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Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

FE J. MORADA,

*Petitioner,*

G.R. No. 222226

Present:

- versus -

PERLAS-BERNABE, S.A.J.,  
HERNANDO,  
INTING,  
GAERLAN, and  
DIMAAMPAO, JJ.

RANDY RIAS, EX-O ROLLY  
CEBU, DESK OFFICER ROMY  
DONALDO, DESK OFFICER  
FERNANDO DOMINGO and  
OTHER JOHN DOES OF  
BARANGAY 176, CALOOCAN  
CITY,

*Respondents.*

Promulgated:

FEB 14 2022

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DECISION

HERNANDO, J.:

At bar is a petition for review on *certiorari*<sup>1</sup> filed by petitioner Fe J. Morada (Morada) from the Order<sup>2</sup> dated January 26, 2016 of the Regional Trial Court (RTC) of Caloocan City, Branch 123, which denied the Petition for Issuance of Writ of Amparo<sup>3</sup> she filed for the alleged enforced disappearance of her son, Johnson J. Morada (Johnson).

Antecedent Facts

Morada alleged that on October 14, 2015 at around 8:00 a.m., she received a text message from her daughter, Jennilyn J. Morada, that Johnson was arrested

<sup>1</sup> *Rollo*, pp. 12-28.

<sup>2</sup> *Id.* at 32-37.

<sup>3</sup> *Id.* at 38-43.

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and detained by the barangay tanods of Barangay 176, Caloocan City for alleged theft of a mobile phone in the house of another barangay tanod, herein respondent Randy Rias (Randy).<sup>4</sup>

Morada went to the barangay hall at about 7:00 p.m. of October 14, 2015. At the barangay hall, respondent Rolly Cebu (Rolly) informed Morada that Johnson was already released by either respondent Fernando Domingo (Fernando) or respondent Romy Donaldo (Romy) from the custody of the barangay as evidenced by the entry in the barangay blotter, signed by Johnson himself.<sup>5</sup>

In December 2015, Morada went to the Northern Police District (NPD) to report that her son is missing. An investigation was conducted but the same was terminated in view of the lack of a witness to shed light on Johnson's disappearance and the insistence of the respondent barangay desk officers that Johnson was already released from their custody.<sup>6</sup>

In the meantime, rumors circulated within Barangay 176 that Johnson had been extrajudicially killed and that his body was mixed in cement in order to conceal the incident. This prompted Morada to institute a petition for the issuance of a writ of amparo to determine whether respondents had violated or threatened to violate Johnson's right to life, liberty and security, and to compel respondents to determine the whereabouts of Johnson, and the person/s responsible for his disappearance or possible death, among others.<sup>7</sup>

On January 25, 2016, Morada filed before the RTC a Petition for Issuance of Writ of Amparo,<sup>8</sup> docketed as SP. PROC CASE NO. C-5159.

### **Ruling of the Regional Trial Court**

On January 26, 2016, the RTC rendered the assailed Order<sup>9</sup> denying the petition. The RTC held that there was no showing of any refusal on the part of the respondents to acknowledge or to give information on Johnson's whereabouts such that there was no intention to remove him from the protection of the law for a prolonged period of time. Thus, the third and fourth elements of enforced disappearance are absent. The decretal portion of the RTC Order reads:

Premises considered, the petition is hereby DENIED DUE COURSE and is accordingly DISMISSED.

SO ORDERED.<sup>10</sup>

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<sup>4</sup> Id. at 39.

<sup>5</sup> Id. at 48.

<sup>6</sup> Id. at 40.

<sup>7</sup> Id. at 40-42.

<sup>8</sup> Id. at 38-43.

<sup>9</sup> Id. at 32-37.

<sup>10</sup> Id. at 37.

Undaunted, Morada instituted the present petition before this Court.

### Issue

The issue for resolution is whether the RTC gravely erred in not giving due course to the petition for issuance of writ of amparo despite substantial evidence submitted in support of the same.

Morada argues that, contrary to the RTC's findings, the enforced disappearance of Johnson had been established by substantial evidence. Morada insists that the lack of cooperation on the part of the respondents amounted to a refusal on their part to acknowledge or give information on the fate or whereabouts of Johnson, showing their intention to remove him from the protection of the law.<sup>11</sup>

### Our Ruling

The petition has no merit.

#### *No substantial evidence exists to prove Morada's claim*

Section 19 of the Rule on the Writ of Amparo (A.M. No. 07-9-12-SC) is explicit that both questions of fact and law can be raised before the Court in a petition for review on *certiorari* under Rule 45.<sup>12</sup> As a rule then, the Court is not bound by the factual findings made by the lower court which rendered the judgment in a petition for the issuance of the writ of amparo. Be that as it may, a careful review of the records of the case reveals that the RTC committed no reversible error in finding that no substantial evidence exists to compel the grant of the writ prayed for by Morada.

The elements constituting enforced disappearance as defined under Republic Act No. 9851 are 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

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<sup>11</sup> Id. at 34.

