

WILLIAM POMEROY AND CELIA MARIANO POMEROY, PETITIONERS AND APPELLEES, VS. THE DIRECTOR OF PRISONS AND THE SUPERINTENDENT OF CORRECTIONAL INSTITUTION FOR WOMEN, RESPONDENTS AND A...

G.R. Nos. 14284-85. February 24, 1960

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

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

Appeal by the state from a decision of the Court of First Instance of Rizal in habeas corpus proceedings instituted by William Pomeroy and his wife Celia Mariano, directing that both prisoners be released from custody.

On June 7, 1952, William Pomeroy and Celia Mariano were charged in the Court of First Instance of Manila (Criminal Case No. 19166) with the complex crime of rebellion with murder, arson and robbery committed in pursuance of the rebellion. Arraigned on June 18, 1952, the accused entered a plea of guilty, whereupon the court found them guilty as charged and sentenced both to reclusion perpetua. On the same day, both prisoners entered prison and began serving their sentence.

On August 18, 1955, the spouses filed petitions for writs, of habeas corpus, invoking the decisions of this Court in *People vs. Hernandez*, 99 Phil., 515; 52 Off. Gaz., (12) 5506; *People vs. Geronimo*, 100 Phil., 90; 53 Off. Gaz., (1) 68; and *People vs. Togonon*, 101 Phil., 804; 54 Off. Gaz., (36) 8237, wherein this Court declared that acts of violence committed in pursuance of rebellion did not give rise to a complex crime, but only to simple rebellion punishable under Article 134 and 135 of the Revised Penal Code with prison mayor and a fine of not more than 20,000 pesos. They averred that according to the decisions cited, the Court of First Instance of Manila had no power to sentence them to reclusion perpetua; that in view of their plea of guilty, they could, at most, be sentenced to prison mayor in its minimum degree; that in so far as it exceeded, said penalty, the sentence imposed upon them is void; that they had served the minimum of prison mayor, after the deductions for good conduct provided by law; and prayed for their release.

Notwithstanding the vigorous objection of the Solicitor General, in representation of the Director of Prisons, the Court of First Instance of Rizal, by decision of August 27, 1958, found that the petitioning prisoners had served 6 years, 2 months and 9 days to date; that crediting them with the corresponding good conduct time allowance and one-half of the preventive imprisonment, starting from their arrest on April 1, 1952 until the day the two began to serve sentence on June 17, 1952,

"the Court is of the opinion that petitioners have already served more than the full period of imprisonment which could be lawfully imposed upon them and therefore are entitled to be released.

WHEREFORE, the Court hereby orders the release of the petitioners unless there exist any other legal and valid cause for their further detention. Without costs."

From that decision the State attorneys resorted to this Court assigning the following errors:

- The court a quo erred in not holding itself without jurisdiction to entertain the petition for habeas corpus.
- The court a quo erred in holding that habeas corpus is a proper remedy in this case.
- The court a quo erred in finding that the petitioners-appellees have already served their lawful sentence.
- The court a quo erred in granting the writ of habeas corpus and ordering the release of the appellees.

Upon appellant's petition, we issued a preliminary injunction.

With reference to persons in custody pursuant to a final judgment, the rule is that the writ of habeas corpus can issue only for want of jurisdiction of the sentencing court, and can not function as a writ of error. Hence, the writ will not lie to correct mere mistakes of fact or of law which do not nullify the proceedings taken by a court in the exercise of its functions, if the court has jurisdiction over the crime and over the person of the defendant (*Talabon vs. Prov. Warden*, 78 Phil., 599; *Perkins vs. Director of Prisons*, 58 Phil., 271; *Paguntalan vs. Director of Prisons*, 57 Phil., 140; *Trono Felipe vs. Director of Prisons*, 24 Phil., 121; *U.S. vs. Jayme*, 23 Phil., 90; *McMicking vs. Schields*, 258 U. S. 99; 41 Phil., 971).

In the case at bar, the applicant prisoners do not question the jurisdiction of the court to take cognizance of the various crimes of rebellion, murder, arson, etc., alleged in the information to which they pleaded guilty. Nor do they question that the Court of First Instance could have properly sentenced them for the crime of rebellion complexed with murder, arson, etc. if such crimes could properly be deemed as constituting one single complex offense. Their precise contention (upheld by the court below) is that since rebellion can not form a complex with common crimes, because the latter are either absorbed by the rebellion itself or are punishable as independent offenses (as subsequently decided by this court), the penalty of reclusion perpetua meted out to them is excessive and void in so far as it goes beyond the prison mayor and fine not exceeding P20,000 prescribed by Article 135 of the Revised Penal Code.

