

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. HIGINO SIGUE, DEFENDANT AND APPELLANT.

G.R. No. L-2255. April 18, 1950

Ponente: OZAETA, J.

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OZAETA, J.:

Appellant was accused of treason before the People's Court on 16 counts, of which counts 2, 11, 12, and 13 were voluntarily abandoned by the prosecution by not presenting any evidence in support thereof, and counts 3, 8, 10, 14, 15, and 16 were dismissed by the court for lack of two witnesses to support each of them. The court found appellant guilty of counts 1, 4, 5, 6, 7, and 9 and sentenced him to life imprisonment and to pay a fine of P10,000, with costs. Half of the period of his provisional imprisonment was ordered credited to him.

Contending that the six counts of which the appellant was found guilty have not been proved in accordance with the two-witness rule, his counsel de officio asks for reversal of the judgment appealed from.

Count 1.—Two witnesses, Adolfo Bascon and Jose de Castro, policemen of Sta. Rosa, Laguna, testified in support of this count. Adolfo Bascon, 37, declared that on August 8, 1943, he and Jose de Castro were taken by Martin Laurel, Higino Sigue, Arsenio Batitis, David Cose, Celso Cartesiano and other Filipinos together with three Japanese, to the garrison in Calamba where they were investigated because they were guerrillas. During the investigation they were tortured by the Japanese. They were confined in a cell for 40 days, during which period they were investigated and tortured three times. The accused Higino Sigue was armed at the time he and his companions took the witness from Sta. Rosa to Calamba. The accused took part in tying the witness. On cross-examination the witness testified that he belonged to Marking's Fil-American guerrilla unit, which he joined in the beginning of 1943; that he was taken from Sta. Rosa to Calamba aboard a Japanese military truck, accompanied by the Japanese and the Filipinos who arrested them.

Jose de Castro, 51, testified that in August, 1943, he was municipal policeman of Sta. Rosa; that on August 8, 1943, at about two o'clock, while he and other policemen were in the municipal building some Japanese accompanied by Filipinos came to arrest them and brought them to Calamba; that the Filipinos were Arsenio Batitis, Celso Cartesiano, Antonino de los Reyes, Higino Sigue, Ceferino Batitis, Eugenio Escosura and Victorio Gardoce; that some of the Filipinos were armed; that he did not know if Higino Sigue and Celso Cartesiano were armed; that they were arrested because they were guerrillas; that once in Calamba they were subjected to an investigation; that they were brought to a room where there were three bamboo posts from which a person who was being investigated was hung; that they were subjected to torture and so they had to admit that they were guerrillas and say that they joined the guerrillas because they were going to be killed if they did not join; that they were confined for forty days more or less. On cross-examination he testified that he was arrested on the same occasion as Adolfo Bascon; that there were five or six Japanese in the group with arms and uniforms; that as far as he could remember there were eight Filipinos in the same group; that he belonged to the Fil-American guerrilla unit.

Count 4.— Conrado Hernandez, 27, a resident of Sta. Rosa, testified in substance as follows: On October 9, 1944, my cousin Cesar Hernandez was taken by some persons from his house in barrio Pook, Sta. Rosa. Those who took him were Pedro Canlas, Aquilino Carrasco, Higino Sigue, Honorato Espiritu and Arsenio Batitis. They were taken to the Japanese garrison in the Elementary School of Sta. Rosa. Since that day Cesar Hernandez was never seen again. I do not know what became of him. He was arrested because he was suspected of being a guerrilla. I know that he was taken to the Japanese garrison because I followed him there. Higino Sigue was in a Japanese uniform and carried a rifle at the time he and his companions arrested my cousin. On October 24, 1944, I was also arrested in barrio Pook by Higino Sigue accompanied by Honorato Espiritu and Aquilino Carrasco. They charged me with keeping firearms and with being a major of the guerrillas, of which my cousin Cesar Hernandez was the colonel. I was taken to the municipal building of Sta. Rosa where I was tortured and asked to tell where the firearms were. I was hit with the handle of a hoe, slapped and kicked by Victorio Gardoce. When I was already exhausted from the tortures Jose Llague, Sr. came and guaranteed that I was a good man and I was released.

Leoncio de Guzman, 59, a resident of Sta. Rosa, Laguna, testified in substance as follows: In the afternoon of October 23, 1944; Conrado Hernandez was arrested in the house of his sister in Pook, Sta. Rosa, by a group of persons who appeared to me to be of the scout battalion and among whom were Honorato Espiritu and Higino Sigue. Higino Sigue was armed with a rifle and dressed in an ordinary Japanese uniform. I do not know where Conrado Hernandez was taken.

Count 5.—Maxima Bato, 43, widow, and a resident of Sta. Rosa, Laguna, testified in substance as follows: On November 16, 1944, at about two o'clock, three Makapilis came to our house, tied my husband Wenceslao Carpena and brought him down. Two of those who came to our house were Luis Navea and David Cose. When my husband was brought down I followed them by peeping thru the window and saw many other persons, among whom were Maykawa (a Japanese), Arsenio Batitis, Higino Sigue, Martin Laurel, Victorio Gardoce, and Jose Almadovar, all of whom were armed with revolvers. They took my husband because he was a guerrilla. Since then I never saw my husband again. One year later we exhumed his bones at the backyard of the garrison in the tennis court. There were seven bodies exhumed. I was able to identify my husband by the short pants and khaki shirt which he was wearing at the time he was arrested and which were still intact when we exhumed his body.

Reynaldo Carpena, 19, single, testified in substance as follows: At about two o'clock in the morning of November 16, 1944, while I was changing my clothes in our house, I heard Luis Navea and David Cose push our door and utter the word Kura. They tied me up. I was dragged downstairs and led to the street. They left me there guarded by Jose Almadovar and went back to the house. While I was standing on the street they passed by me with my father Wenceslao Carpena whose hands were tied. Those who passed by me with my father were Luis Navea, David Cose, Higino Sigue, Victorio Gardoce, Martin Laurel, Filemon Alitagtag, Arsenio Batitis, and Maykawa, a Japanese. Maykawa was the captain of the scout battalion. The scout battalion was engaged in arresting people like they did to my father. I do not know why they arrested my father, but I know he was a guerrilla. Since then I never saw my father again. My father was taken to a truck which went towards Aplaya, after which I went back to our house and asked, my mother to untie me. Jose Almadovar left me and went with his companions.

Count 6.— This count refers to the arrest and subsequent execution of one Roque Lazaga in Sta. Rosa, Laguna, on November 16, 1944. Teofila Lazaga, daughter of Roque testified that at about 4:00 a. m. of November 16, 1944, she was awakened by a call at the door of her home in the barrio of Balibago, Sta. Rosa, by someone who said that he was Pedro Canlas, a policeman of the locality. When the door was opened Arsenio Batitis, Martin Laurel, Jose Dizon, and Ricardo Beato came in, while others remained outside waiting. They lifted her father Roque Lazaga, a consumptive who was then in bed, and tied him up. Her father was suspected of being a guerrilla. Among those who came for her father was the appellant Higino Sigue who remained at the foot of the stairs. They

were all armed with rifles with fixed bayonets and were dressed in Japanese uniform. Since that day she never saw her father again.

Julia Alinsod, wife of Roque Lazaga, confirmed the circumstances of the latter's arrest at their home in the early morning of November 16, 1944. According to her, among those who waited outside for her husband was the appellant Higinio Sigue, who carried a rifle with bayonet. After tying Roque they took him down, put him in a waiting truck and drove away with him. She tried to intercede for him before her compadre Arsenio Batitis, one of the raiding party, but the latter said that Roque was a guerrilla. Her husband's remains were subsequently exhumed from the back of the Sta. Rosa garrison. They were identified by means of his clothes and teeth.

Count 7.— This count refers to the arrest and subsequent execution of Antonio Alumno and Jurado Alumno in Sta. Rosa, Laguna, on November 16, 1944. Inocencio Alumno, father of Antonio and Jurado, testified that at about seven o'clock in the evening of November 16, 1944, he went to a gambling place and returned home at ten o'clock. His sons Antonio and Jurado Alumno were at home then. At about two o'clock a. m. of the following morning he was awakened by a call and peeped thru the slits of the wall. He saw the appellant Higinio Sigue carrying a rifle with many companions all of whom were armed. As they broke in thru the kitchen door he went to the roof of the house to hide, but some of the raiders bearing candles went after him. The appellant caught him, brought him down and tied him. On the way he managed to untie his hands and ran away pursued by some of his captors shouting "Kura, Kura!" He succeeded in eluding his pursuers and reached the mountains. After liberation he went back to town with the guerrillas and learned that after his escape that night his captors returned to his house and apprehended his sons Antonio and Jurado. Their remains were exhumed from the back of the Sta. Rosa Elementary School.

Sancha Sayao, the wife of Antonio Alumno, testified to the arrest of her father-in-law and of her husband in their house at about two o'clock in the morning of November 16, 1944. Among those who broke into the house carrying candles was the appellant who was dressed in Japanese uniform and carried a rifle with fixed bayonet. Her husband and her father-in-law were suspected of being members of the guerrilla. A short time after her father-in-law Inocencio Aluinno had been taken away she heard a commotion outside and four persons entered their house and tied her husband Antonio and her brother-in-law Jurado. These two were taken downstairs where there were some persons in Japanese uniform and other civilians waiting. Soon thereafter she heard the rumble of a truck near their house and since then she never saw her husband again.

