



Republic of the Philippines
 Supreme Court
 Manila

EN BANC

MAYOR WILLIAM N. MAMBA,
 ATTY. FRANCISCO N. MAMBA,
 JR., ARIEL MALANA, NARDING
 AGGANGAN, JOMARI
 SAGALON, JUN CINABRE,
 FREDERICK BALIGOD,
 ROMMEL ENCOLLADO,
 JOSEPH TUMALIUAN, and
 RANDY DAYAG,

Petitioners,

- versus -

LEOMAR BUENO,

Respondent.

G.R. No. 191416

Present:

SERENO, C.J.,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,
 DEL CASTILLO,
 MENDOZA,*
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA, and
 CAGUIOA,** JJ.

Promulgated:

February 7, 2017

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DECISION

REYES, J.:

This is a Petition for Review on *Certiorari*¹ filed in relation to Section 19 of A.M. No. 07-9-12-SC,² seeking to annul and set aside the Decision³ dated January 18, 2010 and Resolution⁴ dated March 2, 2010 of the Court of Appeals (CA) in CA-G.R. SP. No. 00038, which granted the petition for the

* No part.

** On leave.

¹ *Rollo*, pp. 3-16.

² The Rule on the Writ of *Amparo*, which took effect on October 24, 2007.

³ Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Remedios Salazar-Fernando and Jose C. Reyes, Jr. concurring; *rollo*, pp. 17-41.

⁴ Id. at 42-51.

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issuance of a writ of *amparo* filed by Leomar Bueno (respondent) against Mayor William N. Mamba (Mayor Mamba), Atty. Francisco N. Mamba, Jr. (Atty. Mamba), Ariel Malana (Malana), Narding Aggangan (Aggangan), Jomari Sagalon (Sagalon), Jun Cinabre (Cinabre), Frederick Baligod (Baligod), Rommel Encollado (Encollado), Joseph Tumaliuan (Tumaliuan), and Randy Dayag (Dayag) (collectively, the petitioners).

The Facts

On June 13, 2009, the canteen owned by Emelita N. Mamba (Emelita) in Tuao, Cagayan was robbed. Emelita is the mother of Mayor Mamba, then Mayor of the Municipality of Tuao, Cagayan and Atty. Mamba, then a Malacañang official.⁵ The Task Force Lingkod Bayan (Task Force), an agency created by the *Sangguniang Bayan* of Tuao to help the local police force in maintaining peace and order in the municipality, undertook an investigation on the robbery.⁶

On June 14, 2009, several members of the Task Force, Malana, Aggangan and Sagalon, together with barangay officials Cinabre and Encollado, went to the house of the respondent, then still a minor, to invite him for questioning on his supposed involvement in the robbery. The respondent and his mother, Maritess Bueno (Maritess), acceded to the invitation. Thereupon, the respondent was brought to the Tuao police station.⁷

The parties gave different accounts of what happened after the respondent was brought to the Tuao police station.

The petitioners claim that:

When they reached the Tuao police station, there were no police investigators or any representative from the local Social Welfare and Development (SWD) office and, hence, the investigation could not proceed. At that time, Raymund Rodriguez (Raymund), allegedly an eyewitness to the robbery, was at the police station. Raymund pointed to the respondent as among those who robbed the store; the respondent then told Raymund that he would kill him for ratting him out.⁸ The petitioners allege that prior to the robbery of the canteen, the respondent approached Raymund and his brother Robin and proposed to them that they rob the canteen. The latter, however, declined the offer. Later that night, Raymund saw the respondent and

⁵ Id. at 19.

⁶ Id. at 5.

⁷ Id. at 19.

⁸ Id. at 5.

