

EDUARDO SOTTO, PETITIONER AND APPELLANT VS. THE DIRECTOR OF PRISONS, THE SUPERINTENDENT, SAN RAMON PRISON AND PENAL FARM, ZAMBOANGA CITY, RESPONDENTS AND APPELLEES.*G. R. No. L-18871. May 30, 1962*

Ponente: PAREDES, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/99461806ee16/>**PAREDES, J.:**

Together with Rocindo Brillantes, Eligio Iturralde and Alfredo Valencia, petitioner Eduardo Sotto was convicted upon a plea of guilty, by the CFI of Zamboanga, for the crime of robbery, and sentenced to serve an imprisonment of from 12 years and 1 day to 18 years, 2 months and 21 days of reclusion temporal; to return the articles robbed or pay the corresponding value of P465.60 to the offended party Leona Kuan Tan, with the accessories of the law and to pay 1/4 of the costs (CFI-Crim. Case No. 1873, Zamboanga City). He started serving his sentence on December 17, 1953, and up to the date of his petition for habeas corpus, filed on December 8, 1958, he has already served an aggregate term of 4 years, 11 months and 21 days, excluding good conduct time allowance, earned under article 97 of the Revised Penal Code. He alleged in his petition that the penalty imposed is excessive and not in accordance with law, as the proper penalty imposable, for the offense charged in the information should be that of Article 302, and not article 299 of the Revised Penal Code; that at the time of conviction, petitioner was a minor, 16 years old, and as such he was entitled to a penalty next lower than the one prescribed for the crime committed, to wit, *arresto mayor* in its maximum period to *prision correccional* in its minimum period, or from 4 months and 1 day to 2 years and 4 months, and that having served sentence for a period of 4 years, 11 months and 21 days, he should already be ordered released from custody and control of the Respondent Director of Prisons or his representative and that he has no other adequate, legal and speedy remedy in law except the present proceeding. He, therefore, prayed that the respondent be ordered to release him. Respondent, answering, alleged in his special defense that admitting, but not granting that the sentence is not in accordance with law, the petition for habeas corpus, is not the proper remedy.

The trial court issued an Order the dispositive portion of which runs—

"The petitioner is seeking relief from that error. This Court believes that the trial Judge Hon. Pablo Villalobos who imposed the sentence in criminal case No. 1873, was right; and therefore, this case of habeas corpus will not lie and same is here denied".

Petitioner appealed, assigning as error of the trial court in not holding that the penalty imposed upon the accused was excessive and contrary to law. Considering that the issues involved are purely of law, the Court of Appeals certified the case to Us for determination. The Solicitor General has not filed any brief.

At the bottom of the petition, the petitioner desires to revise errors of law or fact, if ever there were such errors, which the trial court had supposedly incurred in the criminal case aforementioned. It is already a settled rule that when a court has jurisdiction of the offense charged and the person of the accused, its judgment, order or decree is valid and is not subject to collateral attack by habeas corpus, for this cannot be made to perform the function of a

writ of error, and this holds true even if the judgment, order or decree was erroneous (*Vda. de Talavera vs. Supt.* etc. 67 Phil. 538; *Cruz vs. Martin, et al.* 75 Phil. 11). In a recent case, (*Cuenca vs. Superintendent*, etc. L-17400, Dec. 10, 1961), this Court said—

"* * * This Court has repeatedly held that a writ of habeas corpus is not a writ of error, or a writ for the purpose of review (*Felipe vs. Director of Prisons*, 27 Phil. 378; *Pomeroy vs. Director of Prisons*, 107 Phil. 50 [1]). In the *Pomeroy* case, we stated that—

'With 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. Hence, the writ will not lie to correct mere mistake of fact or of law which do not nullify the proceedings taken by a court in the exercise of its functions, if the court has jurisdiction over the crime and over the person of the defendant.'

"* * * The second error, on the other hand, attacks the Municipal Court's appreciation of the number of appellant's previous convictions for theft. Again, this is merely an error of judgment by said court, which did not in any way affect its jurisdiction, or could nullify its proceedings, but was correctable only by a seasonal appeal.

In the *Felipe* case, *supra*, we pointed out:

'But the writ of habeas corpus is not a remedy provided for the correction of such errors. Courts cannot, in habeas corpus proceedings, review the record in a criminal case after a judgment of conviction has been rendered, and the defendants have entered on the execution of the sentence imposed), to ascertain whether the facts found by the trial court were in accordance with the evidence disclosed by the record, or in order to pass upon the correctness of the conclusions of law by the trial court based on the facts thus found. Under the statute, a commitment in due form based on a final judgment convicting and sentencing a defendant in a criminal case is conclusive of the legality of his detention under such commitment, unless it appears that the court exceeded its jurisdiction in imposing the penalty. Mere errors of law or of fact, which did not have the effect of depriving the trial court of its jurisdiction over the cause and the person of the defendant, if corrected at all, must be corrected on appeal in the form and manner prescribed by law.'

Reliance is placed on our ruling in the cases of *Cruz vs. Director" of Prisons* (17 Phil. 269) and *Caluag vs. Pecson*, (82 Phil. 8), but these cases are not in point, for they involved penalties not provided by law and, therefore, beyond the power or jurisdiction of the trial court to impose. Thus, in the *Pomeroy* case, *supra*, we said:

'While this Court has ruled that an excessive sentence or penalty imposed by final judgment may be corrected by habeas corpus, the cases where such ruling was applied involved penalties that could not be imposed under any circumstances for the crime for which the prisoner was convicted: (subsidiary imprisonment for violation of special acts, in *Cruz vs. Director of Prisons*, 17 Phil. 269; imprisonment for contempt by refusal to execute a conveyance instead of having the conveyance executed as provided by Sec. 10 of Rule 39, in *Caluag vs. Pecson*, 82 Phil. 8). * * *.'

In the case at bar, the trial court undoubtedly had jurisdiction over the cause, over the person of the accused, and to impose the penalty provided for by law. What is here questioned is only the correctness of the exercise of that jurisdiction. The mistake committed by the trial court, if any, refers to the appreciation of the facts and/or in the appreciation of the law, which, in the light of the authorities heretofore cited, can not be corrected by habeas corpus.

The writ is denied, and the decision appealed from is affirmed. No costs.

Padilla, Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, and Dizon, JJ., concur.

[1] See also *Talabon vs. Prov. Warden*, 78 Phil. 599; *Perkins vs. Dir. of Prisons*, 58 Phil. 271; *Paguntalan vs. Dir. of Prisons*, 57 Phil. 140; *Trono Felipe vs. Dir. of Prisons*, 25 Phil. 121; *U.S. vs. Jayme*, 24 Phil. 90; *McMicking vs. Schields*, 49 Phil. 971.

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