

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JULIO GARCIA, DEFENDANT AND APPELLANT.

G.R. No. L-885. October 30, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

Appellant is charged with treason on four counts: 1. That on November 16, 1944, he participated in the apprehension of Antonio Alumno and Jurado Alumno, suspected of being members of the guerrilla, and thereupon turned them over to the enemy who tortured and subsequently executed them; 2. That on February 4, 1945, as a member of the Makapili, he participated in the arrest and investigation of Augusto Ramirez, suspected of being a guerrilla member, and in his torture and subsequent execution; 3. That on February 4, 1945, as a member of the Makapili, he participated in the arrest of Canuto Velandres and two unknown Filipino civilians, and in the torture and subsequent execution of the latter two; and 4. That in December, 1944, he enlisted as a member of the Makapili, an instrumentality military in nature, created with the end in view of collaborating unreservedly with the enemy and to fight side by side with the same, and as such member voluntarily joined and evacuated with the enemy in their retreat to the mountains in Luzon, where he stayed until his capture by the American and guerrilla forces.

Inocencio Alumno, 46, policeman of Santa Rosa, testified that at about 2 o'clock a.m., on November 16, 1944, he was awakened by someone hitting his door with the butt of a gun. It was Higinio Sigue, accompanied by several persons, among them Julio Garcia, who was carrying a rifle. At the other side of the house there were Japanese soldiers, accompanied by Arsenio Batitis. As he could not go out, he climbed up the ceiling to hide. His son Antonio followed him. The soldiers went to the ceiling and lighted the place and as they pointed their rifles at him, he raised his hands in surrender. He was brought to the cement floor where his hands were tied. While walking, he was led by a person who had a light in his hand. He was able to untie his hands and run away. He went to the mountains. Two days afterwards, he learned that his sons Antonio and Jurado were arrested. Among the exhumed bodies of the persons taken by the Japanese and Makapili soldiers, he was able to identify those of his two sons. He knows appellant long enough. While he was being tied, Julio Garcia "was standing in front of me," * * * "less than a meter" away. He came down from the mountains on February 6. The exhumation was done on November 7, 1945. It was witnessed by around 300 persons.

Sancha Sayao, 20, widow, student, testified that on November 16, 1944, appellant was one of those who went to their house and tied up her husband, Antonio Alumno, her father-in-law, Inocencio, and her brother-in-law, Jurado. It was about 2 o'clock at night. Appellant was accompanied by Angel Beato and other Makapilis and also by Japanese soldiers. Julio Garcia was dressed in Japanese soldier's uniform and carried a rifle with fixed bayonet. They took her husband and brother-in-law. Among those who arrested them was appellant Julio Garcia. The Alumno brothers were brought down and led towards the fence. Since then she never again saw her husband nor her brother-in-law. Days afterwards she received news that her father-in-law was in the mountains and living peacefully. The house where her husband was arrested is located in a barrio in Santa Rosa.

Primitivo Malapitan, 35, agricultural inspector, testified that in the early morning of November 16, 1944, he was in his house located about one meter from the house of Inocencio Alumno. He was awakened by the knocking of persons who were calling for Inocencio Alumno. He saw Julio Garcia, Jose Almadovar, Higino Sigue, dressed in Japanese soldier's uniform, carrying rifles with fixed bayonet. When Inocencio Alumno was brought out he had his hands tied to his back. Suddenly he dashed away and six men pursued him. Later on, the pursuers returned to Inocencio's house and came out with Jurado Alumno, 16 years old, with hands tied. They also tied Antonio Alumno with the elbows touching his body. Antonio was forced into the truck followed by Julio Garcia and others. Once Jurado and Antonio Alumno were inside the truck, they were covered with thick canvass. Victor Gardoce, the driver, was the first to board the truck. He was followed by others who were dressed in Japanese soldier's uniform and armed, including Julio Garcia.

