

**PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE VS.
MAXIMO PACHECO, ALIAS EMONG, ALIAS GUEMO, DEFENDANT AND
APPELLANT.**

G. R. No. L-4570. July 31, 1953

Ponente: BENGZON, J.

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BENGZON, J.:

In the year 1950, Maximo Pacheco was tried for treason in the court of first instance of Bulacan, the amended information alleging, in the first count, acts performed in Polo, Bulacan and in the second, acts in the City of Manila.

The Honorable Manuel P. Barcelona Judge, in a decision dated January 10, 1951, found him guilty as charged, and sentenced him to be imprisoned for life, to pay a fine of P10,000 and to indemnify the heirs of Ceferino Rivera in the amount of P6,000.

The accused appealed in due time. His printed brief assigns four errors that raise two principal issues: (1) jurisdiction of the court to try the second count and (2) credibility of the witnesses.

The information alleged in substance that Pacheco, being a Filipino citizen, willfully aided the Japanese in two instances, to wit: (1) the arrest, maltreatment and shooting of Ceferino Rivera on January 2, 1945 in the Municipality of Polo, Bulacan, and (2) the arrest and torture in Manila, in February 1945, of Judge Eugenio Angeles, whom the accused had pointed to the Japanese as a guerrilla major of Polo, Bulacan.

At the opening of the trial, counsel for the defense questioned the jurisdiction of the Bulacan court to take cognizance of the second count, inasmuch as it referred to acts which occurred in Manila. The Judge overruled the contention, advertent to its orders in previous cases on the same issue. We do not find in this record the reasons of the trial judge. Very probably, however, they refer to the same theory advanced by the People in this appeal relative to one continuous offense consisting of several acts occurring in different provinces, offense which may under the principles governing venue be prosecuted in any province wherein any material ingredient of the offense is shown to have been committed.

The appellant however cites Republic Act No. 311 that in dissolving the People's Court ordered all cases then pending therein to be "transferred to, and tried by, the respective Courts of First Instance of the provinces or cities where the offenses are alleged to have been committed."

It is common knowledge that when the Government found it was no longer necessary to maintain one People's Court for the whole Philippines to try treason indictments, the Congress abolished that Court and directed that treason cases pending before it shall be heard by the respective courts of first instance. There is nothing to indicate congressional intention to disturb the usual rules on jurisdiction or venue of courts of first instance obtaining before the creation of the People's Court. Under the rules, the trial court's jurisdiction may be and should be upheld in this case.

The crime of treason may be committed "by executing, either a single or several intentional overt acts, different or similar distinct and for that reason" it may be considered one single continuous offense. (Guinto vs. Veluz 77 Phil. 801). It can therefore be prosecuted in any province wherein some of the essential ingredients thereof occurred. (Section 9, Rule 106). U. S. vs. Santiago, 27 Phil., 408; U. S. vs. Cardell, 23 Phil., 207)

To uphold appellant's contention would be to permit another prosecution against him in the Court of First Instance of Manila (See Guinto vs. Veluz, supra).

Having disposed of the preliminary question, we may now examine the record.

As to the first count, Isidro Rivera, Dominga Camatos, Antonio de Guzman, Federico San Juan and Regino Galicia took the witness stand, and their combined testimony shows: In the morning of January 2, 1945 four Filipino makapilis (two of them were Maximo Pacheco, 25, and Teofilo Encarnacion) entered the house of Filomena de la Cruz in Pasong Balite, Polo, Bulacan, and arrested her son-in-law Ceferino Rivera, 24, as a guerrilla suspect, in the presence of his father Isidro Rivera, his wife Dominga Camatos and Filomena (Teofila) de la Cruz. The party was commanded by a Japanese officer. Maximo Pacheco, armed with a rifle, tied the hands of the prisoner. Thereafter the captive was marched to the Japanese garrison at Polo, Bulacan, followed by his near relatives already mentioned. The latter waited for him at the gate for two hours, but in vain. The next day, in the afternoon, they returned in time to see him with three other Filipinos, all tied, walking to the Isia bridge, Polo, guarded by four Filipinos, one of them the appellant, plus one or two Japanese soldiers. Near the foot of the bridge the Filipino captives were shot dead. Antonio de Guzman, whose house stood about thirty meters from the place beheld the massacre, which was also seen by Federico San Juan farmer, 38, and Regino Galicia, employee, 37. Antonio de Guzman swore it was this appellant who shot Ceferino Rivera on that occasion.

