

MARIO GUMABON, BLAS BAGOLBAGOL, GAUDENCIO AGAPITO, EPIFANIO PADUA AND PATERNO PALMARES, PETITIONERS, VS. THE DIRECTOR OF THE BUREAU OF PRISONS, RESPONDENT.*G.R. No. L-30026. January 30, 1971*

Ponente: FERNANDO, J.

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Habeas corpus, the great writ of liberty, is relied upon by petitioners, five in number, for their release from imprisonment. Meted out life terms for the complex crime of rebellion with murder and other crimes, they would invoke the *People v. Hernandez*[1] doctrine, negating the existence of such an offense, a ruling that unfortunately for them was not handed down until after their convictions had become final. Nor is this the first instance, a proceeding of this character was instituted, as in *Pomeroy v. Director of Prisons*,[2] likewise a petition for habeas corpus, a similar question was presented. The answer given was in the negative. Petitioners plead for a new look on the matter. They would premise their stand on the denial of equal protection if their plea would not be granted. More-over they did invoke the codal provision that judicial decisions shall form part of the legal system of the Philippines,[3] necessarily resulting in the conclusion that the *Hernandez* decision once promulgated calls for a retroactive effect under the explicit mandate of the Revised Penal Code as to penal laws having such character even if at the time of their application a final sentence has been rendered "and the convict is serving the same." [4] These arguments carry considerable persuasion. Accordingly we find for petitioners, without going so far as to overrule *Pomeroy*.

Petitioner Mario Gumabon, after pleading guilty, was sentenced on May 5, 1953 to suffer reclusion perpetua for the complex crime of rebellion with multiple murder, robbery, arson and kidnapping. Petitioners Gaudencio Agapito, Paterno Palmares and Epifanio Padua, likewise pleaded guilty to the complex crime of rebellion with multiple murder and other offenses, and were similarly made to suffer the same penalty in decisions rendered, as to the first two, on March 8, 1954 and, as to the third, on December 15, 1955. The last petitioner, Blas Bagolbagol, stood trial also for the complex crime of rebellion with multiple murder and other offenses and on January 12, 1954 penalized with reclusion perpetua. Each of the petitioners has been since then imprisoned by virtue of the above convictions. Each of them has served more than 13 years.[5]

Subsequently, in *People v. Hernandez*,[6] as above noted, this Court ruled that the information against the accused in that case for rebellion complexed with murder, arson and robbery was not warranted under Article 134 of the Revised Penal Code, there being no such complex offense.[7] In the recently-decided case of *People v. Lava*,[8] we expressly reaffirmed the ruling in the *Hernandez* case rejecting the plea of the Solicitor General for the abandonment of such doctrine. It is the contention of each of the petitioners that he has served, in the light of the above, more than the maximum penalty that could have been imposed upon him. He is thus entitled to freedom, his continued detention being illegal.[9]

The fear that the *Pomeroy* ruling stands as an obstacle to their release on a habeas corpus proceeding prompted

petitioners, as had been mentioned, to ask that it be appraised anew and, if necessary, discarded. We can resolve the present petition without doing so. The plea there made was unconvincing, there being a failure to invoke the contentions now pressed vigorously by their counsel, Attorney Jose W. Diokno, as to the existence of a denial of a constitutional right that would suffice to raise a serious jurisdictional question and the retroactive effect to be given a judicial decision favorable to one already sentenced to a final judgment under Art. 22 of the Revised Penal Code. To repeat, these two grounds carry weight. We have to grant this petition.

1. The fundamental issue, to repeat, is the availability of the writ of habeas corpus under the circumstances disclosed. Its latitudinarian scope to assure that illegality of restraint and detention be avoided is one of the truisms of the law. It is not known as the writ of liberty for nothing. The writ imposes on judges the grave responsibility of ascertaining whether there is any legal justification for a deprivation of physical freedom. Unless there be such a showing, the confinement must thereby cease. If there be a valid sentence it cannot, even for a moment, be extended beyond the period provided for by law. Any deviation from the legal norms call for the termination of the imprisonment.