It will be seen that the prisoners' stand assumes that doctrines and rulings of the Supreme Court operate retrospectively, and that they can claim the benefit of our decisions in *People vs. Hernandez*, *People vs. Geronimo*, and *People vs. Togonon* (ante), promulgated four or more years after the prisoner applicants had been convicted by final judgment and started serving sentence. However, the rule adopted by this Court (and by the Federal Supreme Court) is that judicial doctrines have only prospective operation and do not apply to cases previously decided (*People vs. Pinuila*, 103 Phil., 992; 55 Off. Gaz., [23] 4228):

"The decision of this Court on that appeal by the government from the order of dismissal, holding that said appeal did not place the appellants, including Absalon Bignay, in double jeopardy, signed and concurred in by six Justices as against three dissenters headed by the Chief Justice, promulgated way back in the year 1962, has long become the law of the case. It may be erroneous, judged by the law on double jeopardy as recently interpreted by this same Tribunal. Even so, it may not be disturbed and modified. Our recent interpretation of the law may be applied to new cases, but certainly not to an old one finally and conclusively determined. As already stated, the majority opinion in that appeal is now the law of the case."

The U. S. Court of Appeals for the District of Columbia in *Warring vs. Colpoys*, 136 A. L. R. 1025, considered the same question and arrived at the same result. Said the Court:

"All of the loose ends presented in this discussion on the effect of altering the law can be pretty well tied together, when it is realized that law is not a pure science, that law loses its vital meaning if it is not correlated to the organic society in which it lives, that law is a present and prospective force, that law needs some stability of administration, that the law is all the law there is, that law is more for the parties than for the courts, that people will rely upon and adjust their behavior in accordance with all the law be it legislative or judicial or both."

These considerations should guide the lawmakers and the law appliers in making their determinations in respect of whether a change in the law is to be effective only for the future or also for the past, and if the latter, to what extent.[1] And these considerations should be applicable to both sides of a potential litigation, civil or criminal, so that we may have our rules of the game as we go. The Supreme Court in the Nye case applied its new law to the litigation then before it. Inasmuch as personal liberty was involved and the courts usually apply law this much after the fact, such a result was meritorious. But the Court did not indicate whether its new law was to be applied to cases decided under the old law previous to its decision. That question is now for us, another court.

We believe that appellant is not entitled to discharge upon the habeas corpus writ. The District Court had tile power to sentence him in a criminal contempt proceeding in 1939. The Nye case of 1941 should not be applied so as to sweep away that power as of 1939. This collateral attack, then, is unavailing. We reject the idea that if a court was considered to have the power in 1939 to do a certain thing under existing statutory construction, and in 1941 that construction is changed so that it no longer has the power to do that thing, it should be concluded that it never had the power in 1939. It has often been said that the living should not be governed by the dead, for that would be to close our eyes to the changing conditions which time imposes. It seems even sounder to say that the living; should not be governed by their posterity, for that, in turn, would be downright chaotic."

It is thus apparent that it cannot be properly said that the sentence meted out to the applicants Pomeroy was erroneous and beyond the court's jurisdiction. But, assuming that it was error for the Court to consider that the murders and cither common crimes charged against the prisoners could be "complexed" with the rebellion and warranted imposition of a penalty beyond prision mayor, there remains the issue whether the mistake was or may be considered jurisdictional. We think not.

In providing for complex crimes, the Revised Penal Code did not set up a category of crimes independent of the component ones, but only for an aggravated form thereof. This rule was impelled by the desire to impose only one penalty for all offenses resulting from one and the same criminal impulse. Whether or not the offenses are so related as to constitute one single punishable violation evidently depends upon the Court's appreciation of the facts of the case and the applicable law, and not upon its jurisdiction, since it is not contested that the component crimes were within the Court's power to try and adjudicate. Granting that the sentencing court's estimate of the facts and its conclusion as to the governing law were erroneous, the mistake did not render it powerless to act upon the premises nor deprive it of authority to impose the penalty that in its view of the case was appropriate. The view it had taken was not such capricious and whimsical exercise of judgment or grave abuse of discretion as would amount to lack or excess of jurisdiction, since at that time the Supreme Court had affirmed convictions for the complex crime of treason with murder and other offenses.[2] As a matter of fact, the existence of the "complexed" rebellion is still upheld to the day by a sizable number of lawyers, prosecutors, judges and even justices of this Court. Hence the error committed was correctible only by seasonable appeal, not by attack on the jurisdiction of the sentencing Court.

While this court has also ruled that an excessive sentence or penalty imposed by final judgment may be corrected by habeas corpus, the cases where such ruling was applied involved penalties that could not be imposed under any circumstances for the crime for which the prisoner was convicted (subsidiary imprisonment for violation of special acts, in *Cruz vs. Director of Prisons*, 17 Phil., 269; imprisonment for contempt by refusal to execute a conveyance, instead of having the conveyance executed as provided by sec. 10 of Rule 39, in *Caluag vs. Potenciano Pecson*, 82 Phil., 8). In the present case, there is no question that the sentence meted out was the one provided by law for the complex crime of which herein applicants were indicted and convicted.

