

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. MACARIO BAUTRO, DEFENDANT AND APPELLANT.

G.R. No. L-4260. January 21, 1952

Ponente: JUGO, J.

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JUGO, J.:

Macario Bautro was accused of treason before the People's Court, but was tried before the Court of First Instance of Batangas. He pleaded not guilty. After trial, all the counts were dismissed except Count No. 6, which reads as follows:

"That on or about February 11, 1945, the accused for the purpose of giving aid with intent to give aid and comfort to the enemy, led and accompanied a group of armed Japanese soldiers and Makapilis whose presence afforded him impunity, in a raid at Barrio Maraoy, Municipality of Lipa, Province of Batangas, and then and there did cause and participate in the apprehension and arrest of several men and women, who, subsequently, were brought at the Citrus Office by the accused and his companions and later killed;"

The court below, taking into consideration the defendant's lack of instruction, sentenced him to suffer the penalty of twelve (12) years and one (1) day of reclusion temporal, with the accessory penalties prescribed by law, to pay a fine of P5,000, and the costs. The defendant appealed.

The appellant admitted in open court that he is a Filipino citizen.

During the latter part of the Japanese occupation the appellant was wearing a Japanese military uniform, with a white armband marked with Japanese characters. Often seen with Japanese soldiers, he told the witness Carlos de Acosta that he was a Makapili.

From the testimony of the witnesses Carlito de Acosta, Marcelina Tesico and Lutgarda Tolentino, it has been established that on the morning of February 11, 1945, a company composed of Japanese soldiers and Makapilis, one of whom was the appellant, arrested about two hundred men and women in barrio Maraoy, Lipa, Batangas. The appellant and his companions tied the hands of those persons and led them to the Citrus Station in the same province, where they were killed and thrown into an excavation. Among the victims were the parents of Marcelina Tesico and Lutgarda Tolentino. The appellant personally took part in the massacre by personally killing some of the arrested persons. Marcelina Tesico and Lutgarda Tolentino were spared, but were taken to Suloc where they were compelled to serve Nicolas Gonzales, a well-known sympathizer of the Japanese. In Suloc the two women saw the appellant wearing a Japanese Military uniform, carrying a firearm, and training Makapili soldiers.

The appellant cannot point out any motive why the two women should have testified falsely against him, but contends that they might have been mistaken in their testimony. There could have been no mistake, because the incident occurred in broad daylight from about eight o'clock in the morning up to noon, the two witnesses being in the arrested group.

The appellant impeaches the testimony of Carlito de Acosta, saying that it is unbelievable that Carlito should have hidden himself in a ditch beside the road to see what was happening, when he should have fled for his own safety. It should be borne in mind that Carlito had some friends among the victims and must have wanted to know their fate, feeling himself safe in the ditch.

The testimony of the witnesses for the defense cannot counteract the evidence for the prosecution, for the reason that said witnesses refer to events which had occurred at a considerable time before the criminal acts of which the appellant is accused.

The defense also points out some alleged contradictions incurred by the witnesses for the prosecution, such as that the women testified that the massacre occurred inside the building of the Citrus Station while Carlito stated that it occurred in front of it. There is no necessary contradiction, for some of the numerous victims might have been sacrificed inside and others outside the building. We can not expect absolute accuracy from the witnesses on account of the fact that at that time they must have been greatly worried due to the danger in which they found themselves. On the other hand, such slight contradictions rather strengthen the sincerity of their testimony, excluding any possible connivance.

The trial court considered in favor of the defendant the mitigating circumstance of lack of education; but this is offset by the seriousness of the acts of the accused in taking part in the massacre of a great number of victims, he himself personally killing some of them. Consequently, the penalty should be raised to reclusion perpetua.

As above modified, the judgment appealed from is affirmed, with costs against the appellant. So ordered.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.

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