

ANDRES FUENTES, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-22449. July 28, 1924

Ponente: OSTRAND, J.

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OSTRAND, J.:

This is a petition for a writ of habeas corpus, the petitioner alleging that he is illegally detained in Bilibid Prison in the City of Manila.

It appears from the records of the court that the petitioner was convicted of the crime of parricide by the Court of First Instance of Cebu and sentenced to suffer the death penalty. Upon its review by this court the sentence was affirmed in a decision promulgated January 29, 1923,[1] and the petitioner is now in confinement awaiting its execution. Only eight justices took part in the review of the case, the ninth being absent. The decision of the court was written by one of the justices and concurred in by the other seven justices present.

The petitioner argues that one of the justices being absent, the case was not considered per curiam and that the decision being written by only one of the justices and not having been signed by the absent justice, it has not been rendered in the manner provided for by subsection 2 of section 1 of Act No. 3104, and therefore is null and void. There are several reasons why the petition must be denied. It is, for instance, clear that even assuming that the petitioner's contention is correct, it still appears that the petitioner is legally confined under a lawful judgment of the Court of First Instance of Cebu, which has not been reversed or modified. In such cases the writ of habeas corpus will not lie. We might let the matter rest here, but in order to definitely settle the questions raised by the petitioner, we prefer to briefly discuss the case on its merits.

The discussion turns upon the construction of subsection 2 of section 1 of Act No. 3104, which was enacted subsequently to the promulgation of the decision in question. The pertinent portions of the section read as follows:

"SECTION 1. The death penalty shall be imposed in all cases in which it must be imposed under existing law, except in the following:

"First. * * *

"Second. When in the consideration of the case in the second instance there is not a unanimous vote of all the members of the Supreme Court as to the propriety of the imposition of the death penalty: Provided, however, That the consideration of the case in the second instance shall always be per curiam and the sentence shall be signed by all the members of the said court: And provided, further, That in case one or more Justices are legally disqualified from taking part in the consideration of the case, the unanimous vote and signature of only the remaining justices shall be required."

The phrase "all the members of the said court," as employed in the subsection quoted, may have two different significations: It may mean all the justices who are legally entitled to sit on the court, or it may mean the members of the court present for duty and actually constituting the court at the time the particular case is heard and decided.

The petitioner argues that the first interpretation is the proper one. At first blush his argument seems quite plausible, but on closer examination it becomes apparent that if his interpretation is adopted and if, as counsel contends, the provision in question is to be regarded as mandatory, it may lead to serious interference with the functions of the court and to intolerable delays in the administration of justice, in direct conflict with the provisions of the Organic Act, which vouchsafes the accused in a criminal prosecution the right to a speedy trial.

A justice of the court may be incapacitated through illness from taking part in the deliberations of the court during several terms. Justices may also be legally absent on leave for prolonged periods; in the past it has, indeed, but rarely happened that all justices have been present for duty at the same time. We cannot presume that the Legislature intended that in such eventualities persons sentenced to death by lower courts shall languish in prison until the absent justice returns to duty so that all the members who are legally entitled to sit on the court may take part in the revision of the sentences of the lower courts. On the contrary, the presumption is that the Legislature intended to so frame the law as to conform with the provisions of the Organic Act.

It is further to be observed that the Government of the Philippine Islands is modeled upon the constitutional governments in the United States which are distinguished by the care that has been exercised in committing the legislative, executive and judicial functions to separate departments and in forbidding the interference by one department with the functions of another. (12 C. J., 802.)

