



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

EN BANC

**IN THE MATTER OF PETITION
FOR WRIT OF AMPARO OF
VIVIAN A. SANCHEZ.**

G.R. No. 242257

Present:

VIVIAN A. SANCHEZ,
Petitioner,

GESMUNDO, Chief Justice,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ, M.,
DELOS SANTOS,
GAERLAN,
ROSARIO. and
LOPEZ, J., JJ.

- versus -

**PSUPT. MARC ANTHONY D.
DARROCA, Chief of Police, San
Jose Municipal Police Station;
PSSUPT. LEO IRWIN D.
AGPANGAN, Provincial Director,
PNP-Antique; PCSUPT. JOHN C.
BULALACAO, Regional Director,
PNP-Region VI, and MEMBERS
OF THE PNP UNDER THEIR
AUTHORITY,**

Respondents.

Promulgated:

June 15, 2021

[Signature]

X-----X

RESOLUTION

LEONEN, J.:

“[P]ursuing rebels is a legitimate law enforcement objective, but the zeal with which our law enforcement officers clamp down on persons of

[Handwritten mark]

interest or their loved ones must be bound by the fundamental rights of persons.”¹

On October 15, 2019, this Court granted the Petition for a writ of amparo after finding that petitioner Vivian A. Sanchez proved with substantial evidence that she and her children became persons of interest and were put under surveillance because of her dead husband’s suspected affiliation with the New People’s Army, thereby “creating a real threat to their life, liberty, or security.”²

Further, this Court pointed out that spousal and filial privileges, which continue to exist after the death of a spouse, protected petitioner and her children from inquiries regarding her husband’s activities.³

This Court likewise castigated the police officers’ brusque treatment of petitioner and their surreptitious surveillance. We stressed that if they wanted to interview petitioner, they should have formally done so by holding the interview in an intimidation-free environment and ensuring that petitioner was ably assisted by legal counsel.⁴

Finally, this Court called on the lower courts to be more perceptive in ferreting out the different dynamics at play between police officers and civilians, and to not make their privileged status be the benchmark when rendering judgment.⁵

The dispositive portion of our Decision reads:

WHEREFORE, the Petition is **GRANTED**. A **PERMANENT PROTECTION ORDER** is issued prohibiting members of the Philippine National Police from monitoring or surveilling petitioner Vivian A. Sanchez and her children, Scarlet Sanchez Labinghisa and Star Sanchez Labinghisa. The respondent police officers are reminded to uphold the rights of citizens as contained in the Constitution as well as conduct investigations in accordance with their promulgated manuals including the Ethical Doctrine Manual.

SO ORDERED.⁶ (Emphasis in the original)

In their Motion for Reconsideration,⁷ respondents contend that “the right to privacy, as well as gender and power analysis, [is] not applicable in

¹ *Sanchez v. Darroca*, G.R. No. 242257, October 15, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65970>> [Per J. Leonen, En Banc].

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Rollo*, pp. 300–315.

the present case.”⁸ They also point out that the rules on marital privilege and disqualification only apply to judicial proceedings, not to investigations.⁹

Respondents assert that a writ of amparo is confined to serious human rights violations—particularly, extrajudicial killings and enforced disappearances—and that petitioner failed to present sufficient evidence to prove that she was entitled to the writ. They maintain that since petitioner was a proper subject of an interview, the police officers’ act of interviewing her and taking her photos fell under the regular investigation process and was not intended to harass her or violate her rights.¹⁰

Respondents stress that even the purported threat to charge her with obstruction of justice was brought about by petitioner’s stubborn refusal to answer valid questions from the police officers. This, they add, was not connected with extrajudicial killing.¹¹

Respondents reiterate that they did not conduct or order the surveillance of petitioner and her daughters. They point out that petitioner’s accusations were mostly grounded on mere speculation.¹² They stress that for the writ of amparo to be issued, the alleged threats must be actual or likely to happen.¹³

Nonetheless, respondents maintain that even if petitioner were under monitoring and surveillance, that still did not violate or threaten her right to life, liberty, and security. As a proper subject of investigation—being the wife of a known member of the National People’s Army—her surveillance would have been justified.¹⁴

The Motion for Reconsideration is denied.