Buenaventura Dichoso, 24, fisherman, testified that on the morning of February 4, 1945, Augusto Ramirez came to his house to ask about a strayed carabao. At that time appellant appeared with Filemon and Tiburcio Alitagtag. They had guns and ropes. Filemon Alitagtag stated that Ramirez was a guerrilla spy. Appellant tied Augusto Ramirez's hands to his back. Ramirez was caught in an enclosure in front of witness's house. Julio Garcia and others went to a place called Sinalban and returned about 11:30 in the morning. Appellant was accompanied by Arsenio Batitis, Pandis, Canuto Velandres and two other unknown Filipinos. Canuto Velandres had his hands tied to his back. The two unknown persons were also tied. Ramirez, Velandres and the two unknown persons who had their hands tied to their backs, were taken to the corner of the enclosure. While kneeling at the edge of the hole, Ramirez was stabbed with a bayonet at the right side of the body by Filemon Alitagtag. Tiburcio Alitagtag, in turn, stabbed Ramirez on the right side of his body with the bayonet fixed on his rifle. Martiniano Laurel stabbed Ramirez on the breast. Ramirez fell into the hole. At that time appellant was holding the three persons whose hands were tied. After he fell into the hole, Ramirez was covered with earth, and then Arsenio Batitis said that those three persons with tied hands be released as the guerrillas may appear, and the hands of Canuto Velandres and that of the two unknown persons were untied. The witness knows Julio Garcia since childhood. Appellant is a member of the Scout Battalion, composed of about 17 persons. The Scout Battalion is Makapili. The witness stated that appellant is a member of the Makapili, whose headquarters was located in barrio Aplaya, 100 meters away from the witness's house. The witness saw appellant in the headquarters all the time during the Japanese regime. He used to get persons with their hands tied up and bring them to the headquarters. Appellant was dressed in maong with Japanese hat and shoes, and used to carry a rifle. When the Americans were nearing Santa Rosa, appellant went to Darangan across the lake, in Rizal Province, on February 4, 1945, in the company of the members of the Scout Battalion and of Japanese soldiers. All the 17 members of the Scout Battalion and about 30 Japanese soldiers were present.

Florencio Malapitan, 30, policeman testified that on the early morning of November 24, 1944, he was awakened at the call of Martiniano Laurel. He saw three Japanese carrying rifles with fixed bayonets, two soldiers and one officer, near the stairs of his house and at the back of his house there were several persons, including Julio Garcia, all of them carrying rifles, except Arsenio Batitis who was displaying a pistol. Some were dressed in maong, others in khaki. The Japanese soldiers held the witness by the hands and the Japanese officers went up the house and inquired whether there were other males. The witness was brought outside the house and tied. His mouth was covered and he was wrapped with a canvas and then thrown inside the truck. He was brought to the Japanese garrison, where he saw Antonio and Jurado Alumno. At about 1 or 2 o'clock in the morning of November 26, Saturday, Antonio and Jurado Alumno and others were taken out from their cells by members of the Scout Battalion. Later on the witness was brought to the back of the garrison and he saw that the seven persons he mentioned as having been taken from their cells, including the Alumno brothers, were piled on top of the other, already dead. They were inside a hole. When the Japanese was holding the witness with his arms outstretched and

he noticed that they were going to bayonet him, he made a jerk, shook loose from the hands of the Japanese and jumped into the river, which was about two arm-lengths away from the place. There were only two Japanese soldiers and the witness was able to escape. While in the garrison, the witness saw several members of the Scout Battalion including Julio Garcia. The Scout Battalion is an organization of the Sakdalistas. The organization came to be known as the Makapili when the American forces of liberation arrived.