<sup>12</sup> SEC. 19. *Appeal*. – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

(d) that the intention for such refusal is to remove subject person from the protection of the law for a prolonged period of time.<sup>13</sup>

There is no question that the first and second elements are attendant in this case. However, We agree with the RTC that the third and fourth elements are sorely lacking. While it is admitted that Johnson was arrested for the alleged theft that he committed in the house of Randy, it was sufficiently established by the respondents that he was already released from their custody on October 14, 2015, as evidenced by the barangay blotter, signed by Johnson himself.<sup>14</sup> In fact, Morada neither denied nor refuted the said document of release. As opposed to the unsubstantiated allegations of Morada that it is respondents who are responsible for Johnson's disappearance, We accord greater weight to the documentary evidence presented by the respondents exhibiting that Johnson was no longer in the custody of the respondents when he disappeared. Such evidence strongly militate against Morada's claim of enforced disappearance.

Morada further argues that the lack of cooperation on the part of the respondents constitutes a refusal on their part to acknowledge Johnson's disappearance and the corresponding intention to remove him from the protection of the law.

This argument is specious.

By her own admission, Morada disclosed that when she inquired about her son Johnson at the barangay hall, she was immediately informed by respondent Rolly that Johnson was captured but was also released from detention the same day. In support thereof, Rolly showed the barangay blotter which bore Johnson's signature showing his release. Thus, it is clear that there was no refusal to give information on the whereabouts of Johnson.

Morada further admitted that the NPD conducted an investigation on Johnson's disappearance but the same was terminated due to the lack of a witness to give light to the investigation and on account of the information from the barangay that he was already released from custody. The foregoing belie Morada's claim of lack of cooperation on the part of the authorities. On this score, We agree with the following observations of the RTC:

This documentary proof of Johnson's release from detention is, to the mind of the Court, substantial evidence to establish that the respondents have not refused to acknowledge or give information on the whereabouts of Johnson, as in fact it should be regarded as information positively showing that Johnson was no longer under the hold of the barangay officials.<sup>15</sup>

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<sup>13</sup> *Navia v. Pardico*, 688 Phil. 266, 279 (2012).

<sup>14</sup> *Rollo*, p. 48.

<sup>15</sup> *Id.* at 36.

Accordingly, there was no intention to remove Johnson from the protection of the law for a prolonged period of time as he had been released already. Hence, We see no enforced or involuntary disappearance that would warrant the issuance of the writ of amparo.

“For the issuance of the writ, it is not sufficient that a person's life is endangered. It is even not sufficient to allege and prove that a person has disappeared. It has to be shown by the required quantum of proof that the disappearance was carried out by, or with the authorization, support or acquiescence of the government or a political organization, and that there is a refusal to acknowledge the same or to give information on the fate or whereabouts of the missing persons.”<sup>16</sup>

In the instant case, the Court agrees with the RTC that Morada failed to prove by substantial evidence her claim of enforced disappearance. Morada's petition is mainly anchored on the alleged rumor which circulated in their community that Johnson was killed and his dead body was mixed in cement. However, said allegation lacked corroborations. The presentation of testimonial, documentary or at least circumstantial evidence could have made a difference in light of the denials made by the respondents as regards Morada's claims, as well as the documentary evidence, showing that Johnson is no longer in the charge of the barangay. Morada's continued reliance on mere rumors and speculations, without presenting any clear and independent evidence showing that there was a threat to Johnson's life, liberty, and security, even prior to his arrest or that he was physically harmed by the respondents while in detention, does not amount to substantial evidence.

Not only did Morada fail to substantiate any extrajudicial killing or enforced disappearance in this case, she also miserably failed to show any government participation or acquiescence in any killing or disappearance. To reiterate, records show that Johnson was properly accounted for by the authorities who initially detained him.

Given the foregoing, there is no basis for the issuance of the writ of amparo. The liberality accorded to amparo does not mean that a claimant is excused from the onus of proving his case. "Indeed, even the liberal standard of substantial evidence demands some adequate evidence."<sup>17</sup>

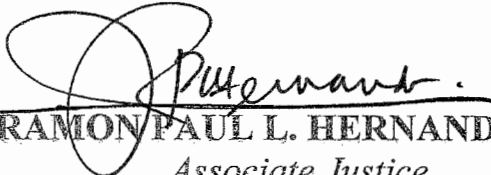
**WHEREFORE**, the instant petition is hereby **DENIED**. The assailed Order dated January 26, 2016 of the Regional Trial Court of Caloocan City, Branch 123 is **AFFIRMED**.

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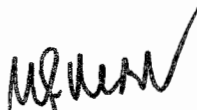
<sup>16</sup> *Callo v. Morente*, 818 Phil. 454, 460-461 (2017), citing *Navia v. Pardico*, supra note 13.


<sup>17</sup> See *Saez v. Macapagal-Arroyo*, 695 Phil. 781, 799 (2012).

**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*  
*Chairperson*

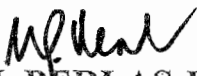
  
**HENRI JEAN PAUL B. INTING**  
*Associate Justice*

  
**SAMUEL H. GAERLAN**  
*Associate Justice*

  
**JAPAR B. DIMAAMPAO**  
*Associate Justice*

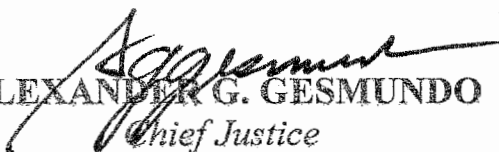
### ATTESTATION

I attest 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's Division.

  
ESTELA M. PERLAS-BERNABE  
*Senior Associate Justice*  
*Chairperson*

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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's Division.

  
ALEXANDER G. GESMUNDO  
*Chief Justice*