Appellant's overt act of taking part in the apprehension of Ceferino Rivera, as a guerrilla suspect was testified to by Isidro Rivera and Dominga Camatos. But the defense contends that the latter is unworthy of credit because whereas she stated in direct examination that her husband had been arrested by four Filipinos (one of them Maximo Pacheco) yet on cross examination she answered it was a Japanese who made the arrest (p. 285 n.) But on the same page this woman declared:

"P. Y los otros cuatro filipinos estaban alli mirando en compañía del japoñes, desde luego?

R. El que le ato era un filipino.

P. Quien de los filipinos ato a su esposo?

R. Maximo Pacheco."

There is consequently no reason to doubt her veracity on this score. Other quotations of the testimony of these two witnesses are submitted by appellant's counsel, in an effort to destroy their credibility. They are either explainable, like the one above-discussed, or refer to unsubstantial matters. That this appellant took active part in the arrest and execution of Ceferino Rivera, we have no reasonable doubt. His mere denial can not overcome the positive assertion of the witnesses. And his claim that he was also a guerrilla, was held unfounded by the trial judge. Anyway, we have heretofore declared that such claim is no defense against overt acts of treason. (People vs. Jose Fernando, 79 Phil., 719; People vs. Carmelito Victoria, 78 Phil., 122; People vs. Claro Castillo, 78 Phil., 874).

The second charge is also adequately proven by the testimony of Judge Eugenio Angeles, his son Gregorio, and Dr. Ciriaco Santiago.

On February 2, 1945 about 7:30 a.m. the three were on their way to Hermoso Drug Store near Divisoria Market, Manila. Crossing a bridge on Azcarraga Street they met Ricardo Urrutia of Polo, friend of Judge Angeles, who stopped to tell them "the Americans were already in Malolos." Hardly had the party crossed the bridge when Judge Angeles was surrounded by five young men all armed. One of them wearing a mask ordered him to proceed

to the Air Port studio nearby, which served as Headquarters of the Kempei Tai, dreaded Japanese organization. One of the young men was the herein accused. Dr. Santiago and Gregorio Angeles were not molested.

In the studio Judge Angeles was brought to a room wherein he saw seven Filipinos (including this appellant) headed by one Santos residing in Polo. The latter asked Judge Angeles if he was a guerrilla, and when he replied in the negative he was struck with a piece of lumber. Then he was subjected to several forms of torture. He was boxed and kicked and given the water cure. But he stoutly denied connection with the underground resistance. This accused was in the room and informed the investigators that he (Judge Angeles) was the chief of the guerrillas of Polo. In view of this imputation the tortures continued. Fortunately for Judge Angeles, the Japanese began their retreat from Manila on February 3, the garrison was vacated, and he managed to escape together with other prisoners.

It may be true, as contended by defense counsel that the tortures undergone by Judge Angeles were described by him as the sole witness; but his apprehension as a guerrilla was witnessed and related in open court by Dr. Santiago and his son Gregorio, compliance with the two witness rule being thereby effected.

Wherefore, after reviewing the whole record we find no hesitation in finding this appellant guilty of treason.

And as the penalty meted out to him accords with section 114 of the Revised Penal Code, the appealed decision should be, and it is hereby, affirmed with costs. So ordered.

Paras, C. J., Pablo, Padilla, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo and Labrador, JJ., concur.

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