
FRANCIS B. LUCENA,
Petitioners,

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
BALTAZAR-PADILLA,* JJ.

- versus -

SARAH ELAGO, KABATAAN
PARTY-LIST REPRESENTATIVE;
ALEX DANDAY, NATIONAL
SPOKESPERSON OF
ANAKBAYAN; CHARY DELOS
REYES, BIANCA GACOS, JAY
ROVEN BALLAIS VILLAFUENTE,
MEMBERS AND RECRUITERS OF
ANAKBAYAN; AND ATTY.
MARIA KRISTINA CONTI,
Respondents.

Promulgated:

September 15, 2020

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DECISION

PERALTA, C.J.:

At bench is a petition for the issuance of the writs of *amparo* and *habeas corpus*¹ filed by petitioners Relissa and Francis Lucena.

* On leave.
¹ Rollo, pp. 3-17.

1.

Petitioners are the parents of Alicia Jasper S. Lucena (AJ) — a 19-year-old lass born on July 24, 2001.

Sometime in 2018, AJ enrolled as a Grade 11 student at the Far Eastern University (FEU).² There, AJ was enticed to join the FEU Chapter of *Anakbayan* — a youth organization supposedly advocating ideals of national democracy.

On February 2, 2019, AJ informed petitioners that she had joined and was now an official member of *Anakbayan*.

The next day, AJ left the family home without any explanation. She did not return until three (3) days later.

On March 10, 2019, AJ once again left the family home. This time, she did not return until more than two (2) months later, or on May 25, 2019. Petitioners learned that during the time AJ was not at home, AJ was in the custody of respondents Charie Delos Reyes (*Reyes*),³ Bianca Gacos (*Gacos*) and Jay Roven Ballais Villafuente (*Villafuente*)⁴ — national leaders of *Anakbayan*. AJ was then conducting recruiting activities on behalf of *Anakbayan* and was also campaigning for the *Kabataan* Partylist and Neri Colmenares.

On July 10, 2019, AJ left the family home for the third time and never came back. She has since dropped out from FEU.

On August 7, 2019, the Senate Committee on Public Order and Dangerous Drugs conducted a hearing amidst reports that *Anakbayan* had been recruiting students and inducing them to abandon their homes. Among those invited in the committee hearing was petitioner Relissa, who testified about her experience with AJ.

On August 14, 2019, representatives of the *Kabataan*,⁵ *Bayan Muna*,⁶ ACT Teacher⁷ and *Gabriela*⁸ Party-lists conducted a press conference where they presented and appeared alongside AJ and another allegedly missing

² See Annex "G" of the Petition; *id.* at 76.

³ Identified as Charie *Del Rosario* on page 8 of the Petition; *id.* at 10.

⁴ Identified as Jay Roven Ballais on page 8 of the Petition; *id.*

⁵ Namely, respondent Sarah Elago.

⁶ Namely, Carlos Zarate, Eufemia Cullamat and Ferdinand Gaité.

⁷ Namely, France Castro.

⁸ Namely, Arlene Brosas.

student.⁹ AJ, in that press conference, explained that she was never abducted, but rather joined *Anakbayan* voluntarily.¹⁰

2.

Seeking mainly to regain custody of AJ, petitioners instituted the present petition for the issuance of the writs of *amparo* and *habeas corpus*. Impleaded along with Reyes, Gacos and Villafuente as respondents in the petition are: Sarah Elago, who is a representative of the *Kabataan* Party-list; Alex Danday, who is the spokesperson of *Anakbayan*; and Atty. Maria Kristina Conti, who is a known counsel of *Anakbayan*.¹¹

The petition, in particular, prays the Court to issue the following reliefs:¹²

- a. A writ of *amparo* in favor of AJ and petitioners.
- b. In the interim, a temporary protection order “*prohibiting the respondents, and the [Anakbayan] and [Kabataan] Party-list from recruiting, influencing, indoctrinating, immersing and threatening the life, liberty and security of [AJ], or from committing or attempting to commit any act which are violative of the rights of [AJ], and abusive of her physical, mental, psychological and emotional development.*”
- c. A writ of *habeas corpus* ordering the respondents to produce the person of AJ in Court.
- d. An order immediately placing AJ under the custody and care of the petitioners.
- e. An order requiring the conduct of a medical and psychological examination on, and the conferment of medical and psychological assistance to AJ in order to determine the extent and gravity of the abuse, exploitation and prejudice to her mental, physical, emotional and psychological state.