Rightly then could Chafee refer to the writ as "the most important human rights provision" in the fundamental law.[10] Nor is such praise unique. Cooley spoke of it as "one of the principal safeguards to personal liberty." [11] For Willoughby, it is "the greatest of the safeguards erected by the civil law against arbitrary and illegal imprisonment by whomsoever detention may be exercised or ordered." [12] Burdick echoed a similar sentiment, referring to it as "one of the most important bulwarks of liberty." [13] Fraenkel made it unanimous, for to him, "without it much else would be of no avail." [14] Thereby the rule of law is assured.

A full awareness of the potentialities of the writ of habeas corpus in the defense of liberty coupled with its limitations may be detected in the opinions of former Chief Justices Arellano,[15] Avanceña,[16] Abad Santos,[17] Paras,[18] Bengzon,[19] and the present Chief Justice.[20] It fell to Justice Malcolm's lot, however, to emphasize quite a few times the breadth of its amplitude and of its reach. In *Villavicencio v. Lukban*, [21] the remedy came in handy to challenge the validity of the order of the then respondent Mayor of Manila who, for the best of reasons but without legal justification, ordered the transportation of more than 150 inmates of houses of ill-repute to Davao. After referring to the writ of habeas corpus as having been devised and existing "as a speedy and effectual remedy to relieve persons from unlawful restraint" the opinion of Justice Malcolm continued: "The essential object and purpose of the writ of habeas corpus is to inquire into all manner of involuntary restraint as distinguished from voluntary, and to relieve a person therefrom if such restraint is illegal. Any restraint which will preclude freedom of action is sufficient." [22]

The liberality with which the judiciary is to construe habeas corpus petitions even if presented in pleadings on their face devoid of merit was demonstrated in *Ganaway v. Quilen*, [23] where this Court, again through Justice Malcolm, stated: "As standing alone the petition for habeas corpus was fatally defective in its allegations, this court, on its motion, ordered before it the record of the lower court in the case entitled *Thomas Casey et al. v. George Ganaway*." [24] It is to Justice Malcolm likewise in *Conde v. Rivera* [25] to whom is traceable the doctrine, one that broadens the field of the operation of the writ, that a disregard of the constitutional right to speedy trial ousts the court of jurisdiction and entitles the accused if "restrained of his liberty, by habeas corpus to obtain his freedom." [26]

So it is in the United States. An 1830 decision [27] of Chief Justice Marshall put the matter thus: "The writ of habeas corpus is a high prerogative writ, known to the common law, the great object of which is the liberation of those who may be imprisoned without sufficient cause." Then there is this affirmation from an 1869 decision [28] of the then Chief Justice Chase: "The great writ of habeas corpus has been for centuries esteemed the best and only sufficient defense of personal freedom." The passing of the years has only served to confirm its primacy as a

weapon in the cause of liberty. Only the other year, Justice Fortas spoke for the United States Supreme Court thus: "The writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action. * * * The scope and flexibility of the writ — its capacity to reach all manner of illegal detention — its ability to cut through barriers of form and procedural mazes — have always been emphasized and jealously guarded by courts and lawmakers. The very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected." [29] Justice Fortas explicitly made reference to Blackstone, who spoke of it as "the great and efficacious writ, in all manner of illegal confinement." Implicit in his just estimate of its pre-eminent role is his adoption of Holmes' famous dissent in *Frank v. Mangum*: [30] "But habeas corpus cuts through all forms and goes to the very tissue of the structure."

2. Where, however, the detention complained of finds its origin in what has been judicially ordained, the range of inquiry in a habeas corpus proceeding is considerably narrowed. For if "the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order," the writ does not lie. [31] That principle dates back to 1902, [32] when this Court announced that habeas corpus was unavailing where the person detained was in the custody of an officer under process issued by a court or magistrate. That is understandable, as during the time the Philippines was under American rule, there was necessarily an adherence to authoritative doctrines of constitutional law there followed.

One such principle is the requirement that there be a finding of jurisdictional defect. As summarized by Justice Bradley in *Ex parte Siebold*, an 1880 decision: "The only ground on which this court, or any court, without some special statute authorizing it, will give relief on habeas corpus to a prisoner under conviction and sentence of another court is the want of jurisdiction in such court over the person or the cause, or some other matter rendering its proceedings void." [33]

There is the fundamental exception though, that must ever be kept in mind. Once a deprivation of a constitutional right is shown to exist, the court that rendered the judgment is deemed ousted of jurisdiction and habeas corpus is the appropriate remedy to assail the legality of the detention. [34]

3. Petitioners precisely assert a deprivation of a constitutional right, namely, the denial of equal protection. According to their petition: "In the case at bar, the petitioners were convicted by Courts of First Instance for the very same rebellion for which Hernandez, Geronimo, and others were convicted. The law under which they were convicted is the very same law under which the latter were convicted. It had not and has not been changed. For the same crime, committed under the same law, how can we, in conscience, allow petitioners to suffer life imprisonment, while others can suffer only prison mayor?" [35]

They would thus stress that, contrary to the mandate of equal protection, people similarly situated were not similarly dealt with. What is required under this constitutional guarantee is the uniform operation of legal norms so that all persons under similar circumstances would be accorded the same treatment both in the privileges conferred and the liabilities imposed. As was noted in a recent decision: "Favoritism and undue preference cannot be allowed. For the principle is that equal protection and security shall be given to every person under circumstances, which if not identical are analogous. If law be looked upon in terms of burden or charges, those that fall within a class should be treated in the same fashion, whatever restrictions cast on some in the group equally binding on the rest." [36]

The argument of petitioners thus possesses a persuasive ring. The continued incarceration after the twelve-year period when such is the maximum length of imprisonment in accordance with our controlling doctrine, when

others similarly convicted have been freed, is fraught with implications at war with equal protection. That is not to give it life. On the contrary, it would render it nugatory. Otherwise, what would happen is that for an identical offense, the only distinction lying in the finality of the conviction of one being before the Hernandez ruling and the other after, a person duly sentenced for the same crime would be made to suffer different penalties. Moreover, as noted in the petition before us, after our ruling in *People v. Lava*, petitioners who were mere followers would be made to languish in jail for perhaps the rest of their natural lives when the leaders had been duly considered as having paid their penalty to society, and freed. Such a deplorable result is to be avoided.

4. Petitioners likewise, as was made mention at the outset, would rely on Article 22 of the Revised Penal Code which requires that penal judgment be given a retroactive effect. In support of their contention, petitioners cite *U.S. v. Macasaet*,^[37] *U.S. v. Parrone*,^[38] *U.S. v. Almencion*,^[39] *People v. Moran*,^[40] and *People v. Parel*.^[41] While reference in the above provision is made not to judicial decisions but to legislative acts, petitioners entertain the view that it would be merely an exaltation of the literal to deny its application to a case like the present. Such a belief has a firmer foundation. As was previously noted, the Civil Code provides that judicial decisions applying or interpreting the Constitution, as well as legislation, form part of our legal system. Petitioners would even find support in the well-known dictum of Bishop Hoadley: "Whoever hath an absolute authority to interpret any written or spoken laws, it is he who is truly the law-giver to all intents and purposes, and not the person who first thought or spoke them." It is to be admitted that constitutional law scholars, notably Frankfurter,^[42] Powell,^[43] and Thayer,^[44] in discussing judicial review as well as the jurist John Chipman Gray, were much impressed with the truth and the soundness of the above observations. We do not have to go that far though. Enough for present purposes that both the Civil Code and the Revised Penal Code allow, if they do not call for, a retroactive application.

It being undeniable that if the Hernandez ruling were to be given a retroactive effect petitioners had served the full term for which they could have been legally committed, is habeas corpus the appropriate remedy? The answer cannot be in doubt. As far back as 1910 the prevailing doctrine was announced in *Cruz v. Director of Prisons*.^[45] Thus: "The courts uniformly hold that where a sentence imposes a punishment in excess of the power of the court to impose, such sentence is void as to the excess, and some of the courts hold that the sentence is void in toto; but the weight of authority sustains the proposition that such a sentence is void only as to the excess imposed in case the parts are separable, the rule being that the petitioner is not entitled to his discharge on a writ of habeas corpus unless he has served out so much of the sentence as was valid."^[46] There is a reiteration of such a principle in *Directo v. Director of Prisons*^[47] where it was explicitly announced by this Court "that the only means of giving retroactive effect to a penal provision favorable to the accused * * * is the writ of habeas corpus."^[48] While the above decision speaks of a trial judge losing jurisdiction over the case, insofar as the remedy of habeas corpus is concerned, the emphatic affirmation that it is the only means of benefiting the accused by the retroactive character of a favorable decision holds true. Petitioners clearly have thus successfully sustained the burden of justifying their release.

