

RICARDO MATSURA, SR., ET AL., PETITIONERS, VS. THE DIRECTOR OF PRISONS, RESPONDENT.

G.R. No. L-1181. February 28, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

Alleging that they are illegally detained by respondent Director of Prisons, petitioners Ricardo Matsura, Sr., Macario Herce and Celso Almadovar prayed, in a petition filed with this Court on November 16, 1946, that they be ordered released.

Respondent alleged in his return, dated November 22, 1946, that the three petitioners are being detained for having allegedly collaborated with the enemy; that Macario Herce has already been charged before the People's Court with the crime of treason in an information filed on March 1, 1946, and Celso Almadovar has equally been charged with the same crime before the same court in an information filed on March 7, 1946, and has been arraigned and pleaded not guilty on October 19, 1946; that no information has as yet been filed against Ricardo Matsura, Sr., because he is a Japanese citizen and, therefore, not amenable to the original provisions of article 114 of the Revised Penal Code, a fact of which the head of the Office of Special Prosecutors, Solicitor General Tañada, informed the Commanding General of the AFWESPAC in a letter dated August 14, 1946, requesting that necessary steps be taken to transfer the custody of said Ricardo Matsura, Sr., to the proper authorities.

With respect to petitioners Macario Herce and Celso Almadovar, the petition appears to be without merit. Although they alleged that at the time they filed the petition they were being detained for over a year, that their detention was and continues to be without any legal authority and that, although the alleged cause of their detention is supposed collaboration with the enemy during the latter's occupation, actually there is no complaint or information filed or intended to be filed against them, as a matter of fact, when they filed their petition the two of them have already been charged with the crime of treason before the People's Court since March, 1946, and that their provisional release was recommended in the amount of P20,000 for Macario Herce and the amount of P10,000 for Celso Almadovar. Said two petitioners could have had grounds to complain of their detention before the filing of the informations against them, and it was then the opportune time for them to challenge the legality of their confinement. But at the time when their petition was filed on November 16, 1946, it was too late for them to complain, because the reason of their confinement then was the fact that they were being charged with treason and if they failed to avail themselves of the opportunity to be released on bail, it is nobody else's fault.

The question as to the nationality of petitioner Ricardo Matsura, Sr., having been raised and it being an issue of fact, granting a joint petition of counsel for both parties, on December 12, 1946, this Court appointed a commissioner to receive evidence, although the undersigned advanced the opinion that the question of nationality of petitioner is immaterial in deciding whether he is illegally deprived of his personal freedom or not.

Ricardo Matsura, Sr., is the only one who was able to present evidence.

Said petitioner testified without any contradiction that he is 37 years of age, was born in Intramuros, Manila, his

parents being Shintaro Matsura and Eugenia Yamco, the former a Japanese, and the latter a Filipina, and that he has been a naturalized Filipino since November, 1935. In 1937 he went, with a group of 93 Filipinos, for an educational trip to Japan. He presented his naturalization papers to the office of the American High Commissioner in order to get his passport. He left his passport on December 6, 1941, in his house in Damortis. When, after a trip to Antipolo, he returned at the end of January, 1942, the Japanese had occupied his house and all the furniture and his passport were no longer there. He remained in Japan from April 12 to May 30, 1937, and that was the only time when he was absent from the Philippines since his birth. His father and mother were not married. The naturalization papers were granted by Judge Francisco Zanduetta of the Court of First Instance of Manila. His naturalization papers were never returned by the office of the American High Commissioner.

Petitioner presented as Exhibit A a volume of the 1936 Philippinensian, published by the senior class of the University of the Philippines. At the back of the advertiser's index, appearing after page 350, there appear three pictures, the first one being a picture of Matsura, and in the text is read: "Mr. Ricardo Matsura, a Japanese recently naturalized Filipino, took the pictures of the building."

There is no way of rejecting petitioner's allegations that he has been naturalized as Filipino citizen since November, 1935, by virtue of a decree issued by Judge Francisco Zanduetta of the Court of First Instance of Manila, his naturalization having been publicly acknowledged as shown by the 1936 Philippinensian, Exhibit A.

In one of the exhibits annexed to the return of respondent it appears that said petitioner has been detained at least since October 1, 1945, and since then he appears to be deprived of his personal liberty without any legal cause or authority. There cannot be any question that he is entitled to be restored to his freedom.

For all the foregoing, the petition as regards Macario Herce and Celso Almadovar is denied, and it is ordered that petitioner Ricardo Matsura, Sr., be immediately released.

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

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