Lorenzo Haber (Haber) robbing the canteen. Thereafter, Robin reported the incident to the Task Force.⁹

The petitioners further claim that at the time of the robbery, Mayor Mamba and Atty. Mamba were not around since they previously left Tuao, Cagayan for Manila on June 10, 2009. Mayor Mamba was on official leave for 10 days, from June 10, 2009 until June 20, 2009, while Atty. Mamba had to report for work in Malacañang.¹⁰

The respondent's custody was then referred to the Task Force. Haber was later invited to the police station for questioning regarding his involvement in the robbery. However, his custody was likewise referred to the Task Force since there were still no police investigators.¹¹

On June 17, 2009, Atty. Mamba arrived in Tuao, Cagayan. While going out of his residence, Maritess approached Atty. Mamba and asked him about her son. Atty. Mamba told her that he does not know her son and that if the respondent indeed committed a crime, she should not tolerate what her son was doing.¹²

On June 18, 2009, while the members of the Task Force were on their way to bring the respondent and Haber to the police station, they were met by Police Superintendent Joselito Buenaobra (P/Supt. Buenaobra) of the Philippine National Police (PNP) Cagayan Regional Office. Thereafter, the respondent's custody was transferred to the PNP Cagayan Regional Office.¹³

Maritess then went to the office of Mayor Mamba, but she was told to come back at later date since Mayor Mamba was still on official leave. When Mayor Mamba arrived in Tuao on June 20, 2009, a conference was immediately held. Maritess requested that the members of the Task Force be brought to Mayor Mamba's office. Almost all of the members of the Task Force arrived. However, Maritess was unable to pinpoint who among them took custody of his son. Mayor Mamba then advised her to file a complaint in court should she be able to identify the responsible persons.¹⁴

On the other hand, the respondent alleges that:

⁹ Id. at 223.
¹⁰ Id.
¹¹ Id. at 5.
¹² Id. at 225.
¹³ Id. at 21, 225-226.
¹⁴ Id. at 226.

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At around 3:00 p.m. of June 14, 2009, Tumaliuan and Dayag, both members of the Task Force, upon the order of Baligod, then Municipal Administrator of Tuao, fetched the respondent from the police station and brought him to Mayor Mamba's house.¹⁵ Sometime in the evening of even date, the respondent was made to board a white van driven by Aggangan. Inside the van, he was beaten with a gun by Malana, who later threatened him that he would be killed. Thereafter, he was brought back to Mayor Mamba's house.¹⁶

That same evening, Haber, likewise a minor, was invited by the barangay captain in his place, accompanied by about 10 barangay *tanods* and two police officers, for questioning as regards the robbery of the canteen. Haber was brought to the police station where he spent the night.¹⁷

On June 15, 2009, Haber was brought to Mayor Mamba's house. The respondent and Haber were then tortured to force them to admit to their involvement in the robbery. They were made to roll on the grass while being kicked and beaten with a cue stick by Malana; hot wax was poured over their bodies to force them to admit to the robbery, but they denied any involvement therein. Thereafter, they were blindfolded and were questioned by Atty. Mamba regarding the robbery of the canteen. When his blindfold was taken off, the respondent saw Atty. Mamba sitting nearby.¹⁸ On June 16, 2009, Malana brought the respondent and Haber, together with Robin and Raymund, to the office of the Task Force, where they all spent the night.¹⁹

Meanwhile, Maritess went to the Tuao police station to look for her son; she was told that the respondent was brought to Mayor Mamba's house. However, when Maritess went to Mayor Mamba's house, she was not permitted to see her son. Maritess was able to talk to Mayor Mamba who told her that she should not condone the acts of her son. Maritess then sought the assistance of P/Supt. Buenaobra regarding the respondent's disappearance from the police station. The PNP Cagayan Regional Office was then preparing a case for *habeas corpus* when the respondent was released on June 18, 2009 to the local SWD office.²⁰

Maritess then sought the assistance of the Regional Office of the Commission on Human Rights (CHR) in Cagayan as regards the case of the respondent.²¹ On August 25, 2009, the respondent, assisted by the CHR, filed a Petition for the Issuance of a Writ of *Amparo* with the CA.²²

¹⁵ Id. at 19, 123.
¹⁶ Id. at 123-124.
¹⁷ Id. at 124.
¹⁸ Id.
¹⁹ Id. at 125.
²⁰ Id. at 20-21.
²¹ Id. at 22.
²² Id. at 119.