The petitioners concede that AJ is already at the age of majority — eighteen (18) years old to be precise. However, they argue that AJ’s decision to stay with the *Anakbayan* cannot be considered to have emanated from a valid and informed consent as the same had been a product of the radicalization and indoctrination AJ received from *Anakbayan* when she was

⁹ Annex “W” of the Petition.

¹⁰ *Id.*

¹¹ *Rollo*, p. 7.

¹² *Id.* at 16.

still a minor.¹³ According to petitioners, this radicalization and indoctrination at such a young age prejudiced AJ's "*mental, psychological, emotional or spiritual development*"¹⁴ which, in turn, hindered her ability to freely give consent even after reaching the age of majority.¹⁵ Hence, for all intents and purposes, AJ cannot be considered to have freely consented to joining the *Anakbayan*, to participating in the activities of *Anakbayan* and, ultimately, to staying with the *Anakbayan*.

On May 19, 2020, the Court issued a Resolution¹⁶ requiring the respondents to show cause — within ten (10) days from their receipt of said resolution — why the peremptory writs of *amparo* and *habeas corpus* should not be issued. All respondents filed their compliance with the resolution on time.¹⁷

OUR RULING

We dismiss the petition.

I

Petitioners' plea for the issuance of a writ of *amparo* is not proper. The remedy of *amparo*, in its present formulation, is confined merely to instances of "*extralegal killings*" or "*enforced disappearances*" and to threats thereof. As illuminated in *Agcaoili v. Fariñas*:¹⁸

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.*, the Court categorically pronounced that the *Amparo* Rule, as it presently stands, is confined to extralegal killings and

¹³ *Id.* at 13-14.

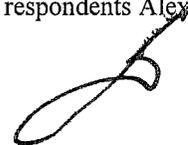
¹⁴ *Id.* at 4.

¹⁵ *Id.* at 14.

¹⁶ *Id.* at 231.

¹⁷ *Id.* at 257-284 for the Compliance of respondents Jayroven Balais, Chary Delos Reyes and Bianca Gasos. The Compliance of respondent Sarah Jane Elago, and the Compliance of respondents Alexis Diane S. Danday and Maria Kristina Conti were electronically submitted.

¹⁸ G.R. No. 232395, July 3, 2018. (Emphases ours; citations omitted)



enforced disappearances, or to threats thereof, and jurisprudentially defined these two instances, as follows:

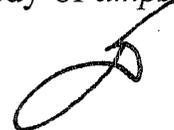
[T]he *Amparo* Rule was intended to address the intractable problem of "extralegal killings" and "enforced disappearances," its coverage, in its present form, is confined to these two instances or to threats thereof. **"Extralegal killings" are killings committed without due process of law, i.e., without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

The above definition of "enforced disappearance" appears in the Declaration on the Protection of All Persons from Enforced Disappearances and is as statutorily defined in Section 3 (g) of R.A. No. 9851. Thus, in *Navia, et al. v. Pardico*, 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.

In *Lozada, Jr., et al. v. President Macapagal-Arroyo, et al.*, 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. (Citations omitted; emphasis supplied).

Here, there is not much issue that AJ's situation does not qualify either as an actual or threatened enforced disappearance or extralegal killing. AJ is not missing. Her whereabouts are determinable. By all accounts, she is staying with the *Anakbayan* and its officers which, at least insofar as AJ's case is concerned, are not agents or organizations acting on behalf of the State. Indeed, against these facts, petitioners' invocation of the remedy of *amparo* cannot pass.