Count 9.— This count refers to the arrest and subsequent execution of Lucio Aguilar in Sta. Rosa, Laguna, on November 24, 1944. Rosa Alinsod, the wife of Lucio Aguilar, testified that at about two o'clock a. m. of November 24, 1944, her husband was taken from their home by three Filipinos—Jose Almadovar, Jose Dizon, and Arsenio Batitis—and two Japanese. Lucio was tied by the appellant, Jose Dizon and Jose Almadovar and taken down to a truck where there were others waiting. Appellant was not armed at that time. Her husband was suspected of being a guerrilla and was really one. Her husband's remains were exhumed from the back of the Sta. Rosa garrison and were identified by his teeth.

Federico Aguilar, 24, son of Lucio, testified that on November 24, 1944, his father was arrested in their house by Makapilis and three persons dressed in Japanese uniform. Six persons went up to their house, namely, Higinio Sigue, Arsenio Batitis, Jose Dizon and other persons dressed in Japanese uniform. The three Filipinos were dressed in khaki and armed with pistols. Downstairs in the truck were Celso Cartesiano, Victorio Gardoce, Martin Laurel, Feliciano Alinsod, and Antonino de los Reyes. His father was suspected of being a member of the underground movement. His father was tortured and murdered at the Sta. Rosa garrison. After the liberation his remains were exhumed from the back of the garrison at Sta. Rosa.

All of the witnesses above mentioned pointed to the appellant in the court and identified him as one of those who made the various arrests referred to in the six counts in question.

Appellant admitted that he was a Ganap before the Japanese occupation. He denied having taken part in the arrests imputed to him. He said that in December, 1944, he was sometimes called upon by the Chief of Police to accompany him in going on patrol against lawless elements, for which purpose he was given a gun by mayor Angel Tionspo. His declarations were corroborated by Magtangol Bascon, Vicente Mangahis, Angel Tiongo, Jose Dizon, Julio Garcia, and Delfin Torres. Jose Dizon and Julio Garcia, like the accused, were detainees in Muntinglupa. Delfin Torres admitted having been sent to prison before the war because of his activities as a Sakdal.

The People's Court did not believe the testimony of the witnesses for the defense, saying that it is "polluted, vitiated and unreliable." It believed the testimony of the witnesses for the prosecution, and observed: "The naturalness, simplicity and straight-forward manner in which the state witnesses declared, their composure and demeanor while in the witness stand, the logic and sequence of their declaration, all lend support to the correctness and veracity of their testimony."

To support his contention that the overt acts of treason imputed to the appellant in the six counts in question have not been proved by two witnesses to each overt act, counsel points to certain contradictions incurred in by the witnesses for the prosecution. For instance, on count 5, Maxima Bato testified that appellant and his companions were all armed, while Reynaldo Carpena said that he could not recall if appellant in particular was armed; on count 1 Adolfo Bascon testified that he and Jose de Castro were arrested in the early morning of August 8, 1943, while Jose de Castro testified that their arrest took place at two o'clock in the afternoon of said date; and on count 4 Conrado Hernandez testified that his hands were not tied by his captors, while in the case of People vs. Espiritu he testified that appellant tied his hands. Considering that the events testified to by the witnesses occurred in 1943 and 1944, and that the trial of this case took place in the latter part of 1947 and the early part of 1948, we do not find it strange that they should incur in contradictions and errors as to certain details. Those contradictions and errors, however, are not sufficient to vitiate or nullify their testimony to the effect that the appellant was one of those who made the arrests of guerrilla suspects, as a result of which most of them were tortured and killed by the Japanese.

Counsel for appellant further contends that, even admitting the testimony of the witnesses for the prosecution to be true—that appellant took part in the arrest of the guerrilla suspects herein mentioned—such acts of the appellant were legal and legitimate because the de facto government set up here by Japan during the war could legally adopt all measures tending to insure public order and safety; that under international law said government could avail itself of the services of the inhabitants of the occupied territory and that the latter might not refuse to render such service; and that it was in such capacity that the appellant served as a special policeman.

Such contention is untenable. The enemy had no right to require the citizens of the occupied territory, and the latter were not bound to betray their own country by helping the enemy to liquidate those of their fellow countrymen who resisted and fought the invader.

The judgment is affirmed, with costs.

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

MORAN, C. J.:

Mr. Justice Padilla took part and voted for affirmance.

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