On September 14, 2009, the CA, gave due course to the petition and directed the issuance of the writ of *amparo*. On September 23, 2009, the petitioners filed their verified return.²³

A summary hearing was thereafter conducted by the CA. The respondent presented in evidence his own testimony and the testimonies of Dr. Odessa B. Tiangco (Dr. Tiangco) of the Cagayan Valley Medical Center, provincial social welfare officer Elvira Layus (Layus), and Maritess.²⁴ The petitioners, on the other hand, presented the testimony of Cinabre, Encollado, Baligod, and Robin.²⁵

The CA further issued *subpoena duces tecum ad testificandum* to and heard the testimony of P/Supt. Buenaobra.²⁶

On January 18, 2010, the CA rendered the herein assailed Decision,²⁷ the decretal portion of which reads:

WHEREFORE, the Petition for a Writ of Amparo filed by [the respondent] is hereby **GRANTED**. Accordingly:

1. [The petitioners] are hereby enjoined from doing any act of physical or psychological violence that would harm or threaten [the respondent] and his family, including those who assisted him in the preparation of this present petition, especially the [CHR], Regional Office No. 02, Cagayan and his witnesses;

2. The Head of the PNP Regional Office of Cagayan, whoever is the incumbent, is hereby ordered to continue the investigation on the violation done against [the respondent], and using extraordinary diligence, to furnish this Court with a report regarding the said investigation. The investigation must be commenced as soon as possible but not more than 30 days from the receipt of this Decision.

3. [Mayor Mamba] is hereby ordered to provide assistance to the above PNP investigation including but not limited to the act of furnishing and/or providing the latter a list of the members of the Task Force who had direct involvement in the violation of [the respondent's] rights to life, liberty and security, including their identities and whereabouts, and to allow the investigation to run its course unhindered or influenced. He is further ordered to update and furnish this Court of the actions he has done or will be doing regarding this directive.

²³ Id. at 18.
²⁴ Id. at 119.
²⁵ Id. at 119-120.
²⁶ Id. at 120.
²⁷ Id. at 17-41.



4. The Head of the PNP Regional Office of Cagayan and [Mayor Mamba] are ordered to update this Court regarding their reportorial duty under this Decision within ten (10) days from the commencement of the investigation, and thereafter, to make a quarterly report regarding the said investigation. The investigation should be completed within one year from the receipt of this Decision;

5. All findings resulting from the said investigation should be made available to [the respondent] and his counsel should they consider the same necessary to aid them in the filing of appropriate actions, criminal or otherwise, against those who are responsible for the violation of the former's rights.

Failure to comply with the above will render the Head of the PNP Regional Office of Cagayan and [Mayor Mamba] liable for contempt of this Court.

The Clerk of Court is hereby ordered to also furnish the Head of the PNP Regional Office of Cagayan a copy of this Decision.

SO ORDERED.²⁸

The CA opined that the respondent's rights to liberty and security were undeniably undermined when he was invited by the members of the Task Force for investigation and was brought to Mayor Mamba's house from the Tuao police station.²⁹ It further pointed out that notwithstanding that Mayor Mamba was not in Tuao when the incident happened, he is still accountable since he failed to show sufficient action to protect the respondent's rights; that Mayor Mamba failed to acknowledge the irregularity of the acts of the members of the Task Force or to identify those who were responsible for the violation of the respondent's rights. The CA further ruled that it was incumbent upon Atty. Mamba, being a public servant, to ensure that the respondent's constitutional rights are not violated.³⁰

The CA pointed out that the "invitation" extended to the respondent by the members of the Task Force was in the nature of an arrest as the real purpose of the same was to make him answer to the heist committed the night before. The CA ruled that the same amounted to an invalid warrantless arrest since the circumstances of the case do not fall within the purview of Section 5 of Rule 113 of the Rules of Court.³¹

²⁸ Id. at 39-41.

²⁹ Id. at 28.

³⁰ Id. at 29.

³¹ Id. at 30.

