

**\*\*Title:** Co Kim Cham (Alias Co Cham) vs. Eusebio Valdez Tan Keh and Judge Arsenio P. Dizon of the First Instance of Manila**\*\***

**\*\*Facts:\*\***

- November 18, 1944: Co Kim Cham files a complaint against Eusebio Valdez Tan Keh for the recovery of an undivided half of a property in Manila and deposits P12,500 as a condition precedent.
- The complaint is filed during Japanese occupation under a court established by the Japanese-sponsored Republic of the Philippines.
- February 1945: The court records, including those of the case, are destroyed during the Battle of Manila.
- Post-liberation, Co Kim Cham petitions for the reconstitution of the case records and continuation of the proceedings before the re-established Commonwealth Judiciary.
- Judge Arsenio P. Dizon of the Court of First Instance of Manila refuses to reconstitute the case records and dismisses the petition on the grounds that he lacks jurisdiction over cases initiated under the Japanese regime.
- Co Kim Cham files a petition for mandamus to compel Judge Dizon to proceed with the case arguing that the declaration of nullity by General MacArthur did not cover judicial processes.
- The Supreme Court initially rules in favor of Co Kim Cham, ordering the reconstitution and continuation of the case.

**\*\*Procedural Posture:\*\***

- The case reaches the Philippine Supreme Court after the petition for mandamus is denied at the lower court level.
- Respondents file a motion for reconsideration of the Supreme Court's decision and the involvement of amici curiae (friends of the court) for further legal arguments.
- November 16, 1945: The Supreme Court issues a resolution on the motion for reconsideration.

**\*\*Issues:\*\***

1. Whether the Japanese occupation constituted "actual and effective" military control capable of establishing a de facto government.
2. Whether judicial acts performed under Japanese occupation courts are valid and binding post-liberation.
3. The interpretation of General Douglas MacArthur's proclamation concerning the nullification of "all processes" of any government other than the Commonwealth

Government.

4. Eligibility of mandamus as a remedy to compel the continuation of judicial proceedings initiated under Japanese occupation.

**Court's Decision:**

**1. Actual and Effective Occupation:**

- The Court maintained that the Japanese occupation was "actual and effective" despite the existence of guerrilla forces resisting the occupation. Military commanders had acknowledged Japanese authority by surrendering, and the Japanese forces substituted their authority for that of the Commonwealth Government.

**2. Validity of Judicial Acts:**

- The Court upheld the validity of judicial acts and proceedings during the Japanese occupation for the benefit of societal order and commercial life. The functioning courts during occupation were necessary to maintain public order and should be continued unless explicitly invalidated.

**3. Interpretation of MacArthur's Proclamation:**

- The term "processes" in MacArthur's proclamation was clarified to refer specifically to legislative and constitutional acts, such as executive orders and ordinances, and not judicial processes. The Court, based on international law, concluded that judicial processes under Japanese occupation were to be considered valid to avoid undoing lawful acts affecting private rights during occupation.

**4. Mandamus Remedy:**

- Mandamus was deemed the correct remedy to compel the judge to act on the reconstitution and continuation of the case. The Court noted that judicial review of a preliminary procedural refusal warranted intervention through mandamus to avert unnecessary delays.

**Doctrine:**

The Supreme Court established that judicial acts performed under a de facto government during military occupation are considered valid post-liberation for preserving public order and private rights. The military proclamation nullifying processes of governments other than the Commonwealth does not extend to judicial processes unless explicitly specified.

**Class Notes:**

- Key Legal Concepts: de facto government, belligerent occupation, nullification of acts,

mandamus.

- **\*\*International Law References:\*\***

- Hague Conventions on maintaining public order and safety in occupied territory.  
- U.S. Supreme Court Cases (Dow vs. Johnson, Jecker vs. Montgomery) highlighting the continuity of judicial functions during occupation.

- **\*\*Philippine Legal Principles:\*\***

- Application of municipal laws by occupying forces should continue unless explicitly modified.

- Mandamus as an appropriate remedy to correct a lower court's refusal to act based on jurisdictional objections.

**\*\*Historical Background:\*\***

During WWII, the Philippines were occupied by Japanese forces who established a puppet government and courts. Post-liberation, there was confusion about the validity of judicial acts performed under the Japanese regime. General Douglas MacArthur's proclamation intended to restore the Commonwealth Government's authority triggered legal disputes on whether previous judicial processes under occupation should be upheld. This case reflects the transitional legal challenges following the Philippines' liberation and re-establishment of lawful governance.