

ALFREDO B. SAULO, PETITIONER AND APPELLANT, VS. BRIG. GENERAL PELAGIO CRUZ, ETC., RESPONDENT AND APPELLEE.*G.R. No. 15474. August 31, 1960*

Ponente: REYES, J.B.L., J.

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In G. R. No. L-14819, a petition for habeas corpus was filed before this Court by and in behalf of petitioner Alfredo B. Saulo. We issued, on December 24, 1958, a writ ordering respondent Pelagio Cruz, as the Commanding General of the Philippine Constabulary, to submit, within five (5) days from notice, an answer returnable to the Court of First Instance of Manila.

At the hearing in the court below, respondent questioned the jurisdiction of the lower court on the ground that, inasmuch as petitioner was confined in the Philippine Constabulary stockade at Camp Crame, Quezon City, the Manila court was without jurisdiction to entertain the case consonant with Section 2, Rule 102 of the Rules of Court. Upon the remanding of the particular issue to us by the trial judge, we overruled this contention in our resolution of March 19, 1959, and, accordingly, we ordered the return of the records to the lower court for its appropriate action on the merits of the petition.

The case was submitted to the lower court for decision solely on the facts appearing in petitioner's pleadings and admitted by the respondent. According to the lower court:

"After successfully evading arrest since September, 1950, in connection with three criminal cases (Nos. 13681, 19166 and 39253, CFI, Manila) one for inciting to rebellion with murders, arsons, robberies and kidnappings, Alfredo B. Saulo, in whose behalf the present petition for a writ of habeas corpus has been presented, finally showed up at the Indonesian Embassy, Manila, on November 12, 1958, to seek refuge therein. As a result of negotiations had, the Indonesian Embassy surrendered him to the Philippine Government on November 18, 1958, since which date he has remained in the custody of the Philippine Constabulary at Camp Crame, Quezon City. One of the two criminal cases for rebellion having been dismissed with respect to him on motion of the prosecution, Saulo put up bail in the two remaining cases (Nos. 13681 and 39253). When the corresponding order for his temporary release was served, the herein respondent Commanding General of the Philippine Constabulary commanded one of his subordinates to withhold the release of Saulo on account of Criminal Case No. 46410, Court of First Instance of Manila. Said criminal case is a complaint against Saulo, 'filed on November 19, 1958, by the Fiscal of Manila, for alleged violation of Republic Act No. 1700, otherwise known as the Anti-Subversion Act, punishable by prison mayor to death, so that the said Court of First Instance might conduct the corresponding preliminary investigation, as provided in the Act. While said preliminary investigation was still going on, that is, on December 23, 1958, petitioner applied for a writ of habeas corpus with the Supreme Court, as already stated, on the ground that his detention, without warrant of arrest, by reason of the pendency of the aforesaid Criminal Case No. 46410, is illegal and void. Said Court gave due course to the application and directed the respondent Commanding General of the Philippine Constabulary to file answer, returnable to the Court of First Instance of Manila.

Respondent filed answer, as directed, admitting practically all the facts above related and alleged in the

application, with the plea that "the pendency of Criminal Case No. 46410 for violation of Republic Act No. 1700 filed before the Court of First Instance of Manila is sufficient reason for continuing the detention of the petitioner, in the absence of an order of the Court for his discharge under the case aforesaid."

Upon such findings, the lower court rendered decision, concluding that the filing of Criminal Case No. 46410 amounted to the delivery of accused-petitioner, who was arrested without warrant, to the proper court as provided under Section 17, Rule 109 of the Rules of Court (citing Sayo, et al. vs. Chief of Police, 80 Phil., 859). The Court consequently denied the petition for habeas corpus. Hence, this appeal.