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Further, the CA ruled that although the respondent was subsequently released and that he failed to establish that there is an impending danger of physical harm to him or his family, the refusal of the respondent officials of the local government of Tuao, especially Mayor Mamba, to admit and address the irregularities committed by the members of the Task Force is tantamount to a continuing violation of the respondent's right to security.³²

The petitioners sought a reconsideration³³ of the Decision dated January 18, 2010, but it was denied by the CA in its Resolution³⁴ dated March 2, 2010.

Hence, this petition.

The petitioners claim that the CA erred in issuing the writ of *amparo* in favor of the respondent. They insist that the respondent, who was then the suspect in the robbery of the canteen, was not illegally detained or tortured; that the members of the Task Force merely invited him for questioning as to his involvement in the robbery.³⁵ They allege that the petition for the issuance of a writ of *amparo* is not the proper remedy available to the respondent since the present laws provide ample recourse to him for the alleged threats to his life, liberty and security. They also maintain that the respondent's rights to life, liberty and security are not under threat since he and his mother stated that they are not afraid of the petitioners.³⁶

The petitioners further aver that it was improper for the CA to direct the PNP Cagayan Regional Office to conduct further investigation on the incident since P/Supt. Buenaobra had already testified for the respondent during the summary hearing conducted by the CA.³⁷ They also maintain that Mayor Mamba and Atty. Mamba had nothing to do with the alleged violation of the rights of the respondent since they were not in Tuao at the time of the incident. That when Mayor Mamba returned to Tuao, he immediately met Maritess to discuss the incident, but the latter failed to identify the persons involved in the incident.³⁸

On the other hand, the respondent claims that this petition was filed beyond the reglementary period. He claims that under Section 19 of A.M. No. 07-9-12-SC, an appeal from the final judgment or order must be filed with this Court within five working days from notice of the adverse judgment. The respondent avers that the petitioners, instead of immediately

³² Id. at 34.

³³ Id. at 262-269.

³⁴ Id. at 42-51.

³⁵ Id. at 228-230.

³⁶ Id. at 10.

³⁷ Id. at 11.

³⁸ Id. at 11-12.

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filing a petition for review on *certiorari* with this Court, opted to file a motion for reconsideration with the CA, which is a prohibited pleading since it is dilatory.³⁹

The respondent further maintains that the CA did not err when it directed the issuance of a writ of *amparo* in his favor. He claims that the writ of *amparo* is an appropriate remedy in his case since it covers enforced disappearances; that his illegal warrantless arrest is covered by the term “enforced disappearances.”⁴⁰

Issues

Essentially, the issues for the Court’s consideration are the following: **first**, whether the petition for review on *certiorari* before the Court was filed within the reglementary period; and **second**, whether the CA erred in granting the petition for the issuance of a writ of *amparo*.

Ruling of the Court

The petition is devoid of merit.

First Issue: Timeliness of the petition

The petition for review on *certiorari* before the Court, which assails the CA’s grant of the writ of *amparo*, contrary to the respondent’s assertion, was filed on time. Section 19 of A.M. No. 07-9-12-SC provides that:

Sec. 19. *Appeal*. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise question of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in *habeas corpus* cases.

There is nothing in A.M. No. 07-9-12-SC which proscribes the filing of a motion for reconsideration of the final judgment or order that grants or denies a writ of *amparo*. Section 11 of A.M. No. 07-9-12-SC only prohibits the following pleadings and motions:

³⁹ Id. at 57-58.

⁴⁰ Id. at 59.

Sec. 11. *Prohibited Pleadings and Motions.* – The following pleadings and motions are prohibited:

- a. Motion to dismiss;
- b. Motion for extension of time to file return, opposition, affidavit, position paper and other pleadings;
- c. Dilatory motion for postponement;
- d. Motion for a bill of particulars;
- e. Counterclaim or cross-claim;
- f. Third-party complaint;
- g. Reply;
- h. Motion to declare respondent in default;
- i. Intervention;
- j. Memorandum;
- k. Motion for reconsideration of interlocutory orders or interim relief orders; and
- l. Petition for *certiorari*, mandamus, or prohibition against any interlocutory order.