I

The right to privacy is a fundamental right, with the Constitution providing explicit limitations on unwarranted State intrusion into personal affairs. To deter potential abuse of the State’s awesome powers by State agents, the Constitution guarantees every person’s right to due process,¹⁵ to

⁸ Id. at 301.

⁹ Id.

¹⁰ Id. at 302–304.

¹¹ Id. at 305.

¹² Id. at 306–308.

¹³ Id. at 311.

¹⁴ Id. at 309.

¹⁵ CONST., art. III, sec. 1 provides:

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

be secure against unreasonable searches and seizures,¹⁶ and to the privacy of their communication and correspondence.¹⁷

One's right to privacy is not set aside because of their relationship with a person of interest or because they have become a person of interest.

The continued drive against communists—with President Rodrigo Duterte even proclaiming that the New People's Army posed a bigger threat than extremist groups¹⁸—puts petitioner and her children in a precarious position, because while respondents deny surveilling petitioner and her children, they nonetheless admit that as the family members of a communist, they were proper subjects of investigation.¹⁹

While respondents have the mandate to investigate, their duty must be balanced with petitioner's fundamental rights. Respondents must also take into account that petitioner and her children are not ordinary witnesses, as seen by the privileges of testimony²⁰ and communication²¹ that they enjoy. Hence, petitioner's relationship with her husband insulates her from any inquiries on his supposed communist activities. Whatever information respondents may have wished to obtain from petitioner or her children, as witting or unwitting witnesses, is protected by spousal and filial privilege.

Additionally, if respondents wanted to investigate petitioner and her children, they should have conducted a formal investigation instead of a

¹⁶ CONST., art. III, sec. 2 provides:

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 and the persons or things to be seized.

¹⁷ CONST., art. III, sec. 3(1) provides:

SECTION 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise as prescribed by law. (2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

¹⁸ Gabriel Pabico Lalu, *Terrorism is top PH threat, NPA is worse than Abu Sayyaf- Duterte*. INQUIRER.NET, June 23, 2020, <<https://newsinfo.inquirer.net/1295870/terrorism-is-number-one-problem-npa-worse-than-abu-sayyaf>> (last accessed on June 23, 2020).

¹⁹ *Rollo*, p. 309.

²⁰ RULES OF COURT, Rule 130, sec. 23 provides:

SECTION 23. *Disqualification by reason of marriage*. — During their marriage, the husband or the wife cannot testify against the other without the consent of the affected spouse, except in a civil case by one against the other, or in a criminal case for a crime committed by one against the other or the latter's direct descendants or ascendants.

RULES OF COURT, Rule 130, sec. 25 provides:

SECTION 25. *Parental and filial privilege*. — No person shall be compelled to testify against his or her parents, other direct ascendants, children or other direct descendants, except when such testimony is indispensable in a crime against that person or by one parent against the other.

²¹ RULES OF COURT, Rule 130, sec. 24(a) provides:

SECTION 24. *Disqualification by reason of privileged communication[s]*. — The following persons cannot testify as to matters learned in confidence in the following cases:

(a) The husband or the wife, during or after the marriage, cannot be examined without the consent of the other as to any communication received in confidence by one from the other during the marriage except in a civil case by one against the other, or in a criminal case for a crime committed by one against the other or the latter's direct descendants or ascendants[.]

surreptitious surveillance, which not only infringed on petitioner's right to privacy and her spousal privilege, but was also an abuse of respondents' authority as State agents. As we said in our Decision:

Even the surreptitious surveillance of petitioner and her family is an abuse of the Philippine National Police's authority. If respondents wanted to interview petitioner and her children, they should have done so formally: informing them of their rights, holding the interview in an environment free of intimidation, and making sure that they had access to and were assisted by legal counsel or legal assistance groups. Further, when a minor is being interviewed, the interviewer should be specially trained to handle children.²²

II

Restating the points he had raised in his earlier dissent, Justice Ramon Paul L. Hernando says petitioner failed to substantiate her entitlement to a writ of amparo with the required substantial evidence. He also repeats that petitioner failed to show that respondent State agents committed any unlawful act or omission to merit the issuance of a permanent protection order and writ of amparo in her favor.²³

This Court disagrees.