The situation of petitioners Pomeroy is not unique in our judicial annals. A previously adjudicated case, similar in

all essential respects, is *Paguntalan vs. Director of Prisons*, 57 Phil., 140. There a prisoner, convicted of robbery, was sentenced to ten years' imprisonment, plus an additional five years for habitual delinquency in view of his four previous convictions for analogous offenses. He contested the additional penalty for habitual delinquency, on the strength of a subsequent doctrine of this Court that all crimes committed prior to the first conviction should be counted as only one for the purpose of imposing the additional penalty for habitual delinquency; and applied for a writ of habeas corpus, seeking his release after serving the principal term of imprisonment. This Court denied the writ, saying (*cas. cit.*, pp. 143-144):

"In the present case the petitioner does not invoke the benefit of article 22 of the Revised Penal Code, giving retroactive effect to penal provisions so far as they are favorable to the accused, provided he is not a habitual criminal, but seeks the review of a sentence which has proved erroneous in view of a subsequent doctrine laid down by this court the error consisting in that, instead of counting the various convictions as one only, due to the proximity and almost simultaneity of the commission of the several crimes of which the petitioner was convicted, the same were considered as separate convictions for the purposes of the law establishing habitual delinquency. This error could have been corrected by appeal, for it was rather an error of judgment and not an undue exercise of judicial powers which vitiates and nullifies the proceeding. This court has repeatedly held that mere errors of fact or law which do not nullify the proceedings taken by a court in the exercise of its functions, having jurisdiction over the crime and over defendant, cannot be corrected through the special remedy of habeas corpus (*Trono Felipe vs. Director of Prisons*, 24 Phil., 121; *U.S. vs. Jayme*, 24 Phil., 90; *McMicking vs. Schields*, 238 U.S., 99; 41 Phil., 971.)"

The case of *Trono Felipe vs. Director of Prisons* (24 Phil., 121) may also be cited. There the prisoner applied for habeas corpus and release, on the ground that he was erroneously convicted and sentenced for abduction with consent of a virgin above 18 years of age, when according to a subsequent ruling of the Supreme Court the woman abducted should be less than 18 years old. This Court again denied the release (*cas. cit.*, pp. 123-124), ruling that the error was not jurisdictional:

"We agree with counsel for the petitioners that under the doctrine laid down in the *Fideldia* case, judgment of conviction was erroneously entered by the trial court and erroneously affirmed by is, if the allegations of the petitioners are true, and if it is a fact that the record in the case in which these petitioners were convicted and sentenced does not disclose that the woman whom they were charged with having abducted was less than 18 years of age at the time when the alleged crime was committed. But such an error, if in fact it was committed, in no wise affected the jurisdiction of the court below to render judgment of conviction and to sentence the petitioners for the crime of which they were convicted. Throughout the entire course of those proceedings in the trial court, that court had jurisdiction of both of the persons of the accused and of the crime with which they were charged, and it did not and could not lose that jurisdiction as a consequence of mistake or error committed by the trial judge in his finding of fact as to the age of the woman, or in his conclusions of law as to the bearing of the woman's age upon the question of the guilt or innocence of the accused of the crime with which they were charged." (*italics supplied*)

In consonance with the foregoing precedents, we find that the Court of First Instance of Rizal erred in ordering the release of the prisoners William Pomeroy and Celia Mariano. While the penalty of reclusion perpetua imposed upon them by final judgment is considerably longer than that imposed by us in subsequent similar cases, the remedy lies in the hands of the Chief Executive and not in the Courts.

The decision appealed from is reversed and set aside, and the petition for habeas corpus is ordered dismissed, with costs de oficio. So ordered.

Bengzon, Padilla, Montemayor, Labrador, Concepcion, and Endencia, JJ., concur.
Barrera, J., took no part.

[1] Snyder, Retrospect Operation of Overruling Decisions (1940) 35 Ill. L. Rev. 121; Freeman, The Protection Afforded Against the Retroactive Operation of an Overruling Decision (1918) 18 Col. L. Rev. 230; (1933.) 42 Yale L. J. 779; (1038) 25 Va. L. Rev. 210. Compare 88 ALB 1514 et seq; but see, United States vs. Hill, 3 Cir., 70 F(2d) 100.6, certiorari denied 292 US 634, 54 S Ct 719, 78 L ed 1487; Compare Hoiser vs. Aderhold, 5 Cir, 71 F(2d) 422 and Eives vs. O'Hearne, 64 App (DC) 48, 73 F(2d) 984; Ellerbee vs. Aderhold, DCND (Ga) 5 F Supp 1022.

[2] See People vs. Labra, 81 Phil., 577; People vs. Albano, 82 Phil., 767; People vs. Vilo, 82 Phil., 524; People vs. Jardinico, 85 Phil., 410.

DISSENTING OPINION

PARAS, C. J.:

This petition for habeas corpus was presented in the Court of First Instance of Rizal on the strength of the petitioners' reliance that the decisions of the Supreme Court will be enforced.

The petitioners in the court below, who are now appellees, were sentenced to a penalty of reclusion perpetua after entering a plea of guilty to an information charging them with the complex crime of rebellion with murders, robberies and kidnappings.

We have held in People vs. Hernandez et al., 99 Phil., 515; 52 Off. Gaz., (12) 5506, that rebellion cannot be complexed with other common crimes. We have adhered to and reiterated this ruling in People vs. Geronimo, 100 Phil., 90; 53 Off. Gaz., (1) 68; People vs. Togonon, 101 Phil., 804; 54 Off. Gaz., (36) 8237, People vs. Romagosa, 103 Phil., 20; 52 Off. Gaz., [14] 2946 and People vs. Santos, 104 Phil., 551; 56 Off. Gaz., [19] 3546. And the Revised Penal Code penalizes rebellion with prision mayor (Art. 135).

Following the doctrine laid down in the Hernandez case and consistently repeated in our decisions, the maximum penalty to which the appellees could have been sentenced, upon their plea of guilty, was the minimum period of prision mayor which ranges from 6 years and 1 day to 8 years.

In Cruz vs. The Director of Prisons, 17 Phil., 269-73, this Court has held that when a sentence imposed punishment in excess of the power of the court, the sentence is void as to such excess and a prisoner confined thereunder is entitled to be released on a writ of habeas corpus if he has served so much of the sentence that could have been lawfully imposed.

Again, in Caluag vs. Pecson (82 Phil., 8; 46 Off. Gaz., (2) 514, 516) this Court said:

"A sentence which imposes upon the defendant in a criminal prosecution a penalty different from or in excess of the maximum which the court is authorized by law to impose for the offense of which the defendant was convicted, is void for want of jurisdiction, as to the excess in the latter case. And a judgment of imprisonment which the court has no constitutional or statutory power to impose, as in the present case, may also be collaterally attacked for want of rather in excess of jurisdiction."

Considering that at this time, by crediting their good conduct time allowance and one-half of the period of their preventive imprisonment, the appellees have served the maximum period of imprisonment that could have been lawfully imposed upon them, they are entitled to the writ prayed for.

Some members of the Court would prefer to adhere to their dissenting opinion in the rebellion cases above cited

to the effect that there exists in our legal system the complex crime of rebellion, notwithstanding the settled doctrine of this Court on the matter which has precipitated a move in the Congress of the Philippines after the promulgation of the Hernandez and Geronimo cases to amend the penal code so as to make the crime of rebellion a capital offense. Other members of the Court believe that the remedy of appellees, if any, would be an application for pardon, thus making the right to liberty of an accused under similar circumstances dependent upon the discretion of the Chief Executive and depriving him of his remedy in courts of justice. From the different opinions of the members of the Court, I regret to dissent and express my vote to give effect to the doctrines enunciated in our decisions which are relied upon by the appellees.

It is unfortunate that the majority cites as authority the case of *People vs. Pinuila, et al.*, 103 Phil., 992; 55 Off. Gaz., [23] 4228, promulgated on May 30, 1958. I would like to point out that when this Court interpreted Article 135 of the Revised Penal Code, we simply meant that our interpretation was the law since the Code's enactment. Rooted on this notion, I now quote the dissenting opinion of Mr. Justice Felix in the *Pinuila* case, as follows:

"I concur in the dissenting opinion of the Chief Justice and make mine his reasons in support of his contention. I wish, however, to add another reason which, I know, may be more realistic than juridical.

"There is no dispute among the members of the Court that the decision We rendered in this case when it was first brought up to Us, was erroneous because by that time, the defendant had already been placed in double jeopardy. Nonetheless, this Tribunal ruled that the lower court had jurisdiction over the case and remanded the same to the lower Court for further proceedings. Needless to say that when this case was elevated to us for the second time and despite our previous ruling aforementioned, the defendant had not ceased to be in double jeopardy, and it is my considered opinion that We cannot sanction or approve our said ruling under the theory that it was then the law of the case. Once Aristotle said that he was "*amicus Plato sed magis amica veritas*", and in paraphrasing¹ this statement that history passed, on to us and sanctioned with its approval, I may say that although I am prone to follow the principle of *stare decisis* and maintain the law of the case, as already stated, yet I am always more determined to uphold the truth and recognize an error that this Court may have previously committed."

Bautista Angelo, J., concurs.

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