

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APELLEE, VS. REMIGIO ZAIDE, DEFENDANT AND APELLANT.*G. R. No. L-5362. December 12, 1952*

Ponente: PARAS, C.J.

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The defendant-appellant, Remigio Zaide, was charged with treason on nine counts, but at the instance of the prosecution, counts , 1 to 6 and 9 were dismissed, and the appellant was tried only with respect to counts 7 and 8. These in substance charge that on or about March 14, 1945, in the municipality of Lucban, province of Tayabas, the appellant, acting as informer or agent of the Imperial Japanese Forces in the Philippines, participated in the apprehension by a group of Japanese soldiers and Makapilis of Manuel Villavarde, Remy Cada, the Villalon brothers, Carlos Racelis, and Pedro N, Radoban, suspected guerrillas, who were subsequently confined, investigated, tortured and later executed, with the exception of Manuel Villaverde and Pedro N. Radoban.

The Court of First Instance of Quezon found the appellant guilty and sentenced him to 16 years and 1 day of reclusion temporal, with legal accessories, and to pay a fine of 10,000, plus the costs.

Pedro N. Radoban, a witness for the prosecution, testified that at about noon of March 14, 1945, while he was in his farm in barrio Ligwayan, municipality of Lucban, province of Quezon, he saw the approach of several armed persons believed by him to be guerrillas. Later, however, they turned out to be Japanese soldiers and Makapilis. He tried to hide, but as it was already noon and he felt hungry, he went home and there found Capt. Zurbano with the appellant and other persons, among whom were those they had arrested. Of the later, he recognized Manuel Villaverde, Marcel o Villalon, Carlos Racelis and Simeon Saludaes. Radoban was then and there arrested, his hands were tied like the others, and they were all guarded by the appellant who was armed with a rifle. Radoban was arrested because his father-in-law and brother-in-law were guerrillas. They were first taken to the Roman Catholic Church and later transferred to the Luisiana garrison where they were tortured. Of the ten arrested, only three survived, and Radoban was one of them.

Armando M. Racelis, another witness for the prosecution, testified that at about noon of March 14, 1945, several Japanese soldiers and Makapilis, together with several persons arrested by them, came to barrio Ligwayan. He saw his brother Carlos Raselis, Marcelo Villalon and Manuel Villaverde among those: arrested. His brother was arrested for being a guerrilla. The appellant was one of those pulling the rope with which those arrested were tied. Long before the occasion in question, the appellant was already a Makapili Soldier, carrying a fire arm, going with the Makapilis and giving information to the Japanese. After being taken to Luisiana, his brother Carlos Racelis was never seen.

Benito Lacerna, another witness for the prosecution, identified the appellant as being a Filipino Citizen by virtue of the very information supplied by the latter. Indeed, the appellant does not deny his Filipino Citizenship.

Counsel for the appellant now insists that the two principal witnesses for the prosecution, Pedro Radoban and Armando Racelis, have not testified to the same details of the overt acts constituting treason. For instance, it is

contended that Armando Racelis did not claim having seen Pedro Radoban among the persons arrested on March 14, 1945; and that neither was the charge that the appellant was an informer or agent of the Japanese in the municipality of Lucban proved conformably to the two-witness rule. Even so, the testimony of Radoban and Racelis is unanimous on the point that the appellant was with the Japanese soldiers and Makapilis on March 14, 1945, when they apprehended and arrested and later tortured at least Manuel Villaverde, Marcelo Villalon and Carlos Racelis, in connection with the rounding up of guerrilla suspects, and on the point that the appellant guarded the persons arrested. These acts sufficiently justify appellant's conviction for the crime of treason. The fact that the appellant was armed in company with the Japanese soldiers shows that the latter had taken the appellant into their confidence and military organization. Appellant's pretense that, after his arrest by the Japanese, he was forced to stay with them and work as a cook, cannot be believed, because it is inconsistent with the circumstance that he was with the Japanese soldiers and Makapilis on a military mission so to speak, and was indeed carrying a gun. Moreover, the two principal witnesses for the prosecution admittedly had no motive whatsoever for incriminating falsely the appellant.

It appearing, however, that the appellant had no actual participation either in the torture or in the execution of those arrested on the occasion in question, the penalty imposed by the trial court may be deemed sufficient. The appealed judgment will therefore be, as it is hereby, affirmed, with costs against the appellant. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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