

CRESENCIA LANDICHO, PETITIONER, IN BEHALF OF OLIMPIO LANDICHO, VS. THE SUPERINTENDENT, RESPONDENT, AS LEGAL REPRESENTATIVE OF THE DIRECTOR OF PRISONS.

G.R. No. L-1498. July 31, 1947

Ponente: PADILLA, J.

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PADILLA, J.:

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

This is a petition for a writ of habeas corpus filed for and in behalf of Olimpio Landicho, who, according to the allegations in the petition, on 27 May 1943 was convicted of the crime of "robbery in band with serious physical injuries and arson" and sentenced to suffer from 10 years and 1 day to 17 years, 4 months and 1 day and to indemnify, jointly and severally, the offended party in the sum of P15,000 (Criminal Case No. 175).

It is contended that the sentence imposed upon the prisoner during the enemy occupation is null and void, because the Court of First Instance of Batangas was not a competent Court under the laws of the Commonwealth and the Constitution of the Republic of the Philippines; that the penalty meted out to him is inconsistent with the present laws of the country after liberation; and that his confinement is illegal, arbitrary, and constitutes a flagrant violation of the Constitution of the Commonwealth and of the Republic of the Philippines, for he was sentenced without due process of law.

In the answer filed in behalf of the respondent, it is alleged that on 3 June 1943, the prisoner was sentenced by a final valid judgment rendered by the Court of First Instance of Batangas for the crime of robbery in band with frustrated homicide, physical injuries, and arson, to suffer from 10 years and 1 day of prison mayor to 17 years, 4 months and 1 day of reclusion temporal, with the accesories of the law, to indemnify, jointly and severally, the offended party in the sum of P15,000, and to pay 1/19 of the costs; that pursuant thereto, the Court of First Instance of Batangas issued an order committing the person in whose behalf the petition is filed to the custody of the Director of Prisons; that on 6 June 1943, such person was actually committed to the custody of and received by the Director of Prisons; and that as the prisoner's confinement is by virtue of a valid sentence rendered by a competent Court which convicted him of an offense not political in nature, the writ prayed for does not lie.

According to a copy of the record of the prisoner attached to the answer, with good conduct allowance his minimum term will expire on 21 April 1951 and his maximum term will expire on 5 June 1956 (Annex 3). The penalty imposed upon him was for a crime not political in nature but one that would have been punished anytime, anywhere. And, lastly, it appearing in the judgment rendered by the Court of First Instance of Batangas on 3 June

1943 attached to the answer (Annex 1) that on 27 May 1943, the prisoner, assisted by his counsel, was arraigned, and that he pleaded guilty to the information, he cannot justly complain or be heard to say that he was sentenced without due process of law.

The petition is dismissed, without costs.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Hontiveros, and Tuason, JJ., concur.

DISSENTING

PERFECTO, J.:

The petition for a writ of habeas corpus filed in this case by Cresencia Landicho, in behalf of prisoner Olimpio Landicho, prays for the latter's release from the custody of the Director of Prisons, upon the fact that said Olimpio Landicho is deprived of his liberty in virtue of a sentence, handed down on May 27, 1943, during the Japanese occupation of the Philippines.

There is no question that the sentence was rendered by one of the tribunals established by the invaders and not by one created and functioning under our laws and Constitution, it appearing that, according to respondent's answer, the decision was rendered by a judge of Batangas where the Commonwealth Government has completely ceased to function during the enemy occupation.

For the reasons we have already stated in our opinions in *Co Kim Cham vs. Valdes*, L-5, we do not recognize any validity in the judicial processes had under the authority of the Japanese during the occupation of the Philippines. Consistent with this theory we are of opinion that petitioner Olimpio Landicho is entitled to be immediately released from prison, and that said release be ordered by this Court.

HILADO, J.:

I concur in this dissent.

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