43 Phil. 650

[G. R. No. 19416. August 02, 1922]

ALVARO GREGORIO Y FELIPE, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

D E C I S I O N

MALCOLM, J.:

In an original petition for habeas corpus, Alvaro Gregorio y Felipe asks that he be discharged from the custody of the Director of Prisons. The Attorney-General, on behalf of the Director of Prisons, shows that petitioner is held in Bilibid Prison pursuant to an order of the Court of First Instance of Manila in case No. 24200 entitled "El Pueblo de las Islas Filipinas *contra* Alvaro Gregorio y Felipe."

The facts are these: Alvaro Gregorio y Felipe was charged in the municipal court of the city of Manila with the crime of physical injuries through reckless imprudence. He was found guilty and was sentenced to one month and one day's imprisonment and to pay the costs. On appeal to the Court of First Instance of Manila, the accused was permitted to enter a plea of guilty to a charge of a misdemeanor, and, with the conformity of the assistant fiscal, was sentenced, on July 17, 1922, to pay a fine of P25 and the costs. On the same day, the accused paid into the office of the clerk of court a total of P44.72, covering the fine imposed and the costs. On the same day, also, the trial judge rescinded his decision and reassigned the case for a new trial. When the case was called, the defendant retired his plea of guilty and substituted therefor the plea of not guilty; the prosecution presented its evidence, but the defense refused to do so. On July 31, 1922, the trial judge found the defendant guilty of the crime alleged in the information and condemned him to suffer one month and one day of *arresto mayor*, to indemnify Mrs. E. Christman in the amount of P55.20, and Mrs. Robert Cetti in the amount of P40, with subsidiary imprisonment in case of insolvency, and to pay the costs of both instances. It was prior to the rendition of the judgment last mentioned that the writ of habeas corpus was prayed for in the Supreme Court.

Certain legal principles are directly applicable to the facts and readily permit us to decide the case.

Courts in this jurisdiction have control over their judgments until they become final, and "may set them aside or modify them as law and justice may require. (TL S. vs. Vayson [1914], 27 Phil, 447.)

A sentence in a criminal case in this jurisdiction may become final in two ways: First, by the lapse of fifteen days after the same is rendered and pronounced, and, second, by compliance with the terms of the sentence. (U. S. vs. Hart [1913], 24 Phil, 578.)

As a general rule, where the defendant has executed or entered upon the execution of a valid sentence, the court cannot, even during the fifteen-day period, set it aside and render a new sentence. (U. S. vs. Hart, *supra*; U. S. vs. Vayson, supra; *Ex parte* Lange [1873], 18 Wall., 163.) To paraphrase the language of the United States Supreme Court in the case last cited, the petitioner having paid into court the fine of P25 imposed upon him, and that money having passed into the Treasury of the Philippine Islands, and beyond the legal control of the court, or of any one else but the Philippine Legislature, all under a valid judgment, can the court vacate that judgment entirely, and, without reference to what has been done under it, impose another punishment on the prisoner ? To do so is to punish him twice for the same offense. He is not only put in jeopardy twice, but put to actual punishment twice for the same thing.

Respondent relies on the rule that the writ of habeas corpus will not lie where there is a remedy by appeal. This is undeniable, although in rare and exceptional cases, the writ may be issued, even where such remedy exists. It is, however, sufficient to point out that if the fifteen-day period counting from July 17, had not expired when the petition was filed in this court, it had expired when the instant decision was handed down, so that as of that date, no other legal remedy except that of habeas corpus was available to the petitioner. Moreover, the instant facts are easily distinguishable from those found in the case of Collins vs. Wolfe ([1905], 4 Phil., 534), because in the Collins case a final judgment had not been entered and so obviously there was no judgment to satisfy.

For all of the foregoing reasons, the writ of habeas corpus shall issue. Costs de oficio.

Araullo, C. J., Johnson, Street, Avanceña, Villamor, Osprand, Johns, and *Romualdez, JJ.,* concur.

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