However, petitioner's appeal appears to have been filed out of time, as pointed out by the Solicitor General. The records disclose that the notice of appeal was filed eleven (11) days after a copy of the lower court's decision, denying the petition, was served upon petitioner's counsel (on May 12, 1959 as per sheriff's return). As provided by Section 18, Rule 41 of the Rules of Court, petitioner should have perfected his appeal within twenty-four (24) hours from notice of judgment:

"Sec. 18. Appeal in habeas corpus cases, how taken.—An appeal in habeas corpus cases shall be perfected by filing with the clerk of the court or the judge who rendered the judgment, within twenty-four (24) hours from notice of such judgment, a statement that the person making it appeals from the judgment rendered."

It has been consistently held that the reglementary period for appeal is not only mandatory but jurisdictional on the courts and that an appeal filed out of time may be sought to be dismissed at any stage of the proceedings in the appellate court.[1]

In petitioner's "manifestation" dated October 12, 1959, it is contented that since the case for habeas corpus was heard by the Manila Court of First Instance, "not by virtue of its original jurisdiction but merely by delegation", this Court should have the final say regarding the issues raised in the petition, and only its decisions, not that of the Court of First Instance, should be regarded as operative. The logic is more apparent than real. While the petition for habeas corpus was originally filed with this Court, the only question that was immediately involved was the propriety of the issuance of a writ that would order the respondent to show cause why the detention of the person in whose behalf the writ was asked for should not be considered illegal, and that, therefore, the petitioner be ordered discharged from custody. The Rules authorize that once the writ is issued, the same may be made returnable before a Court of First Instance (Sec. 2, Rule 102, Rules of Court), and not necessarily to us. The court designated does not thereby become merely a recommendatory body, whose findings and conclusion are devoid of effect, unless and until we decide to act on the "recommendation". By filing a notice of appeal with the Court below, the appellant impliedly admitted that the decision appealed was not merely recommendatory or fact-finding.

In our resolution dated March 19, 1959, resolving the question of jurisdiction of the lower court, we stated the following:

"Moreover, it is apparent from sections 12 to 15 of said Rule 102 that the court or judge to whom the writ is returned shall have the authority and the duty to inquire into the facts and the law pertinent to the legality or illegality of petitioner's detention and to order his discharge from confinement, should it appear satisfactorily 'that he is unlawfully imprisoned or restrained.'"

* * * * *

In point of practice, when a writ of habeas corpus is, conformably to law, made returnable to a court other than that issuing the writ, the court to which the writ is returned, or the judge thereof, possesses full authority to examine all issues raised in the case and to settle the same. In the language of the American jurisprudence:

'After a return to a writ, the court or judge to whom the return is made must pass upon all questions of both law and fact and determine the ultimate question whether the prisoner is wrongfully restrained of his liberty. It is necessary for the court to determine the weight and credibility of the evidence where the testimony is conflicting.

'* * * "With further reference to habeas corpus proceedings in Federal courts, it is expressly provided by statute that the court or judge before whom the prisoner may be brought shall proceed in a summary way to determine the facts of the case, by hearing the testimony and arguments, and thereupon to dispose of the prisoner as law and justice may require.' (25 Am. Jur., p. 245, *Italics ours.*)"

In other words, the court or the judge to whom the writ is made returnable takes the case for determination on the merits (See 39 C. J. S. p. 603, sec. 58 and case cited therein), and its findings, either for the release of the detainee or for sustaining his continued custody, if not appealed on time, can become final just as it may in an ordinary case.

We, accordingly, have no other alternative than to dismiss the appeal.

Wherefore, the appeal is hereby dismissed, with costs against petitioner-appellant.

Paras, C. J., Bengzon, Bautista Angelo, Labrador, Concepcion, Barrera, and Gutierrez David, JJ., concur.
Padilla, J., took no part.

[1] Garganta, et al. vs. Court of Appeals, et al., 105 Phil., 412; 56 Off. Gaz. (26) 4323; Miranda vs. Guanzon, et al., and the Court of Appeals, 92 Phil., 168; 48 Off. Gaz., No. 10, 4359; Clemente vs. H. E. Heacock Company, et al., G. R. No L-12786, October 29, 1959; Mallare, et al. vs. Panahon, et al., 98 Phil., 154; 52 Off. Gaz., (1) 219; So Hong Chung vs. Collector of Customs, 60 Phil., 945.

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