

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PABLO ALEJO, ACCUSED AND APPELLANT.

G.R. No. L-593. January 19, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

For treasonous assistance to the enemy during the Japanese interlude, Pablo Alejo, a Filipino citizen, got life imprisonment, plus fine, from the First Division of the People's Court.

He was tried in Tacloban, Leyte, upon five charges; but only the third was substantiated, Prosecutor Gatmaitan having informed the judges that "due to the distance of the municipality, we have not been able to bring other witnesses to prove other counts."

According to the record, on and before July 24, 1943, a group of guerrilla men under the command of Antonio Cataag encamped in Barrio Malunod, Municipality of Ormoc, Leyte, around the schoolhouse there. About two o'clock in the morning twenty Japanese soldiers, accompanied and guided by several Filipino "home guards" attached to the Japanese, (among them Pablo Alejo, Gregorio Quilanta and one Seño, marched toward the secret camp. They were all fully armed with rifles. Alerted in time, Cataag ordered his soldier Francisco Bellosino to go out and do some scouting. The latter obeyed. He was followed closely but cautiously by Cataag himself, his assistant Sixto Nuñez, Pablo Mendiola and Sergeant Bacaro. Bellosino met the herein accused, who was leading, and ahead of, the raiding patrol. The latter feigning connection with the resistance forces, slyly asked, "Where are our boys?". Completely taken in, Bellosino approached and the accused instantly seized him. A struggle ensued, Bellosino trying to escape. Alejo then bayoneted his captive in the abdomen and buttocks. Presently, the Japanese and their Filipino helpers arrived, and butted the poor scout to death. In the meantime the guerrilleros, who had only three rifles, scampered into hiding, because they knew it was futile to resist or help their comrade.

The invaders searched the locality, and realizing the quarry had escaped, they forcibly entered the dwelling of old man Leon Puno and possibly suspecting him of guerrilla connections, bayoneted him into Kingdom Come, in the presence of his wife Paula Torre Villas, who also had to witness the ransacking of her home, the trespassers taking away about 300 pesos of her "genuine" money. (Philippine pre-war currency). Thereafter said soldiers and "home guards" left the barrio with four male hostages (Juan Omega, Castor Celis, Rufino Gagni and Victor Badiong).

The accused-appellant admitted membership in the home guards organization; but denied having accompanied Nippon soldiers in the expedition to Malunod.

The principal issue is whether or not the prisoner was sufficiently identified as one of the raiders on that bloody night. He was. Antonio Cataag and Pablo Mendiola knew him since boyhood in Ormoc. These swore to having recognized him by the bright moonlight, about 30 yards away, attacking Bellosino. Both witnesses had no axe to grind. One claimed friendship with the accused, the other said he was a third cousin. Sixto Nuñez, a former school teacher, acquainted with the accused since 1930, saw the same acts and told the same story. These three — like the appellant—were residents of Ormoc. Their assertions were partly corroborated by the circumstance that the next

day, Paula Torrevillas reporting the murder of her husband, mentioned the accused among those who had searched her residence.

Appellants attorney de oficio has carefully revised the expediente, and pointing out some inconsistencies and flaws in the prosecutor's case, and pleads for acquittal upon the ground of reasonable doubt. The points have been examined. They are either unimportant or easily explainable. For instance, the order in which the wounds were inflicted on Bellosino: whether in the abdomen first or on the buttocks first. The main thing is that he was wounded in both parts of the body. The sequence should be immaterial, considering the region of the anatomy involved, and the positions of the eye-witnesses.

"It is common observation that eye-witnesses to the whole or a part of an incident that occurs unexpectedly and is in a considerable degree horrifying in its nature, testify to or otherwise relate what they saw, at considerable variance with one another. And yet it has never been held that because they did so, they were unreliable or partial persons. When the coffin of Mary Queen of Scots was opened, between 1830 and 1840, it was discovered that she had at her execution received two strokes of the axe, one of which had only slashed the nape, while the second had separated the head from the trunk. But we possess a series of accounts of that execution, dating from the period itself, all abundance and exactitude of details, and not one of these accounts mentions the first blow which merely injured the nape of the neck. Yet, judging from the careful way in which these accounts have been recorded, this detail would certainly have been reported had it been noticed by any of the spectators; but all were evidently in such a state of agitation that not even one of them observed the false blow, and all would probably have sworn in a court of law that only one blow was dealt." (Moore on Facts, Vol. II, p. 750.)

We see no reason to modify or reverse the finding that herein appellant was a traitor. In consonance with his view that the law on treason was suspended at that time, Mr. Justice Parás holds the herein accused guilty of murder only. All members agree, however, that the penalty meted out to the prisoner is in accordance with law. (Arts. 114 and 248, Revised Penal Code.)

Judgement affirmed, without costs. So ordered.

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

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