

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS. CRISPULO PREDILLA, DEFENDANT-APPELLANT.

G.R. No. L-4407. March 31, 1952

Ponente: PADILLA, J.

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PADILLA, J.:

Charged with treason in eight (8) counts, Crispulo Predilla was found guilty, except in counts Nos. 7 and 8 which on motion were dismissed for lack of sufficient evidence, and sentenced to suffer twelve (12) years and one (1) day of reclusion temporal, the accessories of the law, to pay a fine of P5,000 and costs.

The appellant is a Filipino citizen (by admission and as shown by his birth certificate—Exhibit A). At the start of the Japanese occupation he donned a Japanese soldier's uniform, was armed with rifle, and accompanied and helped Japanese soldiers in making arrests in Limbon, Sariaya, province of Quezon.

In the morning of 29 January 1945, shooting broke out in the elementary school building of Lucena, Quezon, and after the Hunters guerrillas had departed, the following morning Japanese soldiers came to the building accompanied by several Filipinos, among them the appellant, who was armed with a Springfield rifle. They hogtied Leonardo Bstacio, Eiosdado Garcia, Restituto Salamat, Fernando Marquez and others and brought them to the provincial road where they untied them and told to carry the corpses of Japanese soldiers to the town of Sariaya. These facts were testified to by Leonardo Estacio and Benjamin Baldovino.

On 8 or 9 February 1945, the appellant was seen carrying a firearm and guarding the Japanese garrison on the ground floor of the Catholic convent or rectory in Sariaya. On that day Jose Saballa was arrested and confined in the garrison. and There he saw 70 persons and among them were Hilarion de Villa, Sergio or Maximo Espinosa, Restituto Salamat, Tomas Igamino, Pedro Torres, one Makatangay, a Chinaman named Jose, Quirico Dellica, Jose Habola, Pedro Castro, Antonio, Manuel, Jesus, surnamed Alcala, Abelardo Lopez and Diosdado Garcia. After one week stay of Saballa in the garrison, the first eight (8) named persons confined there were brought out of the garrison by Francisco Beduyo, a lieutenant of the Makapilis, and his companions, among whom was the appellant, were hogtied and blindfolded and never seen again. These facts were testified to by Jose Saballa and Abelardo Lopez.

On 22 February 1945, the appellant, Francisco Deduyo, Maximo Halado and Teodoro Leosa arrested Abelardo Extra, Elpidio Calabit and Vicente Sacristia. The last two were hogtied and brought by the appellant and some of his companions to the seashore in Castahas, Sariaya, leaving behind Abelardo Extra and some of the appellant's companions. When the appellant and his companions returned to the place where Abelardo Extra was left under the vigilance of the "yoins" (meaning Japanese soldiers) Calabit and Sacristia were no longer with them. Before their return a gun report was heard and after their return a bayonet carried by a soldier was seen stained with blood. The arrest of Elpidio Calabit and Vicente Sacristia was testified to by Abelardo Extra and Abdon Aleman. Hermogena Saballa, the widow of Vicente Sacristia, testified to her husband's arrest only.

Appellant's uncorroborated testimony is that he was arrested by the Japanese; that while confined in the garrison

he was ordered to help the cook by carrying firewood from the stock pile to the kitchen; and that he did not do any of the acts imputed to him by the witnesses for the prosecution.

The appellant's participation in the raids and arrests of guerrilla suspects made by the enemy constitutes adherence to him.

The order given to Filipino prisoners by the appellant and Japanese soldiers to carry Japanese soldiers' corpses to Sariaya the following day after the skirmish in Lucena between the Japanese soldiers and the Hunters guerrillas on 29 January 1945; the disappearance one week after 8 or 9 February 1945 of eight persons confined in the garrison of Sariaya who were taken out, hogtied and blindfolded by Francisco Deduyo, a lieutenant of the Makapilis, aided by the appellant; and the latter's participation in the arrest on 22 February 1945 of Elpidio Galabit and Vicente Sacristia, who never returned and were never seen again, constitute the crime of treason. The witnesses for the prosecution had no motive to point to the appellant as one among those who participated in the arrest of Vicente Sacristia and Elpidio Calabit on 22 February, and in the incidents one week after B or 9 February, and of 29 January, 1945, referred to, if he really took no part therein.

Pursuant to article 114 of the Revised Penal Code, as amended by Executive Order No. 44, the penalty is from reclusion temporal to death. In some cases lack of instruction was taken into account to mitigate treason;[1] in others it was not.[2] In *People v. Cruz*, G.R. No. L-2236, 16 May 1951, lack of instruction was not taken into consideration to mitigate treason, but as it appeared that the defendant had not taken part in the killing of the victims the minimum period of the penalty provided by law was not disturbed. The evidence does not show that the appellant took part in the killing of the victims.

The judgment appealed from is affirmed, with costs against the appellant.

Paras, Pablo, Bengzon, Tuason, Montemayor, Reyes, and Jugo, JJ., concur.

Bautista Angelo, and Feria, JJ., took no part.

[1] *People v. Marasigan*, 47 O.G. 3529; *People v. Santiago*, G.R. No. L-2239, 30 March 1950.

[2] *People v. Lansanas*, 46 O.G. 153I; *People v. Menor*, 47 O.G. 3532; *People v. Magsino*, G.R. No. L-3550, 27 December 1950; *People v. Alba*, G.R. No. L-2799, 27 April 1951.

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