

GO TIAN SEK SANTOS, PETITIONER, VS. ERIBERTO MISA, DIRECTOR OF PRISONS, RESPONDENT.*G.R. No. L-319. March 28, 1946*

Ponente: BENGZON, J.

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The petitioner avers he is a Chinese citizen apprehended in February, 1945, by the Counter Intelligence Corps of the United States Army, turned over last September, to the Commonwealth Government, and since then detained by the respondent as a political prisoner. Such detention, he claims, is illegal, because he has not been charged before, nor convicted by, the judge of a competent court, and because he may not be confined under Act No. 682, as he owes allegiance neither to the United States nor to the Commonwealth of the Philippines.

The Solicitor-General, for the respondent, admits the detention, for active collaboration with the Japanese, doubts the allegation of citizenship, and maintains that, conceding arguendo petitioner's alien age, he may be charged for espionage, a crime against national security wherein allegiance is immaterial, and may, therefore, be held in custody under Commonwealth Act No. 682.

As the record stands, the petitioner must be deemed a Chinese subject. The commitment order No. 291 issued by the United States Army authorities describes him as such. But it does not follow that he is entitled to liberty now. He is included among those contemplated by section 19 of Commonwealth Act No. 682, which reads partly:

"Upon delivery by the Commander-in-Chief of the Armed Forces of the United States in the Philippines of the persons detained by him as political prisoners, to the Commonwealth Government, the Office of Special Prosecutors shall receive all records, documents, exhibits and such other things as the Government of the United States may have turned over in connection with and/or affecting said political prisoners, examine the aforesaid records, documents, exhibits, etc., and take, as speedily as possible, such action as may be proper: Provided, however, * * *. And, provided, further, That, in the interest of public security, the provisions of article one hundred twenty-five of the Revised Penal Code, as amended, shall be deemed, as they are hereby, suspended, insofar as the aforesaid political prisoners are concerned, until the filing 1 of the corresponding information with the People's Court, but the period of suspension shall not be more than six (6) months from the formal delivery of said political prisoners by the Commander-in-Chief of the Armed Forces of the United States in the Philippines to the Commonwealth Government."

His foreign status does not exclude him ipso facto from the scope of the above provisions. As stated by the Solicitor-General, he might be prosecuted for espionage, (Commonwealth Act No. 616) a crime not conditioned by the citizenship of the offender, and considered as an offense against national security.

The contentions advanced during the oral argument, challenging the validity of said section 19, Commonwealth Act No. 682, upon constitutional grounds must be over-ruled, in view of our decision in *Laurel vs. Director of Prisons* (p. 372, ante), copy of which will be furnished to petitioner by the clerk of this court. The petition is denied, with costs.

Moran, C. J., Ozaeta, Jaranilla, Feria, De Joya, Pablo, Hilado, and Briones, JJ., concur.
Paras, J., concurs in the result.

CONCURRING AND DISSENTING

PERFECTO, J., :

We concur with the majority's pronouncement to the effect that petitioner is not excluded from the group of persons contemplated by section 19 of Commonwealth Act No. 682, notwithstanding his foreign status as a Chinese subject. We also agree that, if there are facts and evidence to justify it, he might be prosecuted for espionage, or any other crime not conditioned by the citizenship of the offender. But we disagree as to the denial of the petition, it appearing that petitioner is being deprived of his personal liberty without any due and legal process of law, and as to this question, we refer to the stand we have taken in our dissenting opinion in case G. R. No. L-200, Laurel vs. Director of Prisons (p. 372, ante), the contentions therein we reiterate here.

Petition denied.

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