The jurisdiction of the Supreme Court is fixed by the Organic Act and cannot be restricted by an act of the Legislature. Though the Organic Act does not specifically so provide, it may be conceded that the Legislature has the power to make reasonable changes in the laws of the procedure of the court, but it cannot by a statute of procedure prevent a court from exercising its constitutional jurisdiction during the lawful sessions of the court. (12 C. J., 817, citing *Flanigan vs. Guggenheim Smelting Co.*, 63 N. J. Law, 647.) This is exactly what Act No. 3104 would do if interpreted in accordance with the petitioner's contention. In this connection we may quote the language of the court in the leading case of *Ocampo vs. Cabangis* (15 Phil., 626) :

"* * * doctrine is well established in the various States of the Union that the legislatures have no power to establish rules which operate to deprive the courts of their constitutional authority to exercise the judicial functions. A constitutional court when exercising its proper judicial functions can no more be unreasonably controlled by the legislature than can the legislature when properly exercising legislative power be subjected to the control of the courts. Each acts independently within its exclusive field."

In order to give validity to the provision in question we must therefore presume that in speaking of the Supreme Court the Legislature means the court as actually constituted at the time of the consideration of each particular case to which subsection 2, *supra*, may apply. If so, there can be no question whatever as to the validity of the decision in question. The case was considered *per curiam*, there was a quorum of the court present, and all the justices who sat in the case signed the decision.

Looking at the case from a somewhat different angle, we arrive at the same final result. The courts have generally held that provisions of a nature similar to that of the one here under consideration are directory and not mandatory. In the case of *Ocampo vs. Cabangis*, *supra*, the court, construing section 15 of Act No. 136, says:

"* * * Presumably no legislature intends to impose upon the courts conditions and restrictions which will render them incapable of performing their functions properly and efficiently. The results which would follow strict compliance with a statute of this nature may properly be taken into consideration in order to determine whether or not the Legislature intended the statute to be mandatory or merely directory. It should not be assumed in the absence of specific language to the contrary that a legislature intended that the rights of parties should be seriously affected by the failure of a court or some officer to comply strictly with the statutory requirements as to the

manner of official action. Legislatures often enact statutes for the purpose of providing an orderly procedure for the conduct of public business, but procedure is secondary in importance to substantive rights, and the nonobservance of such procedure should never be permitted to affect substantive rights, unless the intention of the legislature is clearly expressed. It is desirable that courts should state the grounds upon which their decisions rest, but it is possible to conceive of conditions under which strict compliance with a statute requiring this would be impracticable or even impossible. Instead of protecting the interests of litigants by securing a prompt and orderly administration of the law, it would then result in obstructing or stopping the wheels of the judicial machinery, to the prejudice of all parties.

* * * * *

"A strict and literal compliance with this statute would often render it impossible for the court to decide a case. The Act declares the manner in which the Supreme Court shall perform the strictly judicial act of giving final expression to its decision, but it does not say that the failure to comply therewith shall render the decision ineffective. The direction is as to a matter which is not of the essence of the thing to be done, and there is nothing to suggest that the Legislature intended that strict compliance therewith should be essential to the validity of a decision duly and formally rendered in some other regular manner. It seems to be universally held that statutes of this nature are Zmerely directory, and that compliance therewith is not necessary to the validity of the proceedings.* * *"

The petition for a writ of habeas corpus is denied. So ordered.

Johnson, Malcolm, Villamor, and Romualdez, JJ., concur.

CONCURRING IN THE RESULT

STREET, J.,

I concur in the result but cannot accept all that is said in the opinion.

It would perhaps be sufficient for the decision of the case to point out that the original judgment imposing the death penalty upon this petitioner was rendered before Act No. 3104 of the Philippine Legislature was passed; and the passage of that Act cannot, in any sound view of the case, be considered as rendering ineffectual the decision previously promulgated by this court.

In the second place it is pertinent to record the fact that the Justice of this court who failed to take part in the condemnatory decision was absent at the time in the United States on leave. He was, therefore, "disqualified" within the meaning of the Act referred to, or "inhibited," as the expression appears in the Spanish version.

But in my opinion Act No. 3104 is clearly invalid as being in contravention of that provision of section 3 of the Jones Law wherein it is declared "that no bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill." The Act in question states two distinct subjects in the title and there are two distinct matters treated in the body of the bill. Furthermore, it will be noted that the second subject treated, namely, the mode of the execution of the death penalty, is completely foreign to the subject-matter of the statute which is the subject of amendment in the first part of the Act.

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