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1. the conclusion is a finding grounded entirely on speculation;
2. the inference made is manifestly mistaken, absurd or impossible;
3. there is a grave abuse of discretion;
4. the judgment is based on a misapprehension of facts;
5. the Court of Appeals in making its findings, went beyond the issues of the case and the same are contrary to the submission of both appellant and appellee.

None of the above exceptions, however, exists in the case at bar; hence, there is no reason for Us to disturb the findings of facts of the Court of Appeals.

WHEREFORE, the petition is hereby denied and the decision of the Court of Appeals sought to be reviewed is affirmed.

No pronouncement as to costs.

SO ORDERED.

Teehankee (Chairman), Makasiar, Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

FIRST DIVISION

[G.R. No. L-36101. June 29, 1979]

IN THE MATTER OF THE PETITION FOR THE HABEAS CORPUS OF BONIFACIO FLORENDO, RICARDO ROCERO and RENATO STA. ANA, *petitioners, vs.* **CAPTAIN JAVIER OF THE PHILIPPINE CONSTABULARY, ETC.,** *respondents.*

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SYLLABUS

REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *HABEAS CORPUS*; PROPER REMEDY, NOT A CASE OF.— Petitioners' arrest and detention have been explained by the Solicitor General as authorized by an arrest, search and seizure order issued by the Minister of National Defense in connection with the crime of direct assault with murder and for threatening witnesses. Since this allegation that the arrest was by virtue of a "warrant of commitment in pursuance of law" has not been denied, petitioners are deemed to have admitted the legality of their detention, and *habeas corpus* would, accordingly, not lie.

APPEARANCES OF COUNSEL

Jesus Espiritu for petitioners.

Solicitor General Estelito P. Mendoza and *Assistant Solicitor General Rosalio de Leon* for respondents.

D E C I S I O N

DE CASTRO, *J.*:

In this petition for *habeas corpus* filed on January 15, 1973, petitioners allege that on December 4, 1972, they were taken from their respective residence by individuals posing as police officers, including a certain Capt. Javier of the Philippine Constabulary, and then detained for more than one (1) month without any specific offense being filed against them nor any judicial writ or order issued for their commitment.[1] Acting on this petition, the Court adopted a Resolution on January 15, 1973, for the issuance of the writ of *habeas corpus*. The respondents were also required to file an answer to the petition. The hearing was then scheduled for January 22, 1973.

In his answer, respondent Capt. Javier called attention to the fact that the petition for *habeas corpus* was not verified as required by Section 3, Rule 102, Rules of Court, and that it

[1] Pages 1-2, *Rollo*.

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stated no cause of action. He also averred that petitioners were arrested pursuant to a warrant of arrest issued on November 24, 1972 by the Secretary of National Defense and that petitioners are being detained for the crime of direct assault with murder of the late Pat. Antonio Paz, Police Department, Pasig, Rizal, and for threatening witnesses, contrary to General Orders Nos. 2-A and 2-D,[2] with respect to which offenses the privilege of the writ has been suspended.[3]

On the day scheduled for hearing, the counsel for petitioners manifested their intention, "not to argue the case" because several other cases of the same nature which have been heard by the Court were pending adjudication. In their manifestation, petitioners also stated that they were submitting the case for adjudication, having adopted the arguments advanced by petitioners' counsel in similar cases which he had submitted earlier. Moreover, counsel for petitioners noted the fact that petitioners were brought to the Supreme Court on the day set for hearing.

In a resolution of this Court dated February 20, 1973, this case was considered submitted for decision when petitioners failed to comply with the resolution of January 22, 1973 requiring them to comment on the return to the writ and answer filed by the Solicitor General.[4] This failure of petitioners to file a reply compels Us to dismiss the present petition. This is in line with the ruling laid down in "*Lorenzo vs. McCoy*"[5] and "*Arocha vs. Vivo*,"[6] where it was held that unless the allegations in the

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[2] General Order No. 2-D authorized the arrest and detention of any person involved in crimes against persons punishable under Articles 248 or 249, Revised Penal Code, and the persons reportedly harassing, intimidating or terrorizing witnesses against them.

[3] Page 14, *Rollo*.

[4] Page 25. *Ibid*.

[5] 15 Phil. 559, citing also *U.S. v. Ju Toy*: 198 U.S., 253 and *Crowley v. Christiansen*, 137 U.S., 86, 94.

[6] 21 SCRA 532 (1967).

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return are controverted, they are deemed to be true or admitted, pursuant to Section 13, Rule 102, Rules of Court, which provides that the "return shall be considered *prima facie* evidence of the cause of restraint, if it appears that the prisoner is in custody under a warrant of commitment in pursuance of law." Petitioners' arrest and detention have been explained by the Solicitor General as authorized by an arrest, search and seizure order issued by the Minister of National Defense in connection with the crime of direct assault with murder and for threatening witnesses. Since this allegation that the arrest was by virtue of a "warrant of commitment in pursuance of law" has not been denied, petitioners are deemed to have admitted the legality of their detention, and *habeas corpus* would, accordingly, not lie.

WHEREFORE, the petition is dismissed. Without pronouncement as to costs.

SO ORDERED.

Makasiar, Fernandez, Guerrero, and *Melencio-Herrera, JJ.*, concur.

Teehankee (Chairman), J., took no part.

EN BANC

[G.R. Nos. L-38145-48. June 29, 1979]

THE PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **PABLEO CABELTES *y* ABANG,** *defendant-appellant.*