Section 17 of the Rule on the Writ of Amparo requires both parties to the petition to establish their respective claims with substantial evidence. Apart from this, Section 17 also imposed a secondary requirement on State agents: They must show extraordinary diligence in the performance of their duties, and are forbidden from seeking refuge in the presumption of regularity in the performance of their official duties:

SECTION 17. *Burden of Proof and Standard of Diligence Required.* — The parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

²² *Sanchez v. Darroca*, G.R. No. 242257, October 15, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65970>> [Per J. Leonen, En Banc].

²³ J. Hernando, Dissenting Opinion, pp. 2–3.

This Court, through *Razon v. Tagitis*,²⁴ stated that courts must consider the “totality of the obtaining situation”²⁵ in determining whether a petitioner is entitled to a writ of amparo.

The totality of petitioner’s evidence convincingly shows that she and her family became subject of unwarranted police surveillance due to their relationship with a suspected member of the New People’s Army, resulting in an actual threat to their life, liberty, and security due to the government’s unparalleled zeal in eradicating communism:

The totality of obtaining circumstances likewise shows that petitioner and her children were the subject of surveillance because of their relationship with a suspected member of the New People’s Army, creating a real threat to their life, liberty, or security.

Being Labinghisa’s widow, despite being separated in fact from him for more than a decade, puts her at a precarious position in light of the current administration’s aggressive efforts to stamp out the communist struggle in the country, which is seen as the “scourge of society[.]” Her apprehension at being targeted as a suspected member of the New People’s Army was, thus, palpable and understandable, causing her to “act suspiciously” as claimed by respondents, who subjected her to threats and accusations.

Respondent Police Superintendent Darroca claims that petitioner was only placed under general investigation because they wanted to know the identity of the last unclaimed cadaver. However, the drive-bys and tailings intensified after petitioner had identified her husband, belying his assertions that their investigation was innocuous.²⁶ (Citations omitted)

III

Respondents are gravely mistaken in their assertion that “the right to privacy, gender and power analysis, are not applicable in the present case.”²⁷

Human social interactions are never done in a vacuum and are always marked by power dynamics. Even the most innocuous of exchanges are still influenced by badges of power such as wealth, gender, and position. Trial courts must thus be perceptive of and recognize the oftentimes gross imbalance in power dynamics between private citizens and State agents.

Here, two tiers of power were at play: (1) law enforcer-civilian; and (2) male-female. In this case, male police officers investigated and

²⁴ 626 Phil. 581 (2010) [Per J. Brion, En Banc].

²⁵ Id. at 592.

²⁶ *Sanchez v. Darroca*, G.R. No. 242257, October 15, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65970>> [Per J. Leonen, En Banc].

²⁷ *Rollo*, p. 301.

monitored petitioner and her children due to their relationship with an alleged member of the New People's Army.

Petitioner was targeted because she initially refused to divulge her relationship with her dead husband when she went to the funeral parlor. Respondents claim that she was only placed under general investigation because they wanted to know the identity of the unclaimed cadaver, but even after she had admitted to being the suspected member's estranged wife, police surveillance continued and even intensified, causing her fear and anxiety for her and her children's safety.

Respondents maintain that there was no violation of petitioner's right to privacy as her behavior in the funeral parlor naturally raised the suspicion of the stationed police officers. The Regional Trial Court then adopted respondents' assertion that the taking of petitioner's photo and the threats to charge her with obstruction of justice were just par for the course in the conduct of an investigation. It turned a blind eye to the gross power imbalance between the parties, ruling as if petitioner were on an equal footing with State agents, thus deeming it but proper that her reticence and nervousness be taken against her. We reiterate our instruction to the lower courts:

In inferring conclusions involving power deficits in relationships, judges must be careful not to be gender-blind. In denying the Petition for the writ of amparo, the Regional Trial Court echoed respondents' statement that the taking of petitioner's photo and the threats of obstruction of justice thrown at her were part of "the conduct of a logical investigation." It could not see, or it refused to see that these actions, together with the surveillance done, were actual or imminent threats against petitioner and her children.

