

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO TUAZON, DEFENDANT AND APPELLANT.

G.R. No. L-2466. December 07, 1949

Ponente: TUASON, J.

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TUASON, J.:

Antonio Tuazon, the appellant, was prosecuted with several others in two cases in the Court of First Instance of Catanduanes, charged with kidnapping and murder. Some of his codefendants were acquitted and the rest were at large and were not tried. Tuazon was himself acquitted in one case but was convicted in the other, in which the victim was Agapito Naval, and sentenced to life imprisonment and to pay P2,000 indemnity.

It appears that the appellant was a guerrilla. With other guerrillas he seized various persons, one of whom was Agapito Naval, in the municipality of Pandan, Province of Catanduanes, on or about January 10, 1944. On the following day, the prisoners were taken to Caramoan, Camarines Sur, except one woman who was killed by some of Tuazon's companions in barrio Malabiga, Catanduanes, after they had separated from the main group of which Tuazon formed part and which proceeded to the last-named municipality with the other prisoners. In Caramoan, the prisoners were lodged in a school building awaiting the arrival of the guerrilla commander, one Major Garcia.

When Major Garcia arrived he maltreated some of the prisoners. Then he, Tuazon and other guerrillas questioned the arrested men. Thereafter a scaffold was constructed, Naval was led thereto, and Tuazon spoke about Naval's alleged treasonable activities and exhorted the large crowd of townspeople who had gathered at the place not to follow the example of the condemned man. Then the latter was hanged. The other prisoners were set free a few days later.

The question is whether Tuazon's participation in Naval's capture and hanging fails within the terms of Guerrilla Amnesty Proclamation No. 8, issued on September 7, 1946. The Solicitor General thinks that it does and recommends reversal of the judgment.

Zoilo Sales, one of the men taken with Naval by the guerrillas, testified that in Caramoan he was questioned regarding his supposed pro-Japanese leanings, while Jorge Bobis, another prisoner, stated that he was asked about his alleged connection with certain Manalaysay, who was suspected of organizing an armed force to fight the guerrillas. Bobis also testified that he and his co-prisoners were referred to by the guerrillas as the pro-Japanese from Pandan who dubbed the guerrillas "tulisanes." In addition to this testimony, Concepcion Naval, Agapito's daughter, stated that before her father was picked up, one Icawat warned Naval and his family that Tuazon and two other guerrillas had reported him to Major Garcia as a spy for the Japanese; that Icawat advised Agapito and his family to leave Pandan but that Agapito did not heed the warning; that later, on January 4, 1944, when Tuazon, Icasiano and Cebuano came to get Naval and did not find him, the guerrillas told the witness that her father was suspected of being a spy for the enemy. She further said that when her father was being detained in Caramoan she begged Tuazon to intercede for him but that Tuazon replied it was impossible to comply with her request because her parent had been reported to be a spy and Tuazon had orders to bring him to the guerrilla

headquarters.

It seems clear from this evidence, all given by witnesses for the prosecution themselves, that Agapito Naval's execution was motivated by his suspected pro-Japanese sympathy. The fact alone that the prisoners were examined in Caramoan and all, except Naval, were discharged, is proof that the hanging was due not to any personal motive but to the fact or suspicion that he was a traitor. For all these reasons, the appealed judgment is reversed and the case is dismissed, with costs de oficio.

Moran, C.J., Ozaeta, Paras, Bengzon, Padilla, Montemayor, Reyes, and Torres, JJ., concur.

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