

CATALINA G. INDAC, WIFE OF PRISONER SANTIAGO INDAC, IN HIS BEHALF, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-1133. November 29, 1946

Ponente: BENGZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/ca06eba6bf27/>

BENGZON, J.:

Petitioner, the wife of prisoner Santiago Indac, prays for his release from confinement, alleging in substance: (1) that in September, 1943, he was sentenced, for theft, by the Manila Court of First Instance, to imprisonment for not less than eleven nor more than twenty-four years, (2) that he has already served three (3) years and six (6) months, which is the maximum imposable under our laws for the offense he had committed, (3) that the penalty is illegal, excessive and unauthorized, (4) that his crimenished during Japanese occupation and (5) that such sentence, being tinged with political color, should be held to have ipso facto ceased upon the re having consisted of theft against the Japanese imperial army—of scrap iron, electrical cables and fixtures—was sabotage, heavily re-occupation of the Islands by the American forces and the restoration of the Commonwealth.

The Solicitor General states in his return that Santiago Indac is held in the respondent's custody by virtue of two commitments, namely:

"1. Criminal case No. 2332 of the Court of First Instance of Manila, for qualified theft, the penalty imposed being from 2 years, 11 months and 10 days to 6 years, 8 months and 20 days and P920 indemnity.

"2. Criminal case No. 2333 of the Court of First Instance of Manila, for theft, the penalty imposed being from 8 years, 8 months and 1 day to 18 years, 2 months and 21 days, and P24,919.90 indemnity."

He then explains that for the theft of supplies of the Japanese army valued at P24,919.90 (criminal case No. 2333) the prisoner could have been sentenced only to 10 years of prision mayor as maximum. He would not agree to the proposition that the crime and the judgment were political in nature. He finally concludes that, with the reduction of the penalty in criminal case No. 2333, the writ should be denied.

When the case was called for hearing, petitioner appeared without counsel. Asked whether she wanted legal assistance she answered in the affirmative. Accordingly, we designated Mr. Segundo L. A. Gonzales to assist her, and set the case again for oral argument. Said attorney de oficio reported to the court that after examining the expediente he had to agree to the Government's conclusion and recommendation.

As there is no question about the commitment in criminal case No. 2332 wherein the maximum penalty extends to 6 years, 8 months and 20 days, and as the prisoner has served only three years and six months, it is clear that Santiago Indac may not legally be released at this time, even if his conviction in criminal case No. 2333 is annulled as prayed by petitioner. But should it be annulled? We have no copy of the decision. The mere fact that the stolen goods belonged to the Japanese army does not, in the eyes of the law, excuse the deed, specially if the thief committed the act for his own personal benefit—not in pursuance of the resistance movement. It must be

remembered that criminal activities in opposition to the forces and agents of the Japanese empire are punishable under the laws of the Philippines, although the authors thereof may apply for the benefits of the Amnesty Proclamation dated September 7, 1946. While it is true that the petition calls the prisoner's offense as "sabotage," however, it makes no assertion that it was performed in pursuance of guerrilla activities or in furtherance of the underground plans.

As to the reduction of the prisoner's sentence in criminal case No. 2333, the record does not sufficiently describe the true circumstances surrounding the offense. On the other hand, this might be a case properly to be submitted to one of the Boards created by the above Amnesty Proclamation.

Wherefore, without presently deciding the extent to which the penalty in criminal case No. 2333 may be reduced, the court believes that prisoner's release may not now be decreed. Of course, this will be without prejudice to any request that may be addressed to the Amnesty Board and to any subsequent petition after the prisoner shall have served or about to have served the sentence in criminal case No. 2332, Petition denied. No costs.

Moran, C. J., Paras, Feria, Pablo, Briones, Padilla, and Tuason, JJ, concur.

DISSENTING

PERFECTO, J.:

Santiago Indac was sentenced for theft to an aggregate maximum penalty of 24 years, 11 months and 11 days, which he began serving on March 28, 1944, in criminal cases Nos. 2332 and 2333 of the Court of First Instance of Manila,

His wife now seeks his release by habeas corpus.

There is no question that the decisions in the two cases were rendered by a court under the Japanese regime in 1944 which, according to our opinion in *Co Kim Cham vs. Valdez Tan Keh* (L-5, 41 Off. Gaz., 779), formed part of the processes declared null and void in one of the proclamations of General Douglas MacArthur.

There is also no question that the scrap iron, electrical supplies, cables, and fixtures stolen by the prisoner from the Japanese imperial army formed part of its vital supplies; and petitioner contends that the stealing of them was a form of sabotage, directed against the enemy, for the purpose of weakening him.

No copy of the decisions could be presented to us, and there is no way of ascertaining the circumstances under which the prisoner committed the thefts. Considering the fact that the Japanese army's ownership of the stolen goods is, at least, doubtful, upon facts of general knowledge and of which the members of this court had ample opportunity to learn—the Japanese not having brought, during their invasion and occupation, any scrap iron, but collected it from all parts of the country by illegal means, to be sent to Japan to bolster up their dwindling materials of war—and the electrical supplies, cables, and fixtures which were stolen by the prisoner were most probably commandeered from our people; and taking aside the possibility that the prisoner stole the goods for purposes of personal profit, which we are not authorized to presume in the absence of evidence, there can be no question that the abstraction of those goods from the possession of the Japanese army had the effect of reducing the war materials that the enemy could use against our people and of indirectly helping the underground resistance forces and, later, the forces of liberation which struck the final blow that resulted in the humiliating defeat of the invaders.

Under such circumstances, although we understand the fact that the prisoner has been convicted and sentenced to

the heavy penalty of from 11 years to 24 years of imprisonment—an unprecedented cruelty as penalty for simple theft—the prisoner explaining that the Japanese military authorities had instructed all courts to impose heavy penalty on crimes having the nature of political offenses, we are of opinion that, after liberation, the prisoner is entitled to be immediately released as, from the point of view of our people, he did not commit any punishable act.

If instead of stealing, the prisoner had killed, during the occupation, Japanese officers and soldiers, no loyal Filipino would ever convict or consider him as guilty of murder or homicide. On the contrary, he would be counted and hailed as one of the unnumbered heroes who helped the cause of our country by the elimination of one or more members of the Japanese forces. There is no reason why we should punish a Filipino for stealing war materials from the enemy when, by such kind of sabotage, he helped in the weakening of the enemy.

In view of the foregoing, we declared the two decisions sentencing the prisoner to undergo a long term of imprisonment null and void, and said prisoner is entitled to his immediate release, and so we vote.

CONCURRING

HILADO, J.:

I fully concur in the foregoing dissent. And to further strengthen our position, I must advert to the fact that the scrap iron in question had no known owner. The Japanese were not its owners—they could not be, any more than a burglar can constitute himself into the owner of the property that he has illegally wrested from its legitimate proprietor. The war crimes trials in Manila, Tokyo, and Nuerenberg have been based precisely upon the doctrine that the Japanese warlords and the German nazis, in launching the nations into World War II, committed crimes against humanity and peace, and that said aggressive war was a crime. The Japanese army of occupation here was a bunch of war criminals who, however, overruling their military power, did not and could not acquire legitimate rights, such as ownership, over the properties of the Filipino people and pther inhabitants of the Philippines.

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.