WHEREFORE, the petition for habeas corpus is granted, and it is ordered that petitioners be forthwith set at liberty.

Dizon and Zaldivar, JJ., concur.

Concepcion, C.J., concur in the result.

Reyes, J.B.L., Makalintal, and Villamor, JJ concur with J. Teehankee's separate opinion.

Teehankee and Barredo, JJ., concur in a separate opinion.

Castro and Makasiar, JJ., did not take part.

[1] 99 Phil. 515 (1956).

[2] 107 Phil. 50 (1960).

[3] Art. 8 of the Civil Code provides: "Judicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines."

[4] According to Art. 22 of the Revised Penal Code: "Retroactive effect of penal laws. - Penal laws shall have a retroactive effect insofar as they favor the person guilty of a felony, who is not a habitual criminal, as this term is defined in rule 5 of article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same."

[5] Petition, par. 1.1 dated January 11, 1969. The above allegations are expressly admitted in the answer for the respondent Director of Prisons filed by the Solicitor General on April 10, 1969.

[6] 99 Phil. 515 (1956).

[7] The petition likewise cited in addition to *People v. Hernandez*, 100 Phil. 90 (1956); *People v. Togonon*, 101 Phil. 804 (1957); *People v. Romagoza*, 103 Phil. 20 (1958) and *People v. Santos*, 104 Phil. 551 (1958). Petition, par. 1, 2.

[8] L-4974, May 16, 1969.

[9] Petition, par. 1, 3.

[10] Chafee, *The Most Important Human Right in the Constitution*, 32 *Boston Univ. Law Rev.* 143 (1947).

[11] 2 *Cooley, Constitutional Limitations* 709 (1927).

[12] 3 *Willoughby, on the Constitution* 1612 (1929).

[13] *Burdick, the Law of the American Constitution* 27 (1922).

[14] *Fraenkel, Our Civil Liberties* 6 (1944).

[15] *Cf. In re Patterson*, 1 Phil. 93 (1902).

[16] *Cf. Ortiz v. del Villar*, 57 Phil. 19 (1932).

[17] *Cf. Slade Perkins v. Director of Prisons*, 58 Phil. 271 (1933).

[18] *Cf. Pomeroy v. Director of Prisons*, 107 Phil. 50-59-62, diss. (1960).

[19] *Cf. Avelino v. Vera*, 77 Phil. 192 (1946).

[20] *Cf. Saulo v. Cruz*, 105 Phil. 315 (1959).

[21] 39 Phil. 778 (1919).

[22] *Ibid*, p. 790.

[23] 42 Phil. 805 (1922).

[24] *Ibid*, p. 805.

[25] 45 Phil. 650 (1924).

[26] Ibid, p. 652.

[27] Ex parte Watkins, 3 Pet. 193, 202.

[28] Ex parte Yerger, 8 Wall. 85, 95.

[29] Harris v. Nelson, 22 L Ed 2d 281, 286 (1969).

[30] 237 US 309, 346 (1915).

[31] Section 4, Rule 102 provides: "If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment, or make the order, the writ shall not be allowed; or if the jurisdiction appears after the writ is allowed, the person shall not be discharged by reason of any informality or defect in the process, judgment, or order. Nor shall anything in this rule be held to authorize the discharge of a person charged with or convicted of an offense in the Philippines, or of a person suffering imprisonment under lawful judgment." 3 Moran, Comments on the Rules of Court, p. 604, 1970 ed.

[32] In re Prautch, 1 Phil. 132.