What is prohibited under Section 11 of A.M. No. 07-9-12-SC are motions for reconsideration directed against interlocutory orders or interim relief orders, not those assailing the final judgment or order. The pleadings and motions enumerated in Section 11 of A.M. No. 07-9-12-SC would unnecessarily cause delays in the proceedings; they are, thus, proscribed since they would run counter to the summary nature of the rule on the writ of *amparo*. A motion seeking a reconsideration of a final judgment or order in such case, obviously, no longer affects the proceedings.

Moreover, the Rules of Court applies suppletorily to A.M. No. 07-9-12-SC insofar as it is not inconsistent with the latter.⁴¹ Accordingly, there being no express prohibition to the contrary, the rules on motions for reconsideration under the Rules of Court apply suppletorily to the Rule on the Writ of *Amparo*.

Nevertheless, considering that under Section 19 of A.M. No. 07-9-12-SC a party is only given five working days from the date of notice of the adverse judgment within which to appeal to this Court through a petition for review on *certiorari*, a motion for reconsideration of a final judgment or order must likewise be filed within the same period. Thereafter, from the order denying or granting the motion for reconsideration, the party concerned may file an appeal to the Court *via* a Rule 45 petition within five working days from notice of the order pursuant to the fresh period rule.⁴²

⁴¹ A.M. No. 07-9-12-SC, Section 25.

⁴² See *Neypes v. Court of Appeals*, 506 Phil. 613, .

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The petitioners received a copy of the CA's Decision dated January 18, 2010 on January 20, 2010.⁴³ They, thus, have until January 27, 2010 to either file a motion for reconsideration with the CA or an appeal to this Court through a Rule 45 petition.⁴⁴ On January 25, 2010, the petitioners filed a motion for reconsideration with the CA.⁴⁵ The CA denied the petitioners' motion for reconsideration in its Resolution dated March 2, 2010, a copy of which was received by the petitioners' counsel on March 8, 2010.⁴⁶ Thus, the petitioners had until March 15, 2010 within which to appeal to this Court.⁴⁷ The petitioners filed this petition for review on *certiorari* on March 12, 2010.⁴⁸ Thus, contrary to the respondent's claim, this petition was filed within the reglementary period.

Second Issue: Propriety of the grant of the writ of amparo

The writ of *amparo* is a protective remedy aimed at providing judicial relief consisting of the appropriate remedial measures and directives that may be crafted by the court, in order to address specific violations or threats of violation of the constitutional rights to life, liberty or security.⁴⁹ Section 1 of A.M. No. 07-9-12-SC specifically delimits the coverage of the writ of *amparo* to extralegal killings and enforced disappearances, *viz.*:

Sec. 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person whose rights 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 or threats thereof.

Extralegal killings are killings committed without due process of law, *i.e.*, without legal safeguards or judicial proceedings.⁵⁰ On the other hand, enforced disappearance has been defined by the Court as the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law.⁵¹

⁴³ *Rollo*, p. 262.

⁴⁴ January 23 and 24, 2010 fell on Saturday and Sunday, respectively.

⁴⁵ *Rollo*, p. 57.

⁴⁶ *Id.* at 3.

⁴⁷ March 13 and 14, 2010 fell on Saturday and Sunday, respectively.

⁴⁸ *Rollo*, p. 3.

⁴⁹ *Gen. Razon, Jr., et al. v. Tagitis*, 621 Phil. 536, 553 (2009).

⁵⁰ *Secretary of National Defense, et al. v. Manalo, et al.*, 589 Phil. 1, 37 (2008).

⁵¹ *Navia, et al. v. Pardico*, 688 Phil. 266, 278 (2012), citing *Gen. Razon, Jr., et al. v. Tagitis*, *supra* note 49, at 597.