II

Petitioners' prayer for the issuance of a writ of *habeas corpus* is, moreover, dismissible for lack of merit.

The Rules of Court envisions the writ of *habeas corpus* as a remedy applicable to cases of illegal confinement or detention **where a person is deprived of his or her liberty, or where the rightful custody of any person is withheld from the person entitled thereto.**¹⁹ Section 1, Rule 102 of the Rules of Court states:

SECTION 1. *To what habeas corpus extends.*— Except as otherwise expressly provided by law, the writ of *habeas corpus* shall extend to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto.

In this case, however, it did not at all appear that AJ had been deprived of her liberty or that petitioners had been excluded from their rightful custody over the person of AJ.

First. The petitioners failed to make out a case that AJ is being detained or is being kept by the *Anakbayan* against her free will. To start, there was never any accusation that the *Anakbayan* employed violence, force or threat against AJ that would have influenced her in deciding to stay with the *Anakbayan*. Neither is there an allegation that the *Anakbayan* is employing such violence, force or threat so as to prevent AJ from eventually changing her mind and from possibly leaving the *Anakbayan* in the future.

The only argument raised by the petitioners to support the view that AJ is being detained — *i.e.*, AJ's decision to stay with the *Anakbayan* is not a product of free and informed consent but of the indoctrination and brainwashing she endured from the group when she was still a minor — fails to persuade for it rests on pure speculation and assumption. If anything, such an argument has been discredited by the established facts and even by AJ herself.

As mentioned, AJ already categorically denied being abducted by the *Anakbayan* during a press conference²⁰ conducted by the representatives of the *Kabataan, Bayan Muna*, ACT Teacher and *Gabriela* Party-lists on August 14, 2019.

¹⁹ Rules of Court, Rule 102, Sec. 1. (Emphasis ours)
²⁰ Annex "W" of the Petition.



In a *Sinumpaang Salaysay*²¹ she executed on September 9, 2019,²² on the other hand, AJ disputed the allegations of being brainwashed as she relayed that her decision to leave the custody of her parents for *Anakbayan* was reasoned and a conscious one on her part. As AJ explained:

x x x x

5. Pinasisinungalingan ko ang mga paratang ng mommy kong si [Relissa] Santos Lucena laban sa mga kasamahan ko sa Anakbayan na sina Ate Charie, Bianca Gacos, Jayroven Villafuente at Alex Danday at laban kina Cong. Sarah Elago ng Kabataan Partylist at Atty. Neri Colmenares.

6. Hindi totoo at gawa-gawa lang niya ang mga paratang niyang ako raw ay kinidnap, ayaw pauwiin sa aming bahay at bine-brainwash ng mga kasama ko sa Anakbayan para maging isang NPA.

7. Ang totoo, tumakas talaga ako sa poder ng aking mga magulang at nanatiling kasapi ng Anakbayan dahil hindi ko na kaya [ang] ginagawa nilang pagmamalupit at pananakit sa akin.

x x x x

47. Hindi ako “missing.” Umalis talaga ako sa bahay dahil hindi ko na kinakaya ang ginagawa niyang pang-aabuso, pagkulong at pangrepress sa akin. Hindi niya rin alam na dahil sa ginagawa niya, mas lalo lang niya akong nilagay sa panganib.

x x x x

51. Inuulit ko. Hindi ako nawawala. Hindi ako kinidnap ninuman. Hindi totoong kinukumbinsi ako ng mga kasamahan ko sa Anakbayan, ni Cong. Sarah Elago at Atty. Neri Colmenares na maging kasapi ng NPA. Gawagawa lang ang lahat ng paratang na ito at sa tingin ko ay kailangan na itong ibasura.

Against these explicit submissions, petitioners’ claim that AJ is being held against her will certainly cannot stand.

Second. It also cannot be said that petitioners were being excluded from their rightful custody over the person of AJ. As it was established, AJ has already reached the age of majority and is, thus, legally emancipated.²³ The effect of such emancipation is clear under the law. It meant the termination of the petitioners’ parental authority — which include their custodial rights — over the person and property of AJ, who is now deemed qualified and

²¹ Annex “2” of the Compliance of respondents Jayroven Balais, Chary Delos Reyes and Bianca Gasos, *rollo* pp. 287-292.