[33] 100 US 371, 375. According to Ex parte Lange: "On consideration of the petition, the court was of opinion that the facts therein recited very fairly raised the question whether the circuit court, in the sentence which it had pronounced, and under which the prisoner was held, had not exceeded its powers. It therefore directed the writ to issue, accompanied also by a writ of certiorari, to bring before this court the proceedings in the circuit court under which the petitioner was restrained of his liberty. The authority of this court in such case, under the Constitution of the United States, and the 14th section of the judiciary act of 1789 (1 Stat. at L. 73), to issue this writ, and to examine the proceedings in the inferior court, so far as may be necessary to ascertain whether that court has exceeded its authority, is no longer open to question." (85 US 163, 165-166 [1874]). Justice Miller, who penned the opinion, cited the following cases: U.S. v. Hamilton, 3 Dall. 17 (1795); Ex parte Burford, 3 Cranch 448 (1806); Ex parte Bollman, 4 Cranch 75 (1807); Ex parte Watkins, 3 Pet. 193, 7 Pet. 508 (1830); Ex parte Metzger, 5 How. 176 (1847); Ex parte Kaine, 14 How. 103 (1852); Ex parte Wells, 18 How. 307 (1856); Ex parte Milligan, 4 Wall. 2 (1866); Ex parte Mccardle, 6 Wall. 318 (1868); Ex parte Yerger, 8 Wall. 85 (1869).

[34] Cf. Conde v. Rivera, 45 Phil. 650 (1924); Harden v. Director of Prisons, 81 Phil. 741 (1948); Abriol v. Homeres, 84 Phil. 525 (1949); Chavez v. Court of Appeals, L-29169, Aug. 1968, 24 SCRA 663; Celeste v. People, L-21435, Jan. 30, 1970, 31 SCRA 391.

[35] Petition, par. 5, 1, p. 11.

[36] J. M. Tuason & Co., Inc. v. Land Tenure Administration, L-21064, Feb. 18, 1970, 31 SCRA 413.

[37] 11 Phil. 447 (1908).

[38] 24 Phil. 29 (1913).

[39] 25 Phil. 648 (1913).

[40] 44 Phil. 387 (1923).

[41] 44 Phil. 437 (1923).

[42] Frankfurter, The Reading of Statutes, reproduced in Of Law and Men, 47, at p. 53 (1956).

[43] Powell, *The Logic and Rhetoric of Constitutional Law*, 1 *Selected Essays on Constitutional Law* 474, at p. 481 (1938).

[44] Thayer, *The Origin and Scope of the American Doctrine of Constitutional Law*, *Ibid*, 503, at p. 524 (1938).

[45] 17 *Phil.* 269.

[46] *Ibid*, pp. 272-273.

[47] 56 *Phil.* 692 (1932).

[48] *Ibid*, p. 695.

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SEPARATE OPINION

TEEHANKEE, J.:

The petitioners at bar, three of whom pleaded guilty^[1] and two of whom stood trial,^[2] were meted out life terms in 1953, 1954 and 1955 for the so-called complex crime of rebellion with multiple murder and other crimes, and have served or are now entering into their 17th year of imprisonment, save for petitioner Epifanio Padua who was sentenced on December 15, 1955 and is completing his 15th year of imprisonment, (excluding the periods they were under pre-conviction detention). The leaders of the rebellion who were meted out death and life sentences for the same charge by the Court of First Instance of Manila had their sentences reduced last year to ten years of prison mayor by the Court in *People v. Lava*,^[3] wherein the Court expressly re-affirmed the doctrine first laid down in 1956 in *People vs. Hernandez*,^[4] that the crime of rebellion cannot be complexed with other common crimes since such common crimes "assume the political complexion of the main crime of which they are mere ingredients and consequently cannot be punished separately from the principal offense, or complexed with the same, to justify the imposition of a graver penalty." The Court rejected therein the State's plea for the reexamination and setting aside of such doctrine, declaring that "(T)his Court has given this plea of the Solicitor General a very serious consideration, but after a mature deliberation the members of this Court have decided to maintain that ruling in the Hernandez case and to adhere to what this Court said in that case." The said leaders have since been duly freed as having served out their penalty, but their followers, herein petitioners, are still serving their life sentences.

I concede the validity of the ruling in *Pomeroy vs. Director of Prisons*^[5] that "(W)ith reference to persons in custody pursuant to a final judgment, the rule is that the writ of habeas corpus can issue only for want of jurisdiction of the sentencing court, and cannot function as a writ of error." I grant, too, that at the time of the *Pomeroy* decision in 1960, as noted therein, "the existence of the 'complexed' rebellion (was) still upheld by a sizable number of lawyers, prosecutors, judges and even justices of this Court." But with the doctrine first enunciated in 1956 in *Hernandez* by a bare six-to-four majority vote having withstood the test of time^[6] and having been just last year unreservedly reaffirmed without a single dissent in *Lava*, it cannot now be gainsaid that it is now part of our legal system that the crime of "complexed" rebellion does not exist in our Revised Penal Code. No prosecutor would now file an information for "complexed" rebellion but simply for the offense of simple rebellion as defined in Article 134 of the Revised Penal Code, and even if such an information for "complexed" rebellion were to be so filed, the trial courts would be bound to quash such information as not charging an offense on the strength of *Lava* and *Hernandez*.

