

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANGEL BEATO, DEFENDANT AND APPELLANT.

G.R. No. L-524. July 02, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

Treason on four counts is the crime imputed to appellant upon the following allegations of the information:

"1. That sometime in October, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity, did then and there wilfully, unlawfully, feloniously and treasonably participate in the apprehension and arrest of one Lieutenant Leslie, an American Naval Pilot who crashed into the Laguna de Bay, and thereupon, the said accused did turn over the said Lieutenant Leslie to the enemy who brutally maltreated, tortured and subsequently executed him;

"2. That on or about November 16, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity, and taking advantage of the darkness of the night, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of Antonio Alumno and Jurado Alumno, both suspected of being guerrilla members, and thereupon, the said accused did turn over the said Antonio Alumno and Jurado Alumno to the enemy who brutally maltreated, tortured and subsequently executed them;

"3. That between January 24, 1945 and January 25, 1945, both dates inclusive, in the Province of Laguna, Philippines, the said accused, a member of the Makapili, and acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with a group of armed Makapili members, did then and there wilfully, unlawfully, feloniously and treasonably fight side by side with a number of enemy soldiers who engaged in actual combat against the guerrilla forces then operating in the Province of Laguna, Philippines;

"4. That in December, 1944, in Santa Rosa, Laguna, Philippines, the said accused, in order to make more effective the aid or comfort which he intended to give and did give to the enemy, did voluntarily enlist and serve as a member of the Makapili, an instrumentality of military nature, created and conceived in the spirit of collaboration with the Imperial Japanese Forces in the Philippines with the end in view of collaborating unreservedly and unstintedly with the said enemy, and to fight side by side with the same against the Armed Forces of the United States of America and the Guerrilla Forces then operating in the Philippines, and as such member thereof, the said accused did further voluntarily join and evacuate with the said enemy in his retreat to the mountains in Luzon, and did stay and remain with the said enemy until his apprehension and capture by the American and Guerrilla Forces."

The People's Court found appellant guilty on the first three counts and sentenced him to life imprisonment with

the accessory penalties provided by law, to pay a fine of P10,000 and the costs, the accused to be credited with one-half of the period of his detention.

Five errors are assigned in appellant's brief. All of them raise question of fact.

Ten witnesses testified for the prosecution and five for the defense. The following is a summary of their testimonies.

Florencio Jaime worked as a librarian for the counter intelligence corps of the United States army. He identified Exhibit A as the November 3, 1944 issue of the "Tribune" borrowed from the CIC. The issue was substituted by a certified copy of the article appearing on the top of the fourth column, page 3. He identified Exhibit B as the copy of the articles of the association of the Kalipunan Makabayan ng mga Filipino and the by-laws of the same filed in the library of the counter intelligence corps. The document was later replaced with a certified copy. The "Tribune" was published by the Manila Shimbunsa, a Japanese-sponsored enterprise.

Buenaventura Dichoso testified that in October, 1944, a plane crashed in the waters of Laguna de Bay. It was an American plane. Arsenio Batitis, accompanied by Higino Sigue, "approached me and asked me to leave my work first to help him catch an aviator." Because the witness answered that he was too busy and suggested that somebody else be called in his stead, Batitis struck him with his fist and slapped him. Sigue struck him with the butt of his gun. "Then I went to a boat," where he found Angel Beato, Jose Almadovar, Luis Navea, Jose Alitagtag, and Alejo Tagasilang. When the boat arrived at the place where the plane had crashed, the pilot, Leslie, was already in a banca belonging to people from Cupang. "The American pilot was transferred to our banca" including his things. The pilot gave some bullets of his pistol to Beato asking him to give them to the men of the other banca, but Beato kept the pistol with the bullets. The witness suggested that the pilot be brought to Hanusa, Binangonan, and Beato said that it was necessary to kill the witness who afterwards kept quiet. Almadovar exchanged clothes with the pilot. On the way to Santa Rosa, at about fifteen meters away from the shore, the group met a banca occupied by Japanese soldiers and Filipino scouts. The aviator was made to lie down at the bottom of the banca and was covered with a papag. As the banca reached the beach, Beato lifted the papag and told the Japanese "Here is an American." The Japanese jumped into the water, pulled the banca towards the shore, told the pilot to get up and tied his hands behind his back. There were around thirty Japanese soldiers. The last that the witness saw of the pilot was when he was aboard a truck. He reported what happened to Mayor Alinsod. The Japanese gave seven gantas of rice as a reward to Beato. The witness was a guerrilla. The witness did not tell the American flyer that those in the banca were enemies because he does not know English. Before the war the accused was a Sakdalista. It was Captain Alinsod who told the witness that the name of the pilot was Leslie sometimes in 1945. In 1942, the witness belonged to the Marking's guerrilla. In February of that year he was arrested by the Japanese and after his release he was given papers of the ROTC by Captain Alinsod.

Sancha Sayao testified that on the morning of November 16, 1944, appellant and other Makapilis were in her home tying her husband Antonio Alumno. There were about ten Makapilis dressed in Japanese uniform with rifles. Three Japanese soldiers accompanied them. They also arrested her father-in-law and Jurado Alumno, witness's brother-in-law. Angel Beato was with the Makapilis and Japanese soldiers. Since then the witness had not heard anything about her husband and brother-in-law. The arrest took place at two o'clock in the morning in the barrio of Masiit, Santa Rosa. The night was dark but the Makapilis had three candles lighted inside the house. One Japanese opened the wardrobes and made a search.

Canuto Velandres testified that in October, 1944, a plane crashed in the Laguna lake. The pilot was rescued in a Makapili banca. Among the Makapilis in the banca were Angel Beato, Luis Navea and Jose Almadovar. There were two bancas and in one of them were Jose Almadovar, Melchor Tenorio and Ricardo Beato. When the banca

reached the shore, the American aviator was uncovered by Angel Beato by removing the papag covering him. Beato pulled the hands of the American and delivered him to Mikawa, a Japanese resident of Santa Rosa, accompanied by Japanese soldiers carrying rifles. There were about thirty of them. Mikawa tied the American. The witness does not know the name of the American flyer. Buenaventura Dichoso was waiting with the witness at the shore when the banca bringing the American flyer arrived.

Inocencio Alumno testified that Sancha Sayao is the wife of his son Antonio. In the evening of November 15, 1944, the witness was at a gambling place. At about ten o'clock that night he left the place. At about two o'clock in the morning, the witness was awakened by someone calling his name. Somebody was knocking at the door of his house with the butt of a gun and ordering the witness to put out the light. There were many Filipinos in Japanese uniform with whom were Lino Sigue, Arsenio Batitis and Captain Mikawa. The witness climbed to the roof of the house followed by his son Antonio, but almost immediately they were followed by Filipinos in Japanese uniform who overtook them. Among the Filipinos in Japanese uniform was Angel Beato. "They took me down, first to the floor of the house and then to the ground where they made me extend my hands and tied them at my back. Then two sons of mine came down and they were present when I was tied up, but they had to leave because the Filipinos and the Japanese told them Kura Kura * * *. Hinosigue tied me up and he was with Angel Beato. I was taken out and while going towards the truck I was able to untie the rope, but I pulled the rope just to show them that I was still tied up and I thought of escaping just as soon as I could have an opportunity. While they were taking me to the truck I succeeded in escaping; passing right in front of the truck because there was no other way. I went direct to the mountains and from there sent word to my family advising them of my escape. Two days afterwards I received information to the effect that my sons were also taken that same evening by the same group of people."

Ambrosio Villares testified that on January 24, 1945, he saw the accused at the crossing at Balibago, Santa Rosa, with a group of about sixty persons dressed in Japanese uniforms and carrying Japanese rifles. With them was the Japanese Mikawa. The group was going to the barrio of Santo Domingo near the mountain. Esteban Cidamor testified that he was in the company of Ambrosio Villares and testified substantially the same as the latter.

Exequiel Declaro testified that on January 24, 1945, he saw the accused in barrio Santo Domingo, Santa Rosa in a group of not less than fifty persons, including more than twenty Japanese soldiers. The accused was wearing a Japanese uniform. The group begun making arrests and locked up the arrested persons in their headquarters. The witness went to get more guerrilla soldiers for re-enforcement. About five hundred arrived. They attacked the Japanese and the Filipino scout battalion. The encounter took place from six to eight o'clock in the morning. The accused was by the side of a Japanese machinegun which he was firing. The Japanese and the Makapilis, after suffering casualties—four Japanese soldiers and two Filipinos killed—retreated, without throwing first hand grenades. One of the guerrillas was wounded, but nobody was killed.

Pedro Basco testified that between October, 1944, and February, 1945, he used to see the accused working in the Makapili headquarters in the barrio of Aplaya, Santa Rosa. By order of Arsenio Batitis, the accused confiscated palay and went on patrol looking for guerrillas to arrest them. In October, 1944, an American airplane crashed in the lake. The aviator was taken into a banca and when the banca arrived at the shore the accused advised the Japanese in another banca by telling them in Tagalog, "We have already got the American aviator." The Japanese brought up their banca and surrounded the one where the American was. The accused lifted the papag covering the American. The aviator was delivered by the accused and Jose Almadovar to the Japanese. In the month of February, 1945, when the Americans were already, approaching Santa Rosa, the accused was with the Japanese who retreated. The accused is a Makapili and formerly a Sakdalista.

Lourdes Dominguez, a granddaughter of General Artemio Ricarte, testified that she is very familiar with the

signature of her grandfather and identified the latter's signature on page 3 of Exhibit B-1, the articles of incorporation of the Kalipunan Makabayan ng mga Pilipino. She also identified the signature of Aurelio Alvero who once wrote a poem to her in which Alvero signed in the way appearing in the document. She also identified the signatures of General Artemio Ricarte and Aurelio Alvero appearing on page 4.

Angel Beato, the appellant, testified that he was a chauffeur of the Biñan Transportation at the outbreak of the war. He went to Bataan, where he was assigned to drive automobiles for officers and was able to return home in April, after the surrender of Bataan. Then he worked as a washing boy in a truck of Vito Puzon. In October, 1944, he was invited by barrio lieutenant Luis Navea and police officer Jose Almadovar to go with them. Appellant refused at first, but Almadovar told him that it was on orders of the Japanese and whoever should refuse would be reported to the Japanese. Appellant went along to a place where they met Buenaventura and Feliciano Dichoso. They got a banca. Buenaventura was at the bow guiding the way to find the place where the plane crashed. At a distance of about thirty meters away from another banca, Buenaventura shouted to the people therein not to move. Buenaventura boarded the other banca and upon seeing the American flyer he told him, "I am looking for you." When the American stood up he had his parachute on. Buenaventura took him to the banca where the accused was, and he asked the American for his arms. The pilot said it was in the other banca. Buenaventura took the revolver. The accused was at the time rowing. The American gave some candies to Buenaventura and the others in the banca. Buenaventura was the one who told the American to get under the papag. At the shore, when the Japanese arrived, Buenaventura called for them pointing to the American under the papag. Appellant told Buenaventura not to give or make signals to the Japanese but Buenaventura said "Never mind we will be the one to deliver him because I was considered a bad element before and I want to make up my record." The American was taken by the Japanese and brought to a truck. The Japanese gave one sack of rice to Buenaventura, who gave three gantas to appellant. The other companions in the banca were also given rice. Appellant denies having helped in the apprehension of Antonio and Jurado Alumno and of delivering them to the Japanese who killed them. He does not know anything about their arrest. He denies being affiliated with the Makapilis, about which he does not know anything. Appellant was in Manila buying tobacco when he was arrested. Witness Pedro Basco, is angry with appellant because since May 2, of several years ago, he has been accusing appellant of having joined the Sakdalistas when it is not true. Buenaventura Dichoso testified against appellant because they were rivals in connection with a woman, who was won by appellant, making her his common-law wife.

On cross-examination, appellant testified that he was accused as one of the Sakdalistas in a case in which Pedro Basco testified against him. He is not sure whether he was sentenced or not. He was brought to Bilibid and confined there, but was later released. When Lieutenant Leslie, the American pilot, was captured, he had an overall. Appellant knows Japanese Mikawa who was sometimes a passenger in a truck driven by him.

Bonifacio Tatlonghari testified that he had a truck before and appellant was his driver. From 1942 to 1945 he used to see appellant driving the car of Puzon. Sometimes driving and sometimes helping the driver. One time, before the Americans came, appellant went to the house of the witness to tell him to send his son away because he will be killed by the Japanese. Because he trusted appellant, the witness sent away his son who went to the mountains with the guerrillas.

Pedro Alinsod testified that he went with the accused to Bataan when the U. S. army commandeered the trucks of Biñan Transportation. The witness served as driver of an officer's car until the fall of Bataan. The witness was an intelligence operative of the underground movement. Two weeks before the arrival of the American forces, appellant warned witness to hide because he was wanted by the Japanese, the same as their companions Adriano Tatlonghari and Primitivo Malapitan.

Luis Navea testified that in October, 1944, Mikawa, a Japanese, asked the witness to go to the place where an

airplane clashed. The Japanese told him to look for somebody to accompany him. The witness looked for some men because he was afraid. He was not able to get anyone except appellant and Juan Alitagtag. Buenaventura Dichoso volunteered to go with them, the same with his brother, with one by the name of Alejo and Juan Almadovar. While in the banca, Buenaventura told the witness, who was acting as a pilot, to direct the banca to a place where Buenaventura said the American was. Rowing were Almadovar, Alitagtag and appellant. Buenaventura jumped to the other banca lifted the hands of the American pilot and transferred him to their banca. At a little distance from the shore Buenaventura stood up and signalled to a boat full of Japanese. When the Japanese came near, Buenaventura lifted the papag with which he covered the American pilot, who was made to stand up by the Japanese, tied and put aboard a truck.

Jose Almadovar testified that during the Japanese occupation he was a policeman and in October, 1944, he was ordered by the Japanese to get the American pilot whose plane crashed in the lake. The Japanese was Mikawa. The witness and Luis Navea went together to look for companions and they found appellant, Buenaventura Dichoso, the latter's brother and another man. This witness testified substantially the same as the one preceding him as to how the American pilot was taken and delivered to the Japanese. On cross-examination the witness testified that he was one of those who were convicted for the uprising at Santa Rosa, Laguna, and sentenced to a minimum penalty of from 2 years, 6 months and 1 day to 6 years and 1 day of imprisonment, although he was pardoned after a month of imprisonment. Among those who were convicted with him are appellant Angel Beato and Arsenio Batitis.

From the evidence there should not be any doubt that appellant took part in the capture of Leslie, the American pilot whose plane crashed in Laguna de Bay lake in October, 1944, and in his delivery to the Japanese. The fact was testified to by three witnesses for the prosecution, Buenaventura Dichoso, Pedro Basco and Canuto Velandres, and by three witnesses for the defense, Jose Almadovar, Luis Navea and appellant himself. There is a discrepancy among the witnesses for the prosecution whether Buenaventura Dichoso went in the banca which took the pilot to be delivered to the Japanese or remained at the shore of the lake, but that discrepancy is of no significance at all as appellant and his witnesses testified that appellant went with the party that fetched Leslie from the rescuing banca to be later delivered to the Japanese.

Appellant and his witnesses tried to prove that it was prosecution witness Buenaventura Dichoso who led the party that brought Leslie from the rescuing banca and delivered him to the Japanese and it was said witness who in fact made the delivery of the pilot. The testimonies of the prosecution witnesses on this point appear to us more credible. But even granting the hypothesis that the leading role attributed by the prosecution to appellant has, in fact, been performed by Buenaventura Dichoso and not by appellant, there still remains the fact that appellant had voluntarily joined the party and, therefore, assumed full joint responsibility for all that the party did. The delivery of the American pilot to the Japanese was a clear case of giving aid and comfort to the enemy and adherence to same. There is no doubt in our mind as to appellant's guilt on the first count of the information.

Regarding the arrest of Antonio and Jurado Alumno which took place on November 16, 1944, made by a party of Japanese and Filipino Makapilis, mentioned in the second count of the information, two witnesses were called by the prosecution: Inocencio Alumno, the father of the arrested brothers, and Sancha Sayao, the wife of one of them.

Inocencio Alumno testified that he was arrested by a party of Japanese and Makapilis but was able to escape. After his escape he heard that his two sons Antonio and Jurado were taken by the Japanese and were never heard of again until sometime after the liberation, when he was able to identify their bodies at an exhumation. Sancha Sayao testified corroborating her father-in-law with respect to his arrest. She testified also as to the apprehension of her husband and brother-in-law after the escape of Inocencio Alumno. Her testimony as to the brothers' arrest has not been corroborated by any other witness.

We are constrained to acquit appellant on the second count of the information. The two-witness rule was not satisfied by the prosecution as to the arrest of Antonio and Jurado Alumno, the testimony of Sancha Sayao as to the said fact not having been corroborated by any other witness. It is true that two witnesses, Inocencio Alumno and Sancha Sayao, testified as to the former's arrest, but we cannot consider said arrest as a basis to convict appellant, as the fact is not alleged in the information and appellant stands not indicted for the apprehension of Inocencio Alumno.

As to the third count, two witnesses for the prosecution, Ambrosio Villares and Esteban Cidamor, testified that on January 24, 1945, they saw accused in a group of around sixty Japanese soldiers and Makapilis in Balibago, Santa Rosa, and on their way to barrio Santo Domingo. Appellant was dressed in Japanese uniform. As to the actual combat between said mixed group of Japanese and Makapilis and guerrilla forces in barrio Santo Domingo, no one testified to it except Exequiel Declaro. Although said witness testified that he saw appellant by the side of a Japanese machinegun with which he was firing against the guerrilla forces, we may take it as though Declaro had not testified at all, as the law requires two witnesses for the prosecution to prove an overt act of treason. The prosecution advances the theory that the essence of the charge in count No. 3 is that the appellant acted as the enemy's agent, confusing one of the conclusions of the information with the specific charge in the third count, that of appellant's taking part by the side of the Japanese, in an encounter against the guerrilla forces, a charge which the prosecution failed to prove under the two-witness rule.

The prosecution presses for the reversal of the lower court's dismissal of the fourth count of the information. We deem it unnecessary to pass upon the question, as even if we should sustain prosecution's contention it will not change appellant's responsibility nor give ground to increase the penalty imposed by the People's Court.

For all the foregoing, it appearing that, on the first count of the information, it was proved that appellant is guilty of treason as punished by article 114 of the Revised Penal Code, and the appealed judgment is in conformity with the law, the appealed decision is affirmed with costs against the appellant.

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.

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