Ruben Caro, 29, testified that from December, 1944, to February, 1945, he was residing at barrio Borol, Santa Rosa. He rendered services to the Makapili organization as secretary thereof. Julio Garcia is one of the soldiers of the Makapili organization, whose objective was to make raids on the guerrillas who were in the mountains. In January, the Makapilis interfered in the harvest of palay in Santa Rosa. They forbade the exportation of rice from Santa Rosa. The Japanese were deficient in their food supply. The Makapili was organized on December 2, 1944. Before, there was an organization known as the Scout Battalion which was helping the Japanese. Its head was Arsenio Batitis. The members belonged to the Ganap party. Among the soldier-members was Julio Garcia. The organization was composed of about 15 members. The accused was given uniforms and a rifle. The Makapilis had their headquarters in the Santa Rosa Primary School building. In February, 1945, upon the approach of the American liberation forces, they crossed the lake to the mountains. They were accompanied by some Japanese soldiers.

Canuto Velandres, 44, testified that on February 4, 1945, two unknown Filipinos arrived at his home asking for food. Julio Garcia and two others in Japanese uniform with rifles with fixed bayonets also arrived there. Witness and the two unknown Filipinos were ordered to go down. He asked the accused why. The accused answered, "Ah, no more talking," and thereafter tied him and brought him to the field where he was maltreated by Arsenio Batitis. The unknown persons were tied by Pandis. The three persons who were tied were taken to a place near a hole. Near it was a blindfolded person, with hands tied to his back and was in a kneeling position. Filemon Alitagtag addressed Ricardo Beato: "What do you think about this Augusto Ramirez?" Beato answered: "My order is to kill that." Filemon Alitagtag stabbed with a bayonet the kneeling person on his left chest. After that Tiburcio Alitagtag stabbed him on the right chest. Martin Laurel stabbed him also at the chest, causing him to fall into the pit. Both Tiburcio Alitagtag and Martin Laurel used bayonets attached to rifles. Filemon Alitagtag asked Ricardo Beato as to what he thought about Velandres and the two unknown Filipinos. Beato answered: "My order is kill all those three." Then Arsenio Batitis arrived, and said: "You should release those three persons because the guerrillas are now approaching. They are now in Sinalaan." The three persons were released. The two unknown ones were ordered to go away. Velandres remained because he was ordered to carry some articles from the house of Arsenio Batitis to the bancas. Since then Velandres lost sight of Julio Garcia. The witness has known the accused for a long time because they are townmates. The accused was a member of the Scout Battalion and at the same time carrying a rifle. The members of the Scout Battalion were confiscating palay and rice from Filipino civilians to bring them to the other side of the lake. The witness believes that the Scout Battalion and the Makapili have only one purpose—to confiscate foodstuffs from the civilians. The witness was a guerrilla under the command of Jose Alinsod.

Buenaventura Perez, 34, municipal treasurer of Santa Rosa, testified that he came to know the accused in the month of August, 1943, as a member of a group of pro-Japanese elements in Santa Rosa, at first called the Sakdalistas and later, Ganap. A portion of the group formed later on the Scout Battalion. They acted as informers of the Japanese army and gave aid and comfort to the Japanese for the purpose of defeating the United States army and the guerrillas. As most of them lived by the lake, they gave fish and vegetables to the Japanese. Then they got hold of arms to help in the confiscation of rice and other commodities and turned them over to the Japanese. Sometimes, there was a Japanese garrison in Santa Rosa and sometimes there was none. During the latter part of 1944, there was. The Japanese occupied the intermediate and primary school buildings and the

houses of ex-governor Feliciano Gomez and one Mariquita Saballa. On December 11, 1944, Benigno Ramos went to Santa Rosa and inducted the officers and enlisted men of the Makapili organization. The inducted officers known by the witness were Martin Laurel and Filemon Alitagtag. The accused was a member of the Scout Battalion. Later he was inducted into the Makapili. Every time they got news that there were guerrillas approaching the town, the members of the Makapili organization would go to the place and attack the guerrillas, like they did on January 24-26, 1945, when they attacked the guerrillas headed by Captain Alinsod way up in the mountains. The only particular activity of the accused as a Makapili was his carrying a rifle and sometimes wearing a Japanese cap, short pants, and shirt.