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In an *amparo* action, the parties must establish their respective claims by substantial evidence.⁵² Substantial evidence is that amount of evidence which a reasonable mind might accept as adequate to support a conclusion. It is more than a mere imputation of wrongdoing or violation that would warrant a finding of liability against the person charged.⁵³

After a thorough review of the records of this case, the Court affirms the factual findings of the CA, which is largely based on the respondent's evidence. Verily, the totality of the evidence presented by the respondent meets the requisite evidentiary threshold. To corroborate his allegations, the respondent presented the testimony of Haber who, during the hearing conducted by the CA on October 6, 2009, averred that on June 15, 2009, he was brought to Mayor Mamba's house where he and the respondent were tortured. Haber testified that hot wax was dripped onto their bodies while they were handcuffed; that they were kicked and beaten with a cue stick and an alcohol container. Thereafter, Haber testified that he and the respondent were brought to the guardhouse where they were suffocated by placing plastic bags on their heads. He also testified that a wire was inserted inside their penises.⁵⁴

The respondent's claim was further corroborated by Dr. Tiangco who testified that on June 18, 2009, she examined the respondent and found that he suffered several injuries and multiple second degree burns. Layus also attested that she saw the scars incurred by the respondent on his head, arms, and back when she interviewed him on July 26, 2009.⁵⁵

In contrast, the respective testimonies of the witnesses for the petitioners merely consisted in denial and the allegation that the respondent was indeed the one who robbed the canteen.⁵⁶ Clearly, against the positive testimony of the respondent, which was corroborated by his witnesses, the petitioners' allegations must fail.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by a strong evidence of non-culpability; otherwise, such denial is purely self-serving and without evidentiary value.⁵⁷ Further, even if the respondent was indeed guilty of a crime, assuming it to be true, it does not justify his immediate apprehension, in the guise of an invitation, and the subsequent acts of torture inflicted on him.

⁵² A.M. No. 07-9-12-SC, Sections 17 and 18.

⁵³ *Rubrico, et al. v. Macapagal-Arroyo, et al.*, 627 Phil. 37, 69 (2010).

⁵⁴ *Rollo*, pp. 23-24.

⁵⁵ *Id.* at 25.

⁵⁶ *Id.* at 27.

⁵⁷ *Largo v. Court of Appeals*, 563 Phil. 293, 302 (2007).

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What is clear is that the respondent was able to prove by substantial evidence that he was apprehended by the members of the Task Force, illegally detained, and tortured. It was further established that Maritess would not have seen his son if not for the timely intercession of P/Supt. Buenaobra of the PNP Cagayan Regional Office. The members of the Task Force apprehended and detained the respondent to make him admit to his complicity in the heist the night before *sans* the benefit of legal and judicial processes.

Nevertheless, it is undisputed that the respondent, after four days of detention, had been released by the members of the Task Force on June 18, 2009. This fact alone, however, does not negate the propriety of the grant of a writ of *amparo*.

In the seminal case of *Secretary of National Defense, et al. v. Manalo, et al.*,⁵⁸ the Court emphasized that the writ of *amparo* serves both preventive and curative roles in addressing the problem of extralegal killings and enforced disappearances. It is preventive in that it breaks the expectation of impunity in the commission of these offenses; it is curative in that it facilitates the subsequent punishment of perpetrators as it will inevitably yield leads to subsequent investigation and action.⁵⁹

Accordingly, a writ of *amparo* may still issue in the respondent's favor notwithstanding that he has already been released from detention. In such case, the writ of *amparo* is issued to facilitate the punishment of those behind the illegal detention through subsequent investigation and action.

More importantly, the writ of *amparo* likewise covers violations of the right to security. At the core of the guarantee of the right to security, as embodied in Section 2, Article III of the Constitution,⁶⁰ is the immunity of one's person, including the extensions of his/her person, *i.e.*, houses, papers and effects, against unwarranted government intrusion. Section 2, Article III of the Constitution not only limits the State's power over a person's home and possession, but more importantly, protects the privacy and sanctity of the person himself.⁶¹

⁵⁸ 589 Phil. 1 (2008).

⁵⁹ *Id.* at 41.

⁶⁰ Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched or the persons or things to be seized.

⁶¹ *Secretary of National Defense, et al. v. Manalo, et al.*, *supra* note 58, at 49.

