

101 Phil. 871

[G. R. Nos. L-9462-63. July 11, 1957]

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. TEODORO YUZON ALIAS VALLEJO, DEFENDANT AND APPELLEE.

D E C I S I O N

PADILLA, J.:

Teodoro Yuzon *alias* Yallejo, together with four other defendants whose names and whereabouts were unknown, was charged in the Court of First Instance of Pampanga with the complex crime of kidnapping with murder of Francisco Pineda and Quintin Pineda in two separate informations (crim. cases Nos. 2041 and 2041-A). The information in the first case, where the victim is Francisco Pineda, is couched in the following terms:

That on or about the 19th day of May, 1951., at sitio Bisucul of barrio Irong, municipality of Mabalacat, province of Pampanga, Philippines," and within the jurisdiction of this Honorable Court, the said accused being then private individuals and known members of the HUK organization, all armed with firearms, conspiring and confederating together and all helping one another, did then and there willfully, unlawfully and feloniously, and for the purpose of killing one Francisco Pineda as a suspected government spy, kidnap, carry away, detain, and later, after, having taken him to an uninhabited place in barrio Malamon, Magalang, Pampanga, with treachery, to wit: while the said Francisco Pineda. was deprived of his liberty, with his two hands tied behind his back and way very weak as a result of the physical injuries which had been previously inflicted upon him by the said accused, stabbed him in the vital parts of his body with a bayonet, thereby inflicting upon him physical injuries which caused directly the death of said Francisco Pineda.

The information in the second case, where the victim is Quintin Pineda, is couched in

similar terms.

Before arraignment Teodoro Yuzon moved to quash the informations in the two cases on the ground that he had been previously convicted of the crime of rebellion and sentenced to suffer 1 year, 1 month and 10 days of *prision correccional* by the Court of First Instance of Tarlac (crim. case No. 985), after withdrawing his plea of not guilty to the original information for rebellion with murder, robbery, arson and kidnapping and entering one of guilty to the crime of rebellion under the provisions of section 4, Rule 114.

The prosecution objected to the motion to quash contending that the crime with which the defendant was charged did not place him in danger of being convicted of the same offense for which he had been previously convicted and sentenced, as there is neither identity nor similarity between the complex crime of kidnapping" with murder and that of rebellion; that the crime of rebellion does not necessarily include or is necessarily included in that of murder, arson, kidnapping or robbery; and that the offense with which the defendant is charged in the cases at bar was not included nor charged in the information filed in criminal case No. 985 of the Court of First Instance of Tarlac.

The Court held—

* * * that when the accused pleaded guilty and was sentenced by Judge Hilario in Criminal Case No. 985 of the amended information upon which he was re-arraigned and finally convicted necessarily included the offenses of kidnapping¹ with murder embodied in the informations in Criminal Cases Nos, 2041 and 2041-A tmd that, therefore, if such informations were allowed to stand, the accused would be in danger of being- tried and/or convicted again of the same offense. The ground of double jeopardy is well founded, and granted the motion to quash. The State appeals.

In his brief the Solicitor General quotes from the transcript part of the proceedings had in criminal case No. 985 of the Court of First Instance of Tarlac which is as follows:

If your Honor, pleases: The Army Screening Board has recommended that the accused in these cases can plead guilty to the lesser crime of *simple rebellion*, on the honest and sincere belief that these accused can be redeemed and return, once more to the democratic "ways of life. Furthermore, if your Honor, please some of the accused have already been in jail for more than two years, and to continue the prosecution of these cases for the complex crime will mean the presentation of mere than 200 witnesses in each case. In the case of Layug, we agree to his pleading to the simple: crime of rebellion with

reservation to prosecute him further for other crimes as the evidence may warrant taking- into consideration the recommendation of the Screening Board. In this connection, therefore, all allegations in the information for the complex crime of rebellion are hereby discarded and only allegations for the crime of simple rebellion as member or executor shall remain as subsisting in the information. (Assistant Provincial Fiscal Fernando Bartolome speaking; p. 80, record.)

The record of criminal case No. 985 of the Court of First Instance of Tarlac is not before this Court. Attorney for the appellee does not, however, dispute the correctness of the quotation made by the Solicitor General.

