

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JESUS (ALIAS ERNESTO QUILLOY), DEFENDANT AND APELLANT.

G. R. No. L-2313. January 10, 1951

Ponente: JUGO, J.

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JUGO, J.:

Jesus alias Ernesto Quilloy was accused of treason before the fourth division of the People's Court on an information which contained four counts. He was found guilty on the second count, there being no findings in the decision appealed from as to the other counts. He was sentenced to reclusion perpetua, with the accessory penalties of the law, to pay a fine of P10,000, and the costs. He appealed.

From the evidence of the prosecution we find the following facts established:

The appellant is a Filipino citizen and a resident of Los Banos, Laguna. During the Japanese occupation he joined the Japanese Imperial Army and served as a guide of the Japanese in arresting guerrillas. He was often seen with the members of the Makapili, an organization formed to help the Japanese in their campaign against the resistance movement and with the Japanese soldiers and their informers. He carried arms, wore Japanese uniform, and was in charge of the Makapili garrison in Los Banos.

On February 4, 1945, the appellant, with five other Filipinos and several Japanese soldiers, all of them armed, surrounded the house of Isabelo Alviar in barrio San Antonio, Los Banos, while the inmates of the house were taking their lunch. One of the Filipinos, a member of the patrol, ordered all the inmates to come down the house. They obeyed. The appellant spoke in the Japanese language to one of the Japanese members of the patrol, who forthwith approached Isabelo Alviar and pointed his bayonet at him saying: "You are a guerrilla." The appellant ordered Alviar to dress up because they were going to take him to the town for investigation. He did so and was taken to the town of Los Banos.

Simplicia Barcalla, wife of Alviar, followed her husband, guarded by the patrol, until they reached a store at the corner of the provincial road and a street leading to the College of Agriculture. Her husband stopped at a side of the road with hands tied behind his back and guarded by a Makapili. She walked toward her husband, but the guard signaled her not to do so. At about five o'clock in the afternoon her husband was taken away by the patrol. Again she followed the group at a great distance, as she had been warned by one of the Makapilis not to follow closely. When the group arrived at the bridge leading to the town of Los Banos, she heard several pistol shots. She was scared and ran to the municipal building, but not finding anybody there she repaired to the Makapili headquarters. She met one Pablo Villanueva at the headquarters, who told her that her husband was dead and his corpse could be found near the railroad track in barrio San Antonio. The next morning she went to the place and found the dead body with two mortal bullet wounds.

The above facts were testified to by Placido Angeles and Simplicia Barcalla, wife of Isabelo Alviar.

On January 24, 1945, the appellant with several Makapili and Japanese soldiers and informers, all armed, went to

the house of Fernando Lawas in Los Banos. They arrested him and took him to the municipal jail where he was later found dead by his son-in-law Modesto Maligalig. After a parley with the Japanese, Modesto was allowed to recover the dead body. This was testified to by Modesto Maligalig and Medim Lawas. However, this charge is not included in the information and the evidence with regard to it may be considered only as proof of adherence to the enemy.

The theory of the defense is that the appellant was himself a guerrilla, but in February, 1945, he was taken prisoner by the Japanese in Los Bafios. When the Fil-Americans liberated Laguna, some guerrillas arrested the appellant and turned him over to the CIC, Counter Intelligence Corps, which delivered him to the chief of police of Los Bafios for investigation. He was forced to sign the affidavit, Exhibit A, which had not even been read to him.

The theory of the defense is untenable. If he was captured by the Japanese for being a guerrilla, it is unbelievable that they came to have so much confidence in him as to arm him and dress him in the Japanese uniform, entrusting him with the mission of helping them in the capture of other guerrillas, without any fear that he might rejoin his guerrilla comrades, who had then become very strong on account of the direct help given them by the American troops who had then landed in the Philippines.

The appellant claims that he joined the Japanese forces on account of duress. Duress as a valid defense should be based on real, imminent, or reasonable fear for one's life or limb. It should not be inspired by speculative, fanciful, or remote fear. A person should not commit a very serious crime on account of a flimsy fear. Furthermore, the acts of the appellant were incompatible with duress. In the case of *People vs. Bagalawis*[*](44 Off. Gaz., 2655, 2667, No. 8), it was said:

"La defensa, pues, de duress—miedo insuperable o fuerza irresistible—coa que pretende exculparse el acusado, obviamente no se puede sostener. El vago temor que alega no tiene fundamento en los hechos y circunstancias del caso, y no es desde luego el temor eximente de que habla la ley. En la causa de *Respublica vs. M'Carty*, supra, se ha declarado lo siguiente:

"* * * He remained, however, with the British troops for ten or eleven months, during which he might easily have accomplished his escape; and it must be remembered, that in the eye of the law, nothing will excuse the act of joining an enemy, but the fear of immediate death; not the fear of any inferior personal injury, nor the apprehension of any outrage upon property. But had the defendant enlisted merely from the fear of famishing, and with a sincere intention to make his escape, the fear could not surely always continue, nor could his intention remain unexecuted for so long a period." *Respublica vs. M'Carty*, 2 Dall., 36; 1 Law ed., 300, 301).

In view of the foregoing, the judgment appealed from is affirmed, with costs against the appellant. It is so ordered.

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

[*] 78 Phil., 174.

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