²² The affidavit of AJ was executed in connection with the criminal complaints filed before the Department of Justice (DOJ) by petitioner Relissa Lucena against herein respondents and others for violation of RA No. 9208, as amended by RA 10364; violation of Section 9(b)(5) of RA 11188; Sections 10(a) and 10(c) of RA 7610; violation of Article 270 of the Revised Penal Code; and violation of RA No. 9851. The complaints were docketed as NPS Nos. XVI-INV-19H-00283 and XVI-NVI-191-00337, and are still pending resolution. (*Rollo*, p. 258).

²³ Article 234 of Executive Order No. 209, s. of 1987 as amended by RA No. 6809.

responsible for all acts of civil life save for certain exceptions provided by law.²⁴

As she has already attained the age of majority, AJ — at least in the eyes of the State — has earned the right to make independent choices with respect to the places where she wants to stay, as well as to the persons whose company she wants to keep. Such choices, so long as they do not violate any law or any other persons' rights, has to be respected and let alone, lest we trample upon AJ's personal liberty — the very freedom supposed to be protected by the writs of *amparo* and *habeas corpus*. While we understand that petitioners may feel distressed over AJ's decision to leave their home and stay with the *Anakbayan*, their recourse unfortunately does not lie with the Court through the instant petition. The writs of *amparo* and *habeas corpus* were never meant to temper the brashness of youth. The resolution of the conflict besetting petitioners and their daughter AJ is simply beyond the competence of the writs applied for.

IN VIEW WHEREOF, the prayers for the issuance of the writs of *amparo* and *habeas corpus* are hereby **DENIED**. The instant petition is **DISMISSED**.

SO ORDERED.

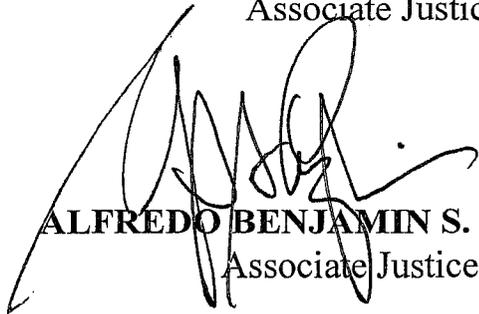

DIOSDADO M. PERALTA
Chief Justice

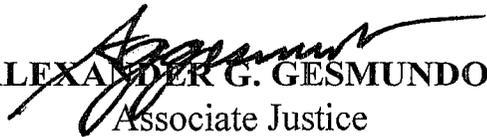
²⁴ Article 234 of Executive Order No. 209, s. of 1987 as amended by RA No. 6809. See also *In Re: Lopez v. Garon*, 160-A Phil. 922, 925 (1975).

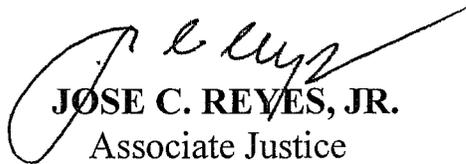
WE CONCUR:


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice

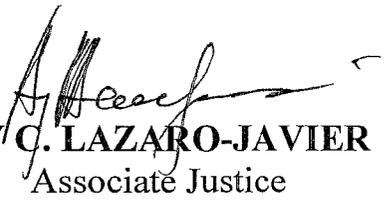

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice

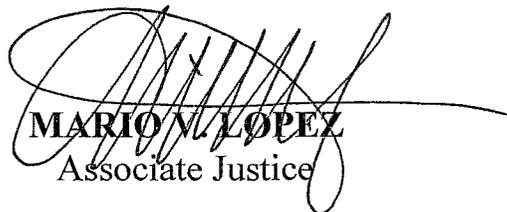

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

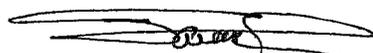

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice