

BARTOLOME DY POCO, PLAINTIFF AND APPELLANT, VS. THE COMMISSIONER OF IMMIGRATION, AND THE IMMIGRATION OFFICER OF CEBU, DEFENDANTS AND APPELLEES.

G.R. No. L-22744. March 31, 1966

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3abbd8d074dc/>

BENGZON, J.P., J.:

Appeal in a proceeding for habeas corpus.

Stating in its Judgment rendered on April 11, 1964 that it sustained the argument of the Solicitor General in opposing the issuance of the writ, the court a quo nonetheless therein ordered that petitioner be released upon posting of bond, "to avoid the commission of injustice and for the sake of humanitarian consideration, because she had been detained too long."

In this appeal the Solicitor General contends that petitioner's detention by the Bureau of Immigration is legal. This Court has issued preliminary injunction to enjoin, for the meantime, the enforcement of the court a quo's release orders.

According to stipulation by the parties the facts are as follows:

Petitioner, of legal age, Chinese, is detained by the Bureau of Immigration at Engineer Island but temporarily confined at the Philippine Chinese General Hospital, for a serious illness, under security guards of the aforesaid Bureau of Immigration.[1]

She was admitted into the Philippines on May 3, 1953 as a transient from Sandakan, Borneo and bound for Hongkong. She stayed beyond the period allowed her. For overstaying in the Philippines she was—after proper deportation proceedings—ordered deported by the Commissioner of Immigration on August 6, 1955. She was however allowed temporary release upon posting of surety and cash bonds.

After August 16, 1963 petitioner was arrested and detained by the Commissioner of Immigration until December 27, 1963. At the latter date, she was again released under bond, subject to the condition that she will leave the country on or before January 28, 1964.

For not leaving the country within the time above-stated, petitioner was rearrested on January 29, 1964 and thereafter detained. She then filed the petition in this case for habeas corpus in the Court of First Instance of Manila on March 11, 1964.

It is also stipulated that other than the fact that her permission to stay in the Philippines has expired, petitioner is not and has never been charged of any offense against the Philippine Government or any citizen; that nine (9) years have elapsed since the order of her deportation was issued and the Government has not yet deported her; that she has asked the Commissioner of Immigration to release her from detention, but the same was not granted; and that negotiations are being conducted between the Philippine Government and the Nationalist Government of

China for the return of the so-called overstaying Chinese to which the petitioner belongs.

From the stipulated facts abovementioned it follows that petitioner's further stay in the Philippines is illegal and that the Government has the right to deport her. As an incident of the right to deport, the Government, through the Commissioner of Immigration, has the right to detain the alien to be deported pending the deportation. Said right to detain, per se, is not questioned herein. Petitioner however contends that her detention has been unreasonably too long so that she is entitled to be discharged by writ of habeas corpus.

It is true that too long a detention of an alien pending the carrying out of a deportation order may justify the issuance of a writ of habeas corpus under particular circumstances (*Borovsky vs. Commissioner of Immigration*, 84 Phil. 161). The question of what is a reasonable time in this regard, also varies with the circumstances of every case (*Ross vs. Wallis*, 279 F. 401, 402).

In the present case, the detention complained of started on January 29, 1964. At the time the petition was filed in the court a quo on March 11, 1964, less than two months of said detention had taken place. Said length of time does not strike this Court as unreasonably too long a detention preparatory to deportation.

Now, even taking into account the fact that the detention has continued up to the present, that is, for about two years, the same is not illegal considering the reason for the delay. As the parties stipulated, petitioner is a Chinese national and negotiations are being conducted between the Philippine Government and the Nationalist Government of China for the return of the so-called overstaying Chinese to which petitioner belongs.

Accordingly, it is in point to state here what this Court said thru Mr. Justice Barrera in *Tan Seng Pao v. Commissioner of Immigration*, L-14246, April 27, 1960 :

"Respondent finally contends that the lower court erred in granting petitioner the writ of habeas corpus, on the main ground that he had been under detention by the immigration authorities for 8 years since he was ordered deported, without said order having been carried out. The lower court considered said long continued detention of petitioner as unreasonable, citing the cases of *Mejoff vs. Director of Prisons* (G.R. No. L-4252, prom. September 26, 1951); *Borovsky vs. Commissioner of Immigration, et al.* (G.R. No. L-4352, prom. September 28, 1951); *Chirskoff vs. Commissioner of Immigration, et al.* (G.R. No. L-3802, prom. October 26, 1951); and *Andreau vs. Commissioner of Immigration, et al.* (G.R. No. L-4253, prom. October 31, 1951), wherein this Court granted the writ of habeas corpus to petitioners in said cases, as they had been under detention by the Immigration authorities from 2 to 4 years, while awaiting deportation.

"It is to be noted, however, that this Court was constrained to grant the release of petitioners in said cases, because 'there was no ship or country which would take them.' Petitioners therein were stateless Russians who have no country to which they may be deported or which would be willing to accept them. In the instant case, petitioner is a Chinese citizen and not a stateless alien, and has a known country, Formosa (from whence he came), to which he may be removed. If there is any delay in the shipment of petitioner from this country, it is not due to the fault or negligence of the Government or of its officers. If diplomatic negotiations which have been pursued relentlessly by our Government have not yielded tangible results leading to the immediate or early removal of petitioner and other aliens similarly situated, the delay should not be considered a ground for declaring the order of deportation *functus officio*. Otherwise, it would be within the power of the countries of undesirable aliens ordered deported from this country to render ineffective or unenforceable warrants of deportation, by simply frustrating all diplomatic efforts aimed at their removal from this country.

"In conclusion, we hold and declare that, as long as the continued detention of a deportee is not attributable to the fault or negligence of the Government or of its officers, and his deportation is not rendered impossible by his citizenship status by reason of which no country or ship will accept him, warrant for his deportation should stand in all its force and vigor, rather than be declared *functus officio*."

If not being the fault of the Philippine Government or its officers that petitioner is not as yet deported to her own country, her continued detention preparatory to deportation is legal. It follows that the writ prayed for cannot be granted "for the sake of humanitarian considerations." And besides petitioner had sufficiently been accorded "humanitarian considerations." For two times, the records show, she was released on the strength of assurances that she was going to leave the country. It is true the deportation order had been issued nine years before she filed her petition for habeas corpus. It is however equally true that for eight years of those nine years, from 1955 to 1963, she was released under surety and cash bonds, during which time she had all the chance to live up to her original commitment of proceeding to Hongkong, which was why she was allowed to enter the Philippines as a transient in the first place. As it happened, she succeeded in staying in the Philippines, undetained, for eight years. For this Court now to sanction her release to resume such illegal stay would be to open the door to the entry and indefinite stay of aliens to this country under the pretext of being transient entrants, and thereby leaving the country permanently exposed to undesirable elements from abroad to the detriment of its peace, security and order. Such a situation is far from what this Court can sanction under the law.

Wherefore, petitioner's motion for release on bail pending the decision of this case is denied and the judgment appealed from is reversed. Petition for habeas corpus is denied. Costs against petitioner. So ordered.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Regala, Makalintal, Zaldivar, and Sanchez, JJ., concur.

[1] Said confinement was from 28 January 1964 to 12 August 1964; she is now back at Engineer Island. See Petition for Temporary Release dated October 4, 1965, p. 67 of Rollo and Certificate, p. 70 of Rollo.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.