Florencio Jaime, 43, testified that he has been connected with the U. S. Army CIC from February 12, 1945, to January 14, 1946. He was the senior librarian of the office. He identified Exhibit A as the articles of association of the Kalipunan Makabayan Ng Mga Filipino, as well as its by-laws, papers belonging to Pio Duran and turned over to the CIC. Exhibit A-1 is a true copy of the originals certified by the witness.

Maria Luisa Domingo, 28, step-granddaughter of General Artemio Ricarte, her grandmother being the second wife of the latter, identified the signatures of General Ricarte in pages 3 and 4 of Exhibit A. She heard General Ricarte discussing about the Makapili organization. He was not in favor of the organization. There was an order for General Ricarte to appear before General Yamashita, otherwise his secretary would be court-martialed. General Ricarte did not show up in General Yamashita's headquarters, so his Japanese secretary was court-martialed. The witness heard that her grandfather and Benigno Ramos had some political differences.

Delfin Torres, 54, testified that he knew appellant since boyhood because he is his neighbor. On February 4, 1945, one Augusto Ramirez was murdered about 30 meters away from witness's house. The witness could see what was happening in the place where Ramirez was killed. Before, during and after the killing, Julio Garcia was not present as he went to the other side of the lake since February 2. Besides Ramirez, no other persons were killed in the place. The witness did not see Canuto Velandres in the place. Those who killed Ramirez left the place at 11:30 in the morning. Buenaventura Dichoso, witness's cousin, once had a trouble with regard to a piece of land, with Julio Garcia and both were about to stab each other. That happened before the war. The witness saw what happened at the time Ramirez was killed, because he was on the seashore carrying the baggage of the Japanese, by orders of the same that he could not disobey.

Jose Almodovar, 41, testified that during the Japanese regime he was a policeman from 1943 to 1944. He left the service on February 3, 1944. He knows appellant since childhood. He saw him during the Japanese regime once. He had no occasion of seeing the accused in company with the Japanese. He does not know if the accused had joined any organization during the occupation. His occupation was that of a fisherman. Before he left the service of the police force of Santa Rosa in 1944, he had no occasion of seeing the accused with the police force in any of their trips to the barrios or with any organization connected with the Japanese forces in Santa Rosa.

Angel Tiongco, 38, civil engineer, testified that he was the mayor of Santa Rosa from December 4, 1944, up to March 6, 1945. His duties were practically all the administrative and other functions in the municipality. The mayor was the whole thing in the whole municipality during the Japanese occupation. He knows the accused not less than 15 years. He saw the accused during the Japanese occupation lots of times. He saw him in the municipal building every now and then. He does not know if the accused had served under any capacity in the government. He does not know if the accused was affiliated with any organization. He does not know if the accused had affiliated himself with any military organization in Santa Rosa. He did not see the accused with the Japanese even once during the occupation. Benigno Ramos passed by Santa Rosa and made a speech. He said that everybody who would affiliate himself with the Makapili would be free from arrest by the Japanese. Ramos said: "If you want me to help the town of Santa Rosa, you form that organization known as the Makapili." The witness asked

for evidence as to the truth of the propaganda. He informed Benigno Ramos that if the 13 prominent men from Santa Rosa who were kidnapped are made to return, the witness would see to it that the Makapili organization would be formed in the town. The witness was given a piece of paper with the order of Benigno Ramos written in Japanese characters for any garrison who had in their possession any of the 13 persons to release them immediately. Only one named Eduardo Marcelo was released. The Makapili organization was not really formed in Santa Rosa.

Appellant Julio Garcia, 28, testified that during the Japanese regime he was living in barrio Aplaya. His occupation was that of a fisherman. During the Japanese regime he did not serve the government in any capacity. He did not affiliate himself with any political organization. His educational attainment is grade 4. He was arrested for the first time in 1945, without knowing the reason for his arrest. He was not investigated. Asked by his counsel as to the charges alleged in the information, the accused answered always with "I do not know anything about that" or "I cannot say anything." He was arrested in Tanay with his family. He knows Buenaventura Dichoso and he knows why he had testified against him. "We had a land controversy and we nearly came to bolo blows." He does not remember the date because it happened quite a long time ago. He had a dispute with Benjamin Dichoso who insisted on having his house within the land which appellant's grandfather was leasing from the Bureau of Lands. During the Japanese regime he saw Benjamin Dichoso in the land he grabbed from the accused. Dichoso was one of those who were ordered by the Japanese to carry eggplants to the garrison. Ruben Caro testified against him because he was asked to by Jose Alinsod to be a witness of the government. As to Canuto Velandres, he knows him to be mentally deranged. On cross-examination, he testified that he knows Filemon Alitagtag and Arsenio Batitis, that there was no Makapili organization in Santa Rosa. He does not know Antonio and Jurado Alumno. When Ruben Caro was asked to testify as witness for the government, the accused was not present. He was only informed that he was taken as government witness in order that he would be released.

The prosecution has conclusively proved that appellant was one of the members of the group who arrested Antonio and Jurado Alumno on November 16, 1944. The fact has been testified to by Sancha Sayao, the widow of Antonio Alumno, and by Primitivo Malapitan. Through the testimony of both Inocencio Alumno and Malapitan, it was also proved that appellant took part in the arrest of the first at about 2 o'clock in the morning of November 16, 1944, although Inocencio was able to escape to the mountains. At the time of the arrest of Inocencio Alumno and later that of the Alumno brothers, appellant was dressed in Japanese soldier's uniform and carrying a rifle with fixed bayonet. The arrest was made by Japanese and Makapili soldiers in whose company the appellant was.

Through the testimonies of Buenaventura Dichoso and Canuto Velandres it was also proved that appellant was a member of the group of persons in Japanese uniform, with rifles with fixed bayonets who, on February 4, 1945, arrested Canuto Velandres and two unknown Filipinos and tied them and later brought them near a hole where Augusto Ramirez was executed and buried. Velandres and the two unknown Filipinos were released only after Arsenio Batitis arrived and advised that the three persons be released because the guerrillas were approaching. We are not in a position to conclude that appellant took part in the arrest of Augusto Ramirez because this fact was testified to only by Buenaventura Dichoso and by no other witness. That appellant participated in the arrest of the Alumno brothers, their father Inocencio, Canuto Velandres and the two unknown Filipinos to give aid and comfort to the enemy appears to be conclusively proved by abundant evidence on record. The arrest of the three members of the Alumno family was made by a group composed of Japanese soldiers and Filipinos in Japanese uniform, including the appellant. When the arrest of Canuto Velandres and the two unknown Filipinos was effected, appellant was in Japanese soldier's uniform and carrying a rifle with fixed bayonet. During the Japanese occupation only those in the service of the Japanese or supporting them could openly carry rifles with fixed bayonets. All the arrests were made to show effective adherence to the Japanese, by giving them aid and comfort

in their fight against Filipino guerrillas. The evidence presented by the defense has no merit at all. Appellant and his witnesses limited themselves merely to general denials and to ignorance of the facts upon which they were questioned by counsel for the defense. Appellant failed to deny the specific facts testified to by Ignacio Alumno, Sancha Sayao, Malapitan, Buenaventura Dichoso and Canuto Velandres. He himself admitted being a Filipino citizen and not having changed his citizenship.

The facts proved in this case constitute the crime of treason as punished by article 114 of the Revised Penal Code, no modifying circumstance having been established. The decision of the lower court sentencing appellant to reclusion perpetua, with the accessories prescribed by law and to pay a fine of P10,000 and the costs, being in accordance with law, is affirmed.

Moran, C.J., Feria, Pablo, Hilado, Bengzon, Briones, Padilla, and Tuason, JJ., concur.

PARAS, J.:

I reserve my vote. The decision in the Laurel Case is not as yet final. On the merits the appellant is guilty of murder.

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