

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. TEODORO BARRAMEDA, DEFENDANT AND APPELLANT.

G.R. No. L-2584. March 25, 1950

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PER CURIAM:

This case is here on appeal from the decision of the Court of First Instance of Batangas which found appellant Teodoro Barrameda guilty of treason on four counts and sentenced him to life imprisonment and to pay a fine of P20,000 with costs. The defendant was originally charged before the People's Court, with treason under ten counts. At the trial, however, the prosecution presented evidence only on counts 1, 3, 6 and 7.

There is no doubt that the appellant was and has always been a Filipino citizen. His personal record (Exhibit A) prepared when he entered prison at Muntinglupa, showing his personal circumstances which were undoubtedly furnished by the appellant himself and later checked by the identification officer of that institution, shows that he is a Filipino. His marriage certificate (Exhibit C) copied from the record of the Parish of Lipa, certifying to his marriage to one Maria Ysaga, on February 6, 1922, shows that he was a native of Pili, Ambos Camarines, resident of Lipa, Batangas, and the son of Angel Barrameda and Hilaria Versa. Furthermore, he served as a policeman in Lipa, Batangas from 1931 to 1933 and after that he was a Constabulary soldier for about three years. Enlistment and service in the Constabulary, at least presupposes and requires citizenship of the United States or of the Philippine Islands and it is evident that the appellant has never been a U. S. citizen.

Several witnesses for the Government testified as to the adherence of the defendant to the Japanese. Before the war he was a Ganap and during the Japanese occupation, he became a Makapili and later entered the service of the Japanese Military Police (Kempetai). As such member he used to accompany Japanese patrols engaged in arresting guerrillas and guerrilla suspects. At one time the defendant, tried to persuade and convince Pedro Africa to become a Makapili and a spy for the Japanese, and that, later he was to be taken to the market place of Buliran to point out the guerrillas, but Africa refused to be such Japanese spy and hid himself. In Exhibit B, written statement of appellant when he was investigated by the CIC, he admits his entering the service of the Japanese Military Police.

Under count 3, it has been duly proven that about August 27, 1942, appellant Barrameda, accompanied by some Filipinos went to the house of Estanislao Malabanan and his son Victor Malabanan in barrio Bagong Pook, Malvar, Batangas, looking for four Americans, Estanislao told them, that he did not know anything about those Americans, although in fact before that time he had lodged said Americans in his house, and on the day in question he was hiding them in a sugar cane plantation about 400 meters, away from his house, and supplying them with food. The defendant and his companions at first did not believe the protestations of ignorance of Estanislao but later they left him. The following day, the appellant, this time accompanied by Japanese soldier, returned to the house of Estanislao Malabanan. At a distance Estanislao and Victor saw the party and immediately ran to where the four Americans were hiding. It seems however, that the raiding party noted the movements of father and son and followed them, in the meantime, firing shots. Following instructions of Estanislao and Victor, the Americans hurried toward the river but they were so physically weak and exhausted that they could, not move

fast enough and the defendant and his companions overtook the four Americans. The appellant tied their hands, after which, they were loaded into a truck and taken to town. Thereafter, those four Americans disappeared and were never heard from. The presumption is that they were liquidated. At least two witnesses testified to the apprehension of the Americans by the defendant, namely, Estanislao and his son Victor, both surnamed Malabanan. Another witness Pablo Mendoza said that on the day the Americans were captured, while he was repairing a car for Capt. Sakai, Chief of the Military Police in Malvar, he saw and heard the accused conferring with Capt. Sakai, saying that he would apprehend some Americans; that after said conference with Capt. Sakai, the defendant and some Japanese soldiers left in a truck and in the afternoon they returned with the four Americans. The Americans were investigated by appellant and later lodged in the municipal jail; and when Mendoza and the defendant were on their way home, the latter told him that those Americans were to be killed, because they were against the government for which he was working.

Under count 6, the prosecution proved that in the morning of February 6, 1945, appellant Barrameda accompanied by Servando Darin, Lucid Darin and Alberto Darin appeared at the house of Pablo Mendoza in the barrio of Adya, Lipa, Batangas, where they found Pedro Mendoza, his mother, and Margarito Umali. Because the mother refused or failed to tell the defendant about the whereabouts of her son Pablo, suspected as a guerrilla, the defendant tied her hands, too her inside the house and set it on fire, and the house burned down completely, presumably with the mother perishing in it. Not content with this atrocity the appellant tied the hands of the son Pedro Mendoza and one Margarito Umali, both blind, led them to the orchard and there bayoneted them to death. This was testified to by Pablo Mendoza and Fermin Mendoza, brothers of Pedro, sons of the woman who was presumably burned inside her house.

Under count 7, we find that in the afternoon of February 13, 1945 some Japanese soldiers set fire to the houses in the barrio of Sto. Niño, Lipa, Batangas. There is some evidence showing that defendant Barrameda took part in this wholesale burning of the barrio, but only one witness Primitivo Mea testified on this point. Thereafter, the residents of the barrio, especially the men were rounded up by the soldiers and the defendant and taken near the Gordon river where, with the exception of some who were able to escape or who pretended to be dead, were killed with bolos, sabers, and bayonets. In particular, Edilberto Cornejo was killed by means of bayonet thrusts inflicted by the appellant, and Santiago Mendoza, a guerrilla, had his face skinned (scalped) by the appellant, Santiago dying as a result of said scalping, several witnesses testified on this point of mass slaughter, particularly the killing of Cornejo and Mendoza, namely, Gervacio de Torres, who after being bayoneted pretended to be dead, and Pedro Ulayao who at the very moment when the defendant was about to take him to the place of slaughter, made a desperate effort to escape and succeeded, altho in his flight he was machine-gunned and hit on the right foot.

For the purpose of weakening the evidence for the Government the defendant tried to place in doubt the sincerity and truthfulness of witnesses Pablo Mendoza and Fermin Mendoza, claiming that before the war Pablo was his rival when he (defendant) campaigned for the Ganap party, and that this may have induced the two brothers to testify against him. But as the Solicitor General well states, assuming that there existed such rivalry, it would be unreasonable to presume that it was enough to impel the two brothers to falsely accuse appellant of bayoneting their brother Pedro to death and burning to death their mother in her own house.

It will be remembered that according to the evidence, in the burning of the barrio of Sto. Niño and in the slaughter of many of its inhabitants, the defendant participated, at least in the latter atrocity; he also killed Pedro Mendoza and Margarito Umali; he also burned the house of the mother of the Mendozas, after placing her inside the building. All this took place during the first half of February, 1945. In his attempt to prove that he could not have taken part in the commission of these atrocities, the defendant corroborated by three of his witnesses Federico

Mercado, Marcelo Allit, and Doroteo Abarientos told the court, that because of a gunshot wound received by him, he was confined in a hospital in Los Baños from October 21, 1944 till after the end of February, 1945, Mercado and Allit, claiming to be hospital attendants, testified that the accused was confined in said hospital. Abarientos claiming to be a driver of the Japanese Military Police, said that the defendant was wounded in 1944 and was taken to the Los Baños Hospital. Because of the material contradictions incurred in by these witnesses, the trial court correctly refused to believe their story and preferred to give credit to the testimonies of the witnesses for the prosecution. Moreover, one cannot blame the trial court in entertaining doubts about the sincerity and truthfulness of appellant's witnesses, considering the fact that Federico Mercado, Marcelo Allit and Doroteo Abarientos were all accused of treason and detained at the Insular Prison with the appellant and during their detention, have had all the opportunities and reason for helping each other with their testimonies, Allit and Abarientos have already been convicted of treason and at the trial of Abarientos the appellant testified in his favor but evidently, without any success.

We entertain not the least doubt as to the guilt of the appellant. His very counsel de officio who made an analysis of the testimonies of the witnesses for the prosecution and painstakingly stated them in detail in his brief, agrees that his client is guilty, although he prays that the sentence of life imprisonment be affirmed. The Solicitor General however, recommends that the penalty of death be imposed upon the appellant. Considering that the treason committed by the appellant was accompanied, not only by the apprehension of Americans (U.S. citizens) and their delivery to the Japanese forces which evidently later executed them, but also by killing with his own hands not only one but several Filipinos, his own countrymen, and that in addition to this, he took part in the mass killing and slaughter of many other Filipinos, we are constrained to agree to said recommendation. However unpleasant, even painful is the compliance with our duty, we hereby impose upon the appellant Teodoro Barrameda the penalty of death which will be carried, out on a day to be fixed by the trial court within thirty (30) days after the return of the record of the case to said court.

With the above modification, the decision appealed from is hereby affirmed with costs.

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

MORAN, C. J.:

Mr. Justice Paras and Mr. Justice Torres voted for the imposition of the death penalty, but, on account of their being on leave at the time of the promulgation of this opinion, their signatures do not appear herein.

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