The right to security is separate and distinct from the right to life. The right to life guarantees essentially the right to be alive – upon which the enjoyment of all other rights is preconditioned. On the other hand, the right to security is a guarantee of the secure quality of life, *i.e.*, 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.⁶²

In *Manalo*, the Court further opined that the right to security of person yields various permutations of the exercise of the right, such as freedom from fear or, in the *amparo* context, freedom from threat; a guarantee of bodily and psychological integrity or security; and a guarantee of protection of one's rights by the government.⁶³ As regards the right to security, in the sense of the guarantee of protection of one's rights by the government, the Court explained:

In the context of the writ of *amparo*, this right is **built into the guarantees of the rights 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.⁶⁴ (Citation omitted and emphasis in the original)

In this case, it is incumbent upon the petitioners, who all hold positions in the local government of Tuao, to conduct, at the very least, an investigation on the alleged illegal arrest, illegal detention and torture of the respondent. The petitioners, nevertheless, claim that the Office of the Mayor and the police station of Tuao, unknown to the respondent, are conducting an investigation on the incident. However, other than their bare assertion, they failed to present any evidence that would prove the supposed investigation. Mere allegation is not a fact. Absent any evidence that would corroborate the said claim, it is a mere allegation that does not have any probative value.

Verily, the petitioners failed to point to any specific measures undertaken by them to effectively investigate the irregularities alleged by the respondent and to prosecute those who are responsible therefor. Worse, the

⁶² Id. at 50.

⁶³ Id. at 54.

⁶⁴ Id. at 54-55.

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illegal detention and torture suffered by the respondent were perpetrated by the members of the Task Force themselves.

Instead of effectively addressing the irregularities committed against the respondent, the petitioners seemingly justify the illegal arrest and detention and infliction of bodily harm upon the respondent by stating that the latter is a habitual delinquent and was the one responsible for the robbery of the canteen. As stated earlier, even if the respondent committed a crime, the petitioners, as local government officials, are not at liberty to disregard the respondent's constitutionally guaranteed rights to life, liberty and security. It is quite unfortunate that the petitioners, all local government officials, are the very ones who are infringing on the respondent's fundamental rights to life, liberty and security.

Clearly, there is substantial evidence in this case that would warrant the conclusion that the respondent's right to security, as a guarantee of protection by the government, was violated. Accordingly, the CA correctly issued the writ of *amparo* in favor of the respondent.

The petitioners' claim that it was improper for the CA to direct the PNP Cagayan Regional Office to conduct further investigation on the respondent's allegations deserves scant consideration. There is simply no basis to the petitioners' claim that the PNP Cagayan Regional Office would not be expected to be objective in their investigation since representatives therefrom testified during the summary hearing. It bears stressing that P/Supt. Buenaobra was not a witness for the respondent; he testified pursuant to the *subpoena duces tecum ad testificandum* issued by the CA. Further, as aptly pointed out by the CA, it would be more reasonable for the PNP Cagayan Regional Office to conduct the said investigation since it has already commenced an initial investigation on the incident.

Nevertheless, there is a need to modify the reliefs granted by the CA in favor of the respondent. The CA's Decision was promulgated in 2010. Since then, Mayor Mamba's term of office as Mayor of Tuao had ended and, presumably, a new individual is now occupying the position of Mayor of Tuao. Accordingly, the incumbent Mayor of Tuao should be directed to likewise provide assistance to the investigation to be conducted by the PNP Cagayan Regional Office. Further, it has not been manifested in this case that the PNP Cagayan Regional Office had commenced the investigation on the incident that was ordered by the CA.