Counsel for the State contends that all the allegations in the information filed in that case constituting the complex crime of rebellion with murder, arson, kidnapping and robbery were discarded or stricken out and only the allegations constituting the crime of simple rebellion remained subsisting in the amended information. The statement of the prosecuting attorney in that case was to the effect that while he agreed to the entry by the defendant of a plea of guilty to the crime of simple rebellion, he reserved his right to prosecute the defendant for other crimes committed by him which the evidence might warrant. Counsel for the appellee contends only that the statement made by the prosecuting attorney above quoted did not amount to or constitute a further amendment of the amended information, as intended perhaps by the prosecuting attorney, because there was no such further amendment; that by entering a plea of guilty for a less serious offense included in the amended information the defendant was convicted and sentenced for the less serious offense under the unamended amended information; and that because there was no further amendment to the amended information, the defendant did not waive his right to plead double jeopardy in subsequent prosecution for crimes included in the information filed in the previous case where he entered a plea of guilty. The Solicitor General, on the other hand, claims that "by consenting to dismissal, accused had waived his constitutional right" to be placed twice in jeopardy for the same offense, as such right may be waived.¹

But even without an amendment to the amended information filed in criminal case No. 985 of the Court of First Instance of Tarlac, which amendment would have excluded other crimes alleged therein except that of rebellion, and granting: that there had been no waiver on the part of the defendant of his right not to be prosecuted for crimes included in the crime for which he had been prosecuted, convicted and sentenced, still in the information filed in the Court of First Instance of Tarlac there is no specific reference

either to the date stated in the informations filed in the Court of First Instance of Pampanga or mention of the names of Francisco Pineda and Quintin Pineda. The only allegation in the informations filed in the Court of First Instance of Pampanga which might involve or include the death of Francisco Pineda and Quintin Pineda in the crime of rebellion for which the appellee had been prosecuted in the Court of First Instance of Tarlac are the following: "the said accused being then private individuals and known members of the HUK organization * * * did then and there willfully, unlawfully and feloniously, and for the purpose of killing" one Francisco Pineda as a suspected government spy, kidnap, carry away, detain, etc." The term "known members or the HUK organization" may be deemed descriptive of the appellee and his companions who are still at large; and although the term used in the information "as a suspected government spy" may reveal by inference the motive of the crime, still as there is no evidence to show that the murder committed in this case was in furtherance of the rebellion movement, the dismissal of the information was rather premature and unwarranted. If it be shown by the evidence that the murders committed by the appellee and his four other companions were linked to and were in furtherance of the rebellion, then the trial court would be justified in applying the rule laid down in the cases of *People vs. Hernandez*, 99 Phil., 515, 52 Off. Gaz. 5506 and *People vs. Geronimo*, 100 Phil., 90, 53 Off. Gaz., 68.

The appellee not having entered a plea to the informations filed in these cases, the appeal by the State from the order quashing the informations and the trial of the appellee to determine whether the crime committed by him was in connection with or in furtherance of the rebellion movement do not and cannot constitute double jeopardy.

The order appealed from is set aside and the cases remanded to the Court of First Instance from whence they came for further proceedings in accordance with law, without pronouncement as to costs.

Bengzon, Bautista Angelo, Labrador, Endencia and Felix, JJ., concur.
Montemayor, J., concurs in the result.

DISSENTING OPINION

Reyes, J. B. L. ;

I regret to differ from the opinion of the majority. It is conceded that having been already

accused and convicted " in the Court of First Instance of Tarlac for the crime of rebellion, the appellant may not be tried again for the same crime or for any act absorbed in that of rebellion without infringing the constitutional prohibition against double jeopardy. The reservation made by the prosecution in the Tarlac case, quoted in the majority opinion, was one "to prosecute him *for other crimes*;" hence it did not retain the privilege of prosecuting appellant again for rebellion or any of its component acts, even granting that such right could have been reserved.

In the present case, appellant and his co-accused "being known members of the Huk organization", are charged with killing "one Francisco Pineda as a suspected government spy". Descriptive or not, these words plainly charge an act of rebellion, since it is a matter of public knowledge, of which we can take judicial notice, that the Huk organization has rebelled and still is against the government; and it is not denied that the killing of government spies (actual or suspected) is an act in furtherance of the objective to overthrow the government. Hence it is clear, right now, that the crime charged in the Court of First Instance of Pampanga was an act included in the charge of rebellion in the Court of Tarlac to which the appellant has pleaded guilty and for which he has already been sentenced.

It is idle to speculate that the Fiscal *may* have intended to charge appellant with a private crime, a killing done with personal motives and not in furtherance of political objectives. If any such intention existed, why should the prosecuting attorney insert in the information the phrases "being known members of the Huk organization" and "killing one Francisco Pineda as a suspected government spy"? These words have no relevancy whatever, in a case of ordinary murder; on the other hand, they constitute an admission of the political motivation behind the killing' and would bind the prosecution. The trial now ordered would thus seem to be pure ceremony.

To prolong appellant's detention and his' uncertainty concerning his fate until the political character of the offense charged is further evidenced, when it is so apparent on the face of the information is, I submit, a violation of the well established rule that doubts should be resolved in favor of the accused. The judgment of the Court of First Instance is correct and" should be sustained.

Paras, C.J., Reyes, A., Conception, and Reyes, J. B. L., JJ., concur.