Petitioners have therefore properly invoked in their favor the provisions of Article 22 of the Revised Penal Code that:

"ART. 22. Retroactive effect of penal laws. --- Penal laws shall have a retroactive effect insofar as they favor the person guilty of a felony, who is not a habitual criminal, as this term is defined in rule 5 of article 62 of this Code, although at the time of the publication of such laws a final sentence has been pronounced and the convict is serving the same."

in relation to the provisions of Article 8 of the Civil Code that "(J)udicial decisions applying or interpreting the laws or the Constitution shall form a part of the legal system of the Philippines."

The situation of petitioners is no different than it would be if, say, the penalty of reclusion perpetua were imposed by statute for the crime of simple rebellion at the time of their conviction and they were accordingly sentenced, and the statutory penalty were now reduced to prision mayor or 12 years imprisonment; having served out the maximum penalty of 12 years now imposed by the amended statute, they would be entitled to invoke the retroactive effect of the statute favoring them. The only difference between the situation given and the present case is that here it is this Supreme Court, interpreting the laws in discharge of its constitutional prerogative, that has laid down the doctrine since *Hernandez* in 1956 that no offense of "complexed" rebellion exists and petitioners should therefore be now equally entitled to the retroactive favorable effect of such doctrine.

The actual case of petitioners is that at the time of their conviction, it was believed -- erroneously -- that the crime committed by them was punishable by life imprisonment, but the Court has subsequently judicially determined it not to be so and that the maximum imposable penalty is prision mayor or 12 years. Petitioners-convicts are entitled to the benefit of this later judicial declaration, just as if a statutory amendment had been enacted - not because the sentencing court had no jurisdiction or is now ousted of jurisdiction. The writ prayed for should issue, since as held in *Directo vs. Director of Prisons*,^[7] "the only means of giving retroactive effect to a penal provision favorable to the accused where the trial judge has lost jurisdiction over the case, is the writ of habeas corpus."

The question of jurisdiction of the sentencing court therefore is moot, for it is universally recognized that relief by habeas corpus may be properly sought in cases of imposition of excessive penalty, such that the part of the sentence beyond or in excess of the power of the court to impose is held void, the applicant having already served out the entire part of the sentence within the court's power.^[8] As pointed out by the Court in *Rodriguez vs. Director of Prisons*,^[9] furthermore, "Article 22 of the Revised Penal Code . . . extends its benefits even to convicts serving sentence, and the only legal remedy open to them to make use of such benefits is the writ of habeas corpus inasmuch as, if the penalty imposed upon them under the former penal law was decreased by the revised code, the excess has become illegal."

Regardless, therefore, of whether the trial courts that sentenced petitioners to life sentences had jurisdiction or not to impose such penalty, or were right or wrong in imposing such penalty, the only relevant question now is whether petitioners have served the maximum - and lesser - sentence of prision mayor that this Court has by firm judicial doctrine since 1956 determined to be the penalty that the Revised Penal Code fixes for the crime of rebellion. Since they have actually served much more than the maximum imposable penalty, the excess of the sentence imposed upon them over the imposable maximum of twelve years of prision mayor cannot but be declared illegal and they should now be set free.

In *People vs. Parel*,^[10] the Court held that the provisions of a new law (Act 3030) for the prescription of certain election offenses (fixing the same at one year after commission) were more favorable to the accused than those of the preexisting law and were therefore retroactive as to the same offenses committed before the enactment of the

new law. In meeting the objection that the reduced prescription period was by its terms applicable only to offenses resulting from the new law (which amended the pre-existing Election Law) and could not be given retroactive effect, the Court found 'that practically all of the offenses defined in the former law are also defined in the same language in Act 3030 (the new law), the only difference being that the penalties have been increased.' Holding that the retroactivity clause of Article 22 of the Penal Code must apply in all in which the new law is more favorable to the accused, in the absence of any express statutory exception, the Court drew this analogy: "Let us suppose that a statute is enacted defining the crime of murder in the same language in which it is defined in the Penal Code, but providing that the maximum penalty for the crime defined in the new statute shall be life imprisonment, the statute containing no provision that it shall not be retroactive in its effect. Would anyone then maintain that the death penalty might still be imposed for murder committed before the new statute was enacted?"

The case at bar for petitioners is much stronger. Here, there is no question even as to the enactment of a new statute describing the crime in the same language and imposing a lesser penalty, but the settled doctrine of this Court that there does not exist in our legal system the complex crime of rebellion of which the petitioners stand convicted, "since rebellion cannot form a complex with common crimes, because the latter are either absorbed by the rebellion itself or are punishable as independent offenses." [11] Petitioners here have been convicted for the very same rebellion and under the very same law for which their leaders, Jose Lava et al., have been convicted. Yet, while their leaders have since been freed after serving their sentences of ten years of prison mayor, petitioners as mere followers are serving out the life sentences imposed on them, notwithstanding their already having served out much more than the maximum penalty of twelve years of prison mayor imposable upon them. The fact that the legal doubts about the non-existence of the crime of "complexed" rebellion were cleared up only in 1956 after they had already been convicted and were serving their sentences does not make the excess in the penalty imposed upon them beyond the maximum of twelve years any less illegal.

The rule of prospective and non-retroactive operation of judicial doctrines, and its corollary rule of the law of the case, have no application here. These salutary rules decree that rights of parties having been decisively settled and determined by final judgment of the court of competent jurisdiction with the party adversely affected having had the opportunity to raise in the case all relevant questions, the decision becomes the law of the case, and vested rights would be impaired, judicial chaos and disorder ensue and litigation would be never-ending and would become more intolerable than the wrongs it is intended to redress, should an adjudicated case be reopened simply because in another and subsequent case, this Court adopted a new or different construction of the law under which a different result of the adjudicated case might have been obtained. Here, the whole question turns - simply - on the nature of the crime of rebellion as defined in section 134 of the Revised Penal Code and the maximum penalty imposable therefor under section 135 of the same Code. As this Court had ruled since 1956 - which is now settled doctrine - that only the crime of simple rebellion exists in our legal system for which the maximum penalty of prison mayor may be imposed, the excess of the life sentences imposed upon petitioners over the imposable maximum of prison mayor cannot stand and must necessarily be declared void.

Prescinding then from the question of jurisdiction of the sentencing courts, the case at bar presents a clear case of an excess in penalty imposed beyond twelve years of prison mayor which has become illegal by virtue of this Court's settled doctrine that the crime of rebellion cannot be complexed with other common crimes. On this ground, as well as on the further and more fundamental ground that to hold them liable to continue serving life sentences for a crime that the law - at the time of their conviction as well as now - punishes only with prison mayor which they have more than fully served, would be to deny them their constitutional rights of due process and equal protection of the law.

Any further detention of petitioners, in my view as above discussed, is illegal and unconstitutional and the petition

for habeas corpus should be granted and petitioners forthwith set at liberty.

[1] Petitioners Gumabon, Agapito and Palmares.

[2] Petitioners Bagolbagol and Padua.

[3] 28 SCRA 72, 100 (May 16, 1969).

[4] 99 Phil. 515 (1956).

[5] 197 Phil. 50 (1960).

[6] Reiterated in *People vs. Geronimo*, 100 Phil., 90 (1956); *Togonon*, 101 Phil., 804 (1957); *Romagoza*, 103 Phil., 20 (1958); *Santos*, 104 Phil. 551 (1958); and *Aquino*, 108 Phil., 814 (1960).

[7] 56 Phil. 692 (1932).

[8] *Cruz vs. Director of Prisons*, 17 Phil. 269 (1910) ; See also *Caluag vs. Pecson*, 82 Phil. 8 (1948).

[9] 57 Phil. 133 (1932)

[10] 44 Phil. 437 (1932), emphasis copied; see also *People vs. Moran*, 44 Phil. 387 (1923).

[11] *Pomeroy vs. Director of Prisons*, supra fn. 5, see pp. 54, 61.

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