

MANUEL ARTIGAS LOSADA, PETITIONER AND APPELLEE, VS. JUAN ACENAS, AS SUPERINTENDENT OF DAVAO PENAL COLONY AT INAGAWAN, RESPONDENT AND APPELLANT.

G.R. No. L-810. March 31, 1947

Ponente: BENGZON, J.

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BENGZON, J.:

This is an appeal from an order, dated July 20, 1946, of the justice of the peace of Puerto Princesa, Palawan, who, in the absence of the judge of first instance (Act No. 2131), directed the release on habeas corpus, of Manuel Artigas Losada, Getulio Geocada, Santiago Aguda, and Francisco Danao, inmates of the Davao Penal Colony at Inagawan, Palawan.

The first is undergoing a maximum sentence of 15 years, 2 months and 2 days for estafa, and estafa through falsification. Such term is due to expire, with good conduct allowance, on July 16, 1947.

The second, Getulio Geocada, doing time for illegal possession of counterfeit money is due for release April 25, 1947.

The third, Santiago Aguda, serving a sentence of 12 years and 1 day for homicide, would be entitled to his liberty about January 7, 1948, should he observe good conduct in the meantime.

The last, Francisco Danao, jailed for abduction with rape, will complete the service of his sentence, with good conduct allowance, about June 19, 1948.

As above stated, the court decreed in July, 1946, that these four penal colonists should forthwith be freed from restraint. Reason for the decree was their allegation, and the court's opinion, that they had earned a special time allowance in the form of a deduction of one-fifth of their respective sentences under articles 98 and 158 of the Revised Penal Code, which for convenience are quoted below:

"A deduction of one-fifth of the period of his sentence shall be granted to any prisoner who, having evaded the service of his sentence under the circumstances mentioned in article 158 of this Code, gives himself up to the authorities within 48 hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe referred to in said article." (Article 98, Revised Penal Code.)

"A convict who shall evade the service of his sentence, by leaving the penal institution where he shall have been confined, on the occasion of disorder resulting from a conflagration, earthquake, explosion, or similar catastrophe, or during a mutiny in which he has not participated, shall suffer an increase of one-fifth of the time still remaining to be served under the original sentence, which in no case shall exceed six months, if he shall fail to give himself up to the authorities within forty-eight hours following the issuance of a proclamation by the Chief Executive announcing the passing away of such calamity.

"Convicts who, under the circumstances mentioned in the preceding paragraph, shall give themselves up to the authorities within the above mentioned period of 48 hours, shall be entitled to the deduction provided in article

98." (Article 158, Revised Penal Code.)

The judge a quo made these observations in support of his action.

"* * * in the opinion of this Court, those prisoners who, having all the chances to escape and did not escape but remained in their prison cell during the disorder caused by war have shown More convincingly their loyalty than those who escaped under the circumstances specifically enumerated in article 158 and give themselves up within 48 hours. After the executive proclamation for the latter, that is, the prisoner who escaped might have been persuaded to give themselves up merely because they could see but a slim chance to avoid capture inasmuch as the government then was functioning with all its normal efne-ency. And if those who are loyal merely in times of conflagration, earthquake, explosion and other similar catastrophe are considered loyal and are for that reason given in their favor one-fifth reduction of their sentence, with more reason that those who stayed in their places of confinement during the war * * *."

These are considerations that more properly belong to the legislative department, should an amendment to the law be proposed. They are likewise equitable pleas, which the executive department could properly entertain in connection with petitions for parole or pardon of the prisoners. But they may not authorize the courts to read into the statute additional conditions or situations. The special allowance for loyalty authorized by articles 98 and 158 of the Revised Penal Code refers to those convicts who, having evaded the service of their sentences by leaving the penal institution, give themselves up within two days. As these petitioners are not in that class, because they have not escaped, they have no claim to that allowance. For one thing there is no showing that they ever had the opportunity to escape, or that having such opportunity they had the mettle to take advantage of it or to brave the perils in connection with a jailbreak. And there is no assurance that had they successfully run away and regained their precious liberty they would have, nevertheless, voluntarily exchanged it later with the privations of prison life impelled by that sense of right and loyalty to the Government, which is sought to be rewarded with the special allowance. Wherefore, it is not plain that their case comes within the spirit of the law they have invoked. It must be observed in this connection that the only circumstance favorable to petitioners is the admission of the respondent that they "remained in the penal colony and did not try to escape during the war."

The appealed decision is reversed and the petition for habeas corpus denied. No costs. So ordered.

Moran, C.J., Paras, Feria, Pablo, Hilado, Briones, Hontiveros, Padilla, and Tuason, JJ., concur.

DISSENTING

PERFECTO, J.:

The legal controversy in this case centers upon the interpretation and application of articles 98 and 158 of the Revised Penal Code. We are inclined to follow the liberal interpretation adopted by the lower court and, therefore, to affirm its judgment, dated July 20, 1946, ordering the release of appellees Manuel Artigas Losada, Santiago Aguda, Getulio Geocada and Francisco Danao.

Under the two above-mentioned articles of the Revised Penal Code, a convict who shall evade the service of his sentence by leaving the penal institution where he is confined, on the occasion of disorder resulting from conflagration, earthquake, explosion or similar catastrophe, or during a mutiny in which he has not participated, shall suffer an increase of one-fifth of the period still remaining to be served under his sentence, or a deduction of one-fifth of his sentence if, in the first case, he shall fail to give himself up to the authorities or, in the second case, he gives himself up to the authorities within forty-eight hours following the issuance of a proclamation announcing the passing away of the calamity or catastrophe.

There is no question that war is a calamity or catastrophe similar to those specifically mentioned by law. It is a fact that appellees behaved well during the last war and remained loyal to the prison authorities in spite of the disorder occasioned by the war. As they did not escape, their cases apparently do not fall within the letter of articles 98 and 158 of the Revised Penal Code. But the spirit embodied in said articles offers no doubt that appellees' cases fall within the substantial purview of the law.

Under the provisions of articles 98 and 158 of the Revised Penal Code, the convict who shall evade the service of his sentence and does not give himself up to the authorities within forty-eight hours following the issuance of a proclamation announcing the passing away of the calamity, shall be punished with an increase in his sentence, but if he gives himself up he will be granted, as a reward, a reduction of his sentence, a reduction that in appellees' cases will entitle them to freedom.

Appellant and the majority of this Court, instead of following the clear intention of the law, would sacrifice it for the sake of an application *ad pedem littere*. Such attitude will lead us to absurd conclusions.

For example, the articles in question contemplate the issuance of a proclamation by the Chief Executive announcing the passing away of the calamity. In the hypothesis that such a proclamation is never issued, a convict who shall have evaded service of sentence under the circumstances contemplated by the law but later gives himself up to the authorities, will not be entitled to the one-fifth deduction. In another hypothesis, a convict who, on the occasion of disorder resulting from a calamity or catastrophe, had opportunity to evade the service of his sentence, instead of escaping, voluntarily continues to submit himself under the custody of authorities who might not have the force to make effective said custody, will be in a worse situation than the one who evaded his sentence. The absurd consequences of the narrow-minded interpretation that sticks to the letter of the law, instead of following the clear intention of the lawmaker, compels us to reject it.

The liberal interpretation adopted by the lower court is in consonance with the modern trend of the law. That interpretation is in accordance with the spirit which should pervade all criminal laws, that is, that any doubt or controversy should be resolved in a way that will be more beneficial to the accused.

For all the foregoing, we vote to affirm the appealed decision.

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