

3 Phil. 751

[G.R. No. 1505. April 22, 1904]

THE UNITED STATES, COMPLAINANT AND APPELLEE, VS. VALENTIN BUTARDO ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

TORRES, J.:

The provincial fiscal of Ilocos Norte filed an information in the Court of First Instance of that province charging Eulalio Diaz, Valentin Butardo, Sergio Sadang, Sr., Sergio Sancali, Sotero Abutan, Panfilo Paclibari, and Eugenio Raganit of the crime of forming a secret political society entitled "Kanayonan," in that about the end of June or the beginning of July, 1903, the defendants held meetings at the places called Buga, Sulcuc, and Baranio, of the town of Paoay, of that province, with certain other persons, for the purpose of administering an oath purporting to bind the, persons taking the same to defend their native country against the Government of the United States of America in these Islands, and to refuse to reveal or discover the said unlawful combination and oath, contrary to the provisions of Act No. 292.

The information having been filed, and the case tried, the court, upon the evidence submitted, acquitted Eugenio Raganit, but sentenced Eulalio Diaz and Valentin Butardo each to the penalty of six years' imprisonment at hard labor and payment of a line of f 5,000, gold; Sergio Sadang, Sr., to three years' imprisonment at hard labor; Sergio Sancali, to one year's imprisonment and the payment of a fine of \$500, gold; Sotero Abutan, to one year's imprisonment ; and Panfilo Paclibari to six months' imprisonment, less twenty-one days during which he was held as a detention prisoner; and to the payment each one of one-seventh of the costs. From this decision Eplalio Diaz, Valentin

Butardo, Sergio Sadang, Sr., Sergio Sancali, and Sotero Abutan appealed, the judgment being, therefore, a finality with respect to Eugenio Raganit and Panfilo Paclibari, with whom we are not concerned, therefore, in this decision. From the evidence, documentary and oral, introduced in the trial of this case, it appears that during the months of June and July, 1903, the defendants, Valentin Butardo, Sergio Sadang, Sr., Canuto Butardo, Eulalio Diaz, and others, held some meetings in the fields and forests of certain barrios of Paoay, for the purpose of forming a secret political society, called the "Kanayonan," among the inhabitants of the said barrios, compelling by force and threats such persons as refused or declined to join the society to do so against their will; that these persons were made to kneel, and were then blindfolded, after which they were required to take an oath to defend the country to the last drop of blood, after which incisions were made in their arms; that after this ceremony the accused promised the associates that they would subsequently inform them of the purposes and objects of the association, and to that end named a day for the reading of certain documents, in the meantime commanding them not to reveal to anyone what had taken place. Although some of the witnesses testify that the organizers of the projected society stated that its purpose was to reform evil practices and stamp out vice, other witnesses testify that its purpose was defense against the Americans. A small box was taken from one Rosendo Echinique, containing documents now in the record, and which were written by Valentin Butardo. The fact that these documents existed became known to Augustin Agbayani, a sergeant of police, by the confession of the said Valentin, from whom was taken the key of the box, and by which it was opened by the commanding officer of the Constabulary at Laoag, to whom it was delivered after it was taken from Echinique, upon the information given by Butardo.

The document contains an exhortation to Filipinos to have courage in their defense, to determine to triumph, and not to forget God. It ends with acclamations for the Philippines, for the downtrodden, for the revolution, and for independence, and demands the death of traitors.

The translation of the documents shows that the purpose of the

society is "something which is very difficult to attain without unanimous effort to clear away the dense cloud which obscures the vision." One who enters the society merely for the purpose of informing himself of its object or discovering the identity of its members is to be cured with a strong medicine, appropriate for traitors. The society recognizes no distinctions, and the only great man is he who truly loves his native country and defends it, shielding the downtrodden and opposing the oppressor.

The facts stated constitute the crime charged in the complaint, defined and punished by section 12 .of Act No. 292. The live defendants, Valentin Butardo, Eulalio Diaz, Sergio Sadang, Sr., Sotero Abutan, and Sergio Sancali were present at and consented to the administering of an oath or engagement by which a number of persons undertook to disturb the public peace or commit some criminal offense, and compelled the associates, by means of threats, to take the oath in question, commanding them to act under the directions of the accused, and not to reveal to anyone their oath and undertaking, this oath being followed by the ceremony of incision, and these acts having been committed in secret meetings held in fields and un-inhabited places.

The context of the document written by Valentin Butardo, and taken from one of his associates, shows that the sworn undertaking entered upon in the meeting in question tended to stir up the country to oppose and overthrow the constituted Government of these Islands, and consequently it is unquestionable that the oath and agreement was of a political character and for a seditious purpose.

The witness Juan Navarro testifies that he reported the fact of those meetings and of the oaths which were taken therein to a number of inhabitants of the township of Paoay, and that he gave information concerning the ceremony of incision to Eulalio Diaz, a member of the municipal council, representing the district of Pias, but that the latter, instead of in turn reporting the facts to the authorities, met with the Butardo brothers and other persons in the barrio of Baranio, and was present when such oaths were administered, and induced others to join the society.

Valentin Butardo was one of the principal organizers of these meetings and administered the oath to a number of people, upon whom, also, incisions in the arm were made, and exhorted them not to reveal the secret.

Sergio Sadang, Sr., Sotero Abu tan, and Sergio Sancali were emissaries of Valentin, who endeavored to induce others to join the society, and were present, together with Valentin Butardo, in the barrios of Pias and Sulcuc when the oath was administered to and the ceremony of incision performed upon several inhabitants of those barrios.

The guilt of the live appellants has been clearly established by the testimony of the witnesses. We can not believe the statements that the society was intended as a preparation for the election of a local president, and that its object was to stamp out evil practices. There is no evidence to show it was the custom in the town to attain such an object by means of the administration of such an oath or to perform the ceremony of incision under a promise of secrecy. Such proceedings are those of revolutionists, and are practiced by members of the Katipunan Societies.

The fact that the information charges the accused with the offense of organizing a secret political society is not an obstacle to their conviction of the offense defined and punished in section 12 of Act No. 292. The facts constituting this crime are stated in the information, and the erroneous classification of the offense was not excepted to at the trial or upon this appeal. Consequently, even if this might be a defect available if duly excepted to, as it has not prejudiced any of the essential rights of the accused, we must assume that they have waived their right to object to it, with the view to prompt determination of the case for their own benefit.

Therefore, for the reasons stated, we are of the opinion that the judgment appealed must be reversed with respect to the appellants, and that Eulalio Diaz, Valentin Butardo, Sergio Sadang, Sr., Sergio Sancali, and Sotero Abutan be condemned to imprisonment for the term of

one year and to the payment of a fine of 2,000 insular pesos, each one, and in case of insolvency to suffer subsidiary imprisonment at the rate of one day for each sum of two pesos and one-half unpaid, provided, however, that the subsidiary imprisonment shall in no case exceed a third part of the duration of the principal penalty. The defendants are also condemned to pay each one a seventh part of the costs of both instances. The case will be returned to the, trial court with a certified copy of this opinion and of the judgment, to be entered in accordance therewith for execution.

So ordered.

Arellano, C.J., Mapa, McDonough, and Johnson, JJ., concur.