WHEREFORE, in consideration of the foregoing disquisitions, the petition is **DENIED**. The Decision dated January 18, 2010 and Resolution dated March 2, 2010 issued by the Court of Appeals in CA-G.R. SP. No. 00038 are hereby **AFFIRMED** subject to the following terms:

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1. Petitioners Mayor William N. Mamba, Atty. Francisco N. Mamba, Jr., Ariel Malana, Narding Aggangan, Jomari Sagalon, Jun Cinabre, Frederick Baligod, Rommel Encollado, Joseph Tumaliuan, and Randy Dayag and the incumbent local government officials of Tuao, Cagayan are hereby enjoined from doing any act of physical or psychological violence on respondent Leomar Bueno and his family including those who assisted him in the filing of the petition for the issuance of a writ of *amparo* with the Court of Appeals;
2. The Regional Director of the Philippine National Police – Cagayan Regional Office, whoever is the incumbent, is hereby directed to conduct an investigation, using extraordinary diligence, on the violation of the rights to life, liberty and security of the respondent when he was supposedly arrested on June 14, 2009 by the members of the Task Force Lingkod Bayan until he was released on June 18, 2009;
3. The petitioners and the incumbent officials of the local government of Tuao are hereby ordered to provide genuine and effective assistance to the investigation to be conducted by the Philippine National Police – Cagayan Regional Office, including but not limited to furnishing and/or providing the latter a list of the members of the Task Force Lingkod Bayan and all those who had a direct involvement in the violation of the respondent's rights to life, liberty and security, including their whereabouts, and to allow the investigation to run its course unhindered;
4. The investigation shall be completed not later than six (6) months from receipt of this Decision; and within thirty (30) days after completion of the investigation, the Regional Director of the Philippine National Police – Cagayan Regional Office shall submit a full report on the results of the investigation to the Court of Appeals;
5. The Court of Appeals, within thirty (30) days from the submission by the Regional Director of the Philippine National Police – Cagayan Regional Office of his full report, is directed to submit to this Court its own report and recommendations on the investigation and furnish a copy thereof to the incumbent Regional Director of the Philippine National Police – Cagayan Regional Office, the petitioners, and the respondent; and
6. This case is referred back to the Court of Appeals for appropriate proceedings directed at the monitoring of (a) the investigation to be conducted by the Philippine National Police – Cagayan Regional Office, (b) the actions to be undertaken in pursuance of the said investigation, and (c) the validation of the results.

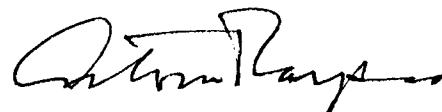
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SO ORDERED.



BIENVENIDO L. REYES
 Associate Justice

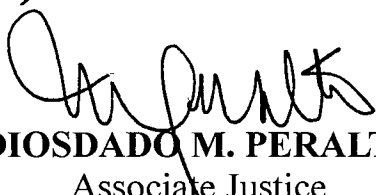
WE CONCUR:

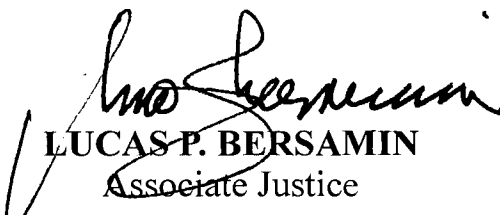

MARIA LOURDES P. A. SERENO
 Chief Justice

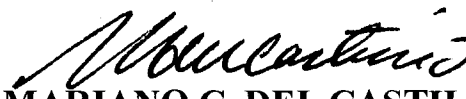

ANTONIO T. CARPIO
 Associate Justice

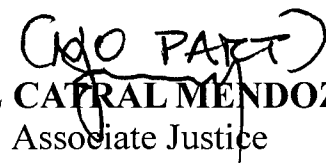

PRESBITERO J. VELASCO, JR.
 Associate Justice

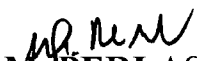

TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


DIOSDADO M. PERALTA
 Associate Justice

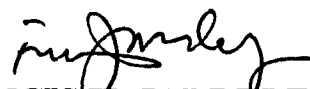

LUCAS P. BERSAMIN
 Associate Justice


MARIANO C. DEL CASTILLO
 Associate Justice


JOSE CATRAL MENDOZA
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice



MARVIC M.V.F. LEONEN
 Associate Justice

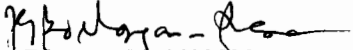

FRANCIS H. JARDELEZA
 Associate Justice

(On leave)
ALFREDO BENJAMIN S. CAGUIOA
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.


MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED XEROX COPY:

FELIPA BU ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT



