

## **ANDRES R. CAMASURA, PETITIONER AND APPELLANT, VS. THE PROVOST MARSHAL, MPC., DAVAO, ETC., RESPONDENT AND APPELLEE.**

*G.R. No. L-1164. March 13, 1947*

Ponente: PERFECTO, J.

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### **PERFECTO, J.:**

The petition in this case was filed after petitioner had appealed against an order of the Court of First Instance of Davao, denying his petition to be released from confinement in a case of habeas corpus instituted in June, 1946. (Camasura vs. Provost Marshal, p. 131, ante.)

Two questions are raised in this case: first, whether or not the pardon granted to petitioner on September 4, 1944, by the Japanese Imperial Government through the Vice-Admiral in command of the Davao base is valid and should be given effect; and second, whether, notwithstanding the existence of the appealed case coming from the Court of First Instance of Davao, petitioner can still file and proceed with the petition in this case.

But in view of the result we have arrived at in the first case (the one proceeding from Davao, Camasura vs. Provost Marshal, supra, wherein we have ordered the immediate release from confinement of petitioner, which is the same remedy he is seeking in this case), there is no need of passing upon said questions.

This case having become a moot one, the petition is dismissed.

Pablo, Hilado, Bengzon, Briones, and Tuason, JJ., concur.

Moran, C.J., and Paras, J., concur in the result.

### **PADILLA, J.:**

I concur in the result for the reasons set forth in my dissent in the case of Camasura vs. Provost Marshal (p. 131, ante).

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## **CONCURRING AND DISSENTING**

### **FERIA, J.:**

I concur in the dismissal of the petition filed in this case, but I dissent from the reason given by the majority for said dismissal. The majority opinion or reason is that, the petitioner having been released by this court in the case of habeas corpus No. 874 appealed to this court, there is no need of passing upon the merits of the petition, that is, "this case has become a moot case."

The undersigned is of the opinion that whatever may have been the outcome of the appeal above referred to, the original petition for habeas corpus filed by the petitioner in this case must be dismissed, because a previous

petition for habeas corpus having been filed by the petitioner in the Court of First Instance of Davao in the case of G. R. No. L-874, which was pending appeal in this Supreme Court, the latter has no jurisdiction to entertain the petition for habeas corpus on the same ground filed in the present case G. R. No. L-1164.

Under section 2, Rule 102, of the Rules of Court, a Court of First Instance as well as the Court of Appeals and the Supreme Court may grant a writ of habeas corpus, that is, said courts have concurrent jurisdiction to grant a petition for habeas corpus. It is a familiar principle that when two or more courts have concurrent jurisdiction over a case, the first acquiring jurisdiction will acquire it exclusively or with the exclusion of others; and, therefore, a petition for habeas corpus on one and the same ground cannot originally be filed with, considered and acted on by, all of them, that is a Court of First Instance, Court of Appeals and Supreme Court. Otherwise, conflicting decisions may be obtained from said courts, and the petitioner would be free to abide by the resolution which is favorable to him and disregard what is unfavorable; and the provision of section 18, Rule 41, of the Rules of Court which provides for appeal in habeas corpus cases would be a superfluity, because, instead of taking an appeal from the judgment of a Court of First Instance denying his petition, to this Court, the petitioner may file a new petition on the same ground with this Court, disregarding completely the judgment of the Court of First Instance, notwithstanding the fact that the doctrine of *jus judicata* is applicable also to habeas corpus proceeding (25 American Jurisprudence, par. 156).

It is, therefore, evident that a petition for habeas corpus having been filed by the petitioner with the Court of First Instance of Davao, said court had acquired exclusive jurisdiction over the habeas corpus proceeding instituted by the petitioner; and during the pendency of that case in the said Court of Davao or of the appeal in this Supreme Court, the latter has no jurisdiction to entertain another petition on the same ground for the reason above stated, and because this Court cannot exercise original and appellate jurisdiction at one and the same time over one and the same case, although instituted in different proceedings.

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