

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. PASTOR TAN MATEO (ALIAS NENE TAN MATEO), DEFENDANT AND APPELLANT.

G.R. No. L-869. February 09, 1948

Ponente: PADILLA, J.

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PADILLA, J.:

Treason is the crime with which Pastor Tan Mateo is charged. He was tried, found guilty and sentenced to suffer 15 years of reclusion temporal with the accessories of the law, to pay a fine of P2,000 and costs. He appeals from the judgment.

The appellant admitted that he is a native citizen of the Philippines (p. 3, t.s.n.). The evidence for the prosecution shows that from June 1942 to March 1945, the appellant was employed in the Public Opinion Office in Dumaguete, Oriental Negros, an organization headed by Teodorico Lajato, the purpose of which, was to gather information for the Japanese Army about the movements and activities of guerrillas in the province of Oriental Negros; that in the discharge of the duties of his employment in said office, the appellant was frequently seen in the house of Lajato, where the organization had its office, located on Silliman Avenue (later on—18 October 1943—the office moved to W. A. Jones St.); that he used to go around the town of Dumaguete and its environs observing and gathering information about guerrilla movements and activities; and that he reported his findings to Teodorico Lajato or Major Bartolome Soledad, the Chief of Police of Dumaguete (pp. 4-6, 10, 13-15, 19, 20, 26, 32, 43, 45-48, 51, 52, 61-63, 67, 68, 87, 88, t.s.n.); that on 28 March 1943, he reported to Chief of Police Soledad that he suspected Alfonso Calubiran and Antonio Chan of being in league with the guerrillas, because they used to come to and go out of town without being bothered by the guerrillas, and suggested to the Chief of Police that they be arrested and Investigated; that the Chief of Police ordered his men to proceed to barrio Ubos, Dumaguete, to apprehend Calubiran and Chan; that in compliance with the order, the appellant, sergeant Tomas Merced, corporal Fausto Avila, and patrolmen Alejandro Lazola, Pedro Gadiani, and Vicente Vancani or Pancayre went to said barrio in the evening of that day, and there apprehended Alfonso Calubiran and Antonio Chan, brought them to town, imprisoned them for eight days in the Trade School building used as jail, during which they investigated and ill-treated them, and afterwards released them (pp. 6-10, 14-16, 18, 21-26, 28, 33, 36, 38, 44, 51, 53-57, 69, 70, 92, t.s.n.), that in the middle part of October 1944, the appellant, together with patrolmen Avila and Peñero and another person, went to the house of Pedro Adaya in barrio Ubos, Dumaguete, to look for Angeles Catan; that upon learning that the latter was in the house of Pedro Adanza on Santa Catalina street in the same barrio, they proceeded to that place and there found and apprehended Catan and took him to the Kempei Tai headquarters at Silliman Hall in Dumaguete (pp. 64-66, 73, 74, 75, t.s.n.).

The appellant admits that he was a provincial guard and also worked in the public Opinion Office in 1943 (pp. 81-83, 86-88, t.s.n.), but denies that he was an informer, that he caused the arrest of Calubiran and Chan, and that he went with those who arrested Angeles Catan (p. 85, t.s.n.). The existence of the Public Opinion Office in Dumaguete, Oriental Negros, during the enemy occupation of that town, at the head of which was Teodorico

Lajate, and the purpose for which it was organized, to wits to gather information about and observe the movements and activities of the guerrillas and to report on such observation and information to the head of the organization, have been established by the testimony of the following witnesses: Alejandro Lazola (pp. 5-7, 13-14, t.s.n.); Antonio Chan (pp. 19-20; 27-28, 32, t.s.n.); Alfonso Calubiran (pp. 40, 45-47, t.s.n.) Pedro Gadiani (pp. 51-52, t.s.n.); and Socorro Cariño (pp. 61-62, t.s.n.).

Although appellant's employment in the Public Opinion Office has been proved by more than two witnesses, still the evidence is insufficient to satisfy the two-witness rule. The witnesses testified to having seen the appellant in the Public Opinion Office headquarters frequently, and also to having seen him go around the town of Dumaguete and its environs, but not two of them refer to an overt act or acts performed by the appellant on the same occasion. His activities were seen by several witnesses on different occasions and each witness testify to a particular act or activity. No single or particular act or activity was testified to by two witnesses as having been performed by the appellant on the same occasion.

But while this is true as to the activities of the appellant just referred to, which may, however, be taken into consideration to prove adherence to the enemy, the arrest of Alfonso Calubiran and Antonio Chan, on 28 March 1943, in which appellant took important part, was witnessed by more than two persons. These are Alejandro Lazola, Antonio Chan, Alfonso Calubiran and Pedro Gadiani. The arrest was ordered because the appellant imparted to the Chief of Police his suspicion that Calubiran and Chan were in league with the guerrillas. Appellant's adherence to the enemy as shown by his activities already referred to, and the motive behind the arrest of Calubiran and Chan, who were guerrilla runners and engaged in procuring food and supplies for the guerrillas, in watching the movements and ascertaining the strength of the Japanese garrison in the locality where they were assigned to perform patrol duty, and reported their observations and findings to Capt. Santiago Saroza, Lt. Francisco Saroza and Sgt. Guilongo of the guerrillas or USAFFE (pp. 18, 21, 28, 31, 32, 37-41, t.s.n.), render such arrest treasonous, an overt act, which gave aid and comfort to the enemy, performed by the appellant in the evening of 28 March 1943 and witnessed by more than two persons. These testified to it.

The evidence does not disclose the reason for the arrest of Angeles Catan in the evening of on day in the middle of October 1944, in which the appellant also took part. Pedro Adanza testified that after his arrest Catan returned to the barrio the following day (p. 74, t.s.n.). According to Cariño and Adanza, Catan is dead (pp. 65, 74, t.s.n.), and died after the arrival of the Americans (p. 75, t.s.n.). Appellant testified that Catan was a trusted undercover man of Lajato (p. 85, t.s.n.). In these circumstances, the arrest of Catan cannot be deemed and held treasonous.

The failure of the prosecution to prove the first count of the information by two witnesses, as required by the two-witness rule, does not mollify in the slightest degree the gravity of the offense committed by the appellant as charged in the second count of the information and supported by the testimony of at least two witnesses, The trial court took into consideration the mitigating circumstance of lack of instruction. The penalty imposed upon the appellant being within the range provided by law, the same should be as is affirmed, with costs against him.

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

PARAS, J.:

I reserve my vote. The decision in the Laurel case is not yet final.

MORAN, C.J.:

Mr. Justice Hilado voted for the affirmance of the decision appealed from.

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