In rendering judgment, judges must not impose a standpoint viewed from their implicit status in society. They must look beyond their status as well-connected people who can assert themselves against men in uniform and who have no filial relation to one tagged as a communist.

By advertently or inadvertently ignoring petitioner's not so unique predicament as the spouse of a labeled communist, the Regional Trial Court created standards that would deny protection to those who need it most.²⁸ (Citation omitted)

Thus, in determining the existence of substantial evidence to support a petition for a writ of amparo, judges should also be cognizant of the different power dynamics at play when assessing if there is an actual or future threat to a petitioner's life, security, or liberty. Refusing to acknowledge this might lead to an outright denial of protection to those who need it the most. 

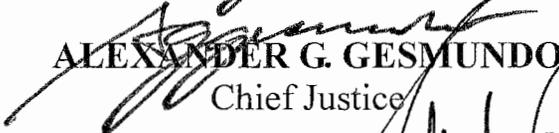
²⁸ *Sanchez v. Darroca*, G.R. No. 242257, October 15, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65970>> [Per J. Leonen, En Banc].

WHEREFORE, the Motion for Reconsideration is **DENIED**. The issued **PERMANENT PROTECTION ORDER** prohibiting members of the Philippine National Police from monitoring or surveilling petitioner Vivian A. Sanchez and her children, Scarlet Sanchez Labinghisa and Star Sanchez Labinghisa, over their suspected association with the New People's Army is **REITERATED**.

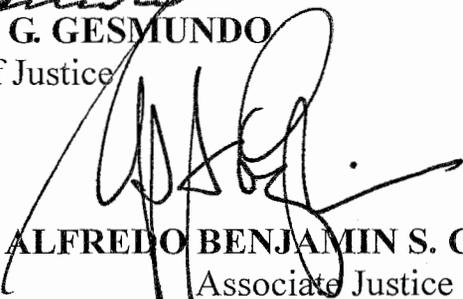
SO ORDERED.

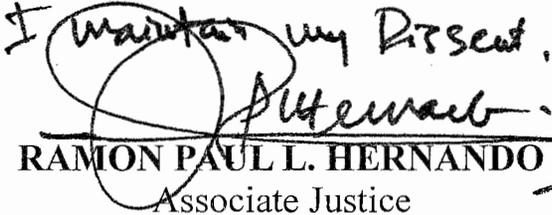

MARVIC M.V.F. LEONEN
Associate Justice

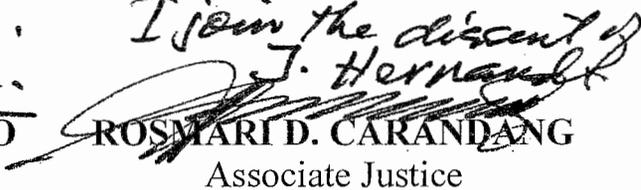
WE CONCUR:

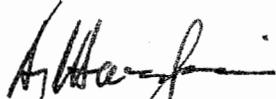
I join the dissent of Justice Hernandez

ALEXANDER G. GESMUNDO
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

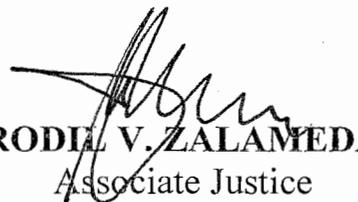

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

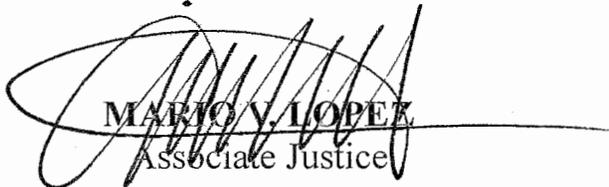
I maintain my Dissent.

RAMON PAUL L. HERNANDO
Associate Justice

I join the dissent of J. Hernandez

ROSMARI D. CARANDANG
Associate Justice

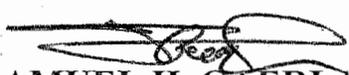

AMY C. LAZARO-JAVIER
Associate Justice

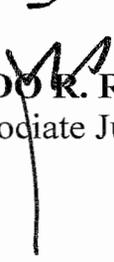

HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice