

**SIMPLICIO MAG. GUINTO, IN BEHALF OF PRISONER, HIS COUSIN,
LEONARDO ANDRES, PETITIONER, VS. THE DIRECTOR OF PRISON,
RESPONDENT.***G.R. No. L-1540. January 26, 1948*

Ponente: PARAS, J.

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The petitioner has instituted the present habeas corpus proceeding for the purpose of securing the the immediate release of his cousin, Leonardo Andres, a prisoner in Bilibid Prisons, Muntinlupa, Rizal. Petitioner's contention is that the confinement of the prisoner is by virtue of a judgment of conviction rendered by the court of First Instance of Manila on Decemeer 15, 1943 which is now null and void because it was rendered by a court other than that of the Commonwealth or Republic of the Philippines, and the penalty imposed is not in accordance with the present laws.

This contention is clearly without merit. The judgment In question, which convicted Leonardo Andres of robbery, does net have a political complexion because It covers an offense defined and penalized In the Revised Penal Code. (Herrero and Crisostomo vs. Diaz, 42 Off. Gaz., 1166; Alcantara vs. Director of Prisons, 42 Off. Gaz., 480.) Hence said judgment remains good and valid even after the termination of the Japanese military occupation. (Co Lim Cham vs. Valdez Tan Keh, 41 Off. Gaz., 779.) The decision Invoked by the petitioner (Luangco vs. Provincial Warden of Tacloban, Leyte and Lagera vs. Provincial Warden of Tacloban 43 Off. Gaz., 4587), Is not in point, since the petitioners therein were convicted of the crimes of robbery and robbery with homicide defined and penalized by Act No. 65 of the Republic of the Philippines established during the Japanese occupation, passed by the then Assembly on March 3, 1944, or long after the judgment involved in the case at bar was rendered.

It appearing that the prisoner's confinement is by virtue of said judgment and three other judgments of conviction of the Court of First Instance of Manila, rendered after the liberation, and it appearing further that, according to his prison record (Annex 2), his minimum term (with good conduct allowance) will expire only on October 25, 1949; the release of said prisoner is not in order.

The petition is hereby denied without costs. So ordered.

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

CONCURRING AND DISSENTING**HILADO, J.,**

While dissenting from so much of the dicision as is based upon the judgement of conviction dated December 15, 1943 and mentioned in the first paragraph thereof, for the reasons set forth in my dissent in Co Kim Cham vs. Valdez, 41 Off. Gaz., 779, I concur in the denial of the petition upon the ground that Leonardo Andres, the

prisoner in whose behalf it has been filed, is validly confined under the judgements of September and November, 1946, referred to in Annexes "3", "4" and "5".

DISSENTING

PERFECTO, J.,

Petitioner was sentenced to 6 months and 1 day of prisión correccional, plus an additional penalty of 6 years and 1 day of prisión mayor in a decision rendered by the Court of First Instance of Manila on December 15, 1943, and his person was actually committed to the custody of the Director of Prisons since January 17, 1944, by virtue of said decision.

The above-mentioned decision has been rendered during the Japanese occupation and by a court of Justice with authority and jurisdiction conferred upon it by the Japanese imperial government. Under the Constitution of the Philippines, the administration of Justice in our country is entrusted to the Supreme Court and to inferior courts created by the legislative department of our government. Administration of justice is one of the essential functions of national sovereignty. According to our fundamental law, sovereignty resides in the people and all government authority emanates from them. (Sec. 1, Art. II of the Constitution.) The court that rendered the decision in question represented a foreign sovereignty, antagonistic to the sovereignty of our people. Under our laws and Constitution, its decision cannot be given validity without compromising our national sovereignty. Said decision is null and void, and it was so from the very moment it was rendered and promulgated. Further reasons in support of this position are given in our opinion in *Co Kim Cham vs. Valdes*, L-5, 41 Off. Gaz., 779.

Respondent alleges that petitioner, as appears in Annexes 3, 4 and 5, has also been sentenced in three decisions rendered in September and November, 1946, to an indeterminate sentence of 4 months and 1 day to 1 year, 8 months and 21 days imprisonment, to 4 months imprisonment and to 3 months imprisonment. These sentences are valid and the only ones that petitioner must serve. Upon serving the above three sentences, petitioner shall be released.

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