

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. CONRADO COBALIDA, DEFENDANT AND APPELLANT.

G.R. No. L-1591. January 20, 1949

Ponente: PADILLA, J.

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PADILLA, J.:

Gregorio Refuerzo and Conrado Cobalida were prosecuted for treason under separate informations in the People's Court. As the charges against them were identical and the evidence the same, the two cases were tried jointly, but a separate decision was handed down in each case. We will dispose of the two cases in one decision.

The charges against the two accused may be condensed under three headings: (1) That they were members of a Japanese military organization called "Jutai" and accompanied Japanese troops and Filipino constabulary patrols for the purpose of confiscating foodstuffs and apprehending guerrillas and their sympathizers; (2) that, in company with other members of "Jutai", they "unlawfully and treasonably hacked one Pelagio Arana to death" for the reason that the victim was a USAFFE and a guerrilla; and (3) that they came to the house of Ignacio Macantan for his guerrilla activities and tortured Macantan and his wife for refusing to reveal the whereabouts of Macantan's brother Cirilo who was a guerrilla.

There is a fourth charge against Refuerzo alone, to the effect that he spread pro-Japanese propaganda and made pro-Japanese statements urging the Filipinos to cooperate with the Japanese. This charge was abandoned.

One of the charges in count 1 was touched only casually; the other not at all. No evidence was presented on alleged arrests of guerrillas or guerrilla suspects and the evidence on defendants' alleged joining a Japanese armed force is very deficient. The statements of the witnesses do not give the dates or the occasions when, as the witnesses said, the defendants performed sentry duties, commandeered foodstuffs for the Japanese, or committed other acts as alleged members of "Jutai". Bearing guns, which it is said they did, was not in and by itself sufficient proof of membership in that or any other military or semi-military body. There is not even any evidence of the creation of such organization or of its purpose, other than the sweeping conclusion of the witnesses. As an overt act of treason, this charge can not therefore be said to have been established in accordance with the two-witness requirement.

On count 2 Ignacio Macantan, Marcelo Piko and Benito Arana testified. The first of these witnesses declared in substance that on May 25, 1943, at about 3 o'clock in the afternoon, in barrio San Diego, municipality of Burauen, Province of Leyte, they saw Gregorio Refuerzo and Conrado Cobalida drinking tuba with other Filipinos and Japanese in Gregorio Refuerzo's house, armed with rifles. The town was deserted, the people having fled to and were staying in the mountains. After the Japanese had left, Pelagio Arana passed by and Gregorio Refuerzo, Conrado Cobalida and four other Filipinos whistled to him, but Arana paid no attention and continued on his way. Conrado Cobalida fired into the air and forthwith pursued him. On catching up with Arana, Conrado seized him by the hands, Feling Pedere stabbed him in the stomach, and Gregorio Refuerzo struck him in the head with a bolo. Arana upon being wounded, crumpled and fell forward. The wounds in the abdomen and in the head were

big, the scalp having nearly been chopped off. Arana was an ex-USAFFE and a guerrilla.

This testimony of Ignacio Macantan was corroborated by Marcelo Piko with, some variations as to details.

Benito Arana, brother of the deceased, testified that in May, 1943 he and his brother lived in barrio Bunauan, municipality of Burauen, Leyte; that his brother, on May 25, went to barrio San Diego to look for food; that as Pelagio did not return he looked for him on the 28th; that he met Ignacio Macantan in their evacuation place and Macantan told him that his brother had been killed by Gregorio Refuerzo and companions; that he went to the place indicated by Macantan and found his brother's dead body on one side of the road with many wounds, one of which was in the head; that as the foul odor was unbearable, he did not touch the cadaver but came back much later to recover the bones. The place was about ten kilometers from his home.

We are conscious of Macantan's and Piko's strong tendency to exaggerate and distort the truth born of an personal animosity and urge for revenge against the accused. Thus warned, we have examined the evidence with due caution. Still our opinion is that Pelagio Arana was killed by the appellants and four others in the manner related.

Benito Arana has not been shown to have any cause to perjure himself in a serious crime against the defendants and his testimony is impressed with the ring of veracity. Although Benito's testimony, so far as his personal knowledge went, proved only Pelagio's death through violence, yet the information he got from Macantan that the accused and their companions had slain the deceased, was free from any contamination of bias. The information has the appearance of spontaneity and was given soon after the commission of the crime. There was then no thought of commencing prosecution against the accused; and it was over a year before Macantan had any ill-will toward the defendants. It was in July, 1944, that Macantan was tortured by the Constabulary with the aid or at the instance of the defendants.

This is not saying that Macantan's and Piko's testimony on the killing has to be rejected. This testimony has to be judged largely on the witnesses' manner and demeanor on the stand which the trial judges alone were in the position to observe, and on the basis of which they made their finding. With these considerations in mind, we are not disposed to disagree with the trial court on a matter purely of credibility. There is no inherent improbability in the evidence on the murder, nor do we find any circumstance of weight which would tend to disprove it. The witnesses' false or exaggerated statements on other matters should not preclude the acceptance of such of their evidence as is relieved from any sign of falsehood. The maxim *falsus in uno, falsus in omnibus* deals only with the weight of evidence and is not a positive rule of law. (35 C. J. S., footnote, 736.) The rule is not of universal application. (*Id.*, footnote).

However, we are not satisfied that the killing was of political nature, motivated by Arana's being a supposed ex-USAFFE or a guerrilla. As a matter of fact, Macantan's and Piko's testimony that Arana was actively hostile to the Japanese was not corroborated by the latter's brother. It looks more as though the defendants and their companions committed the deed in a spirit of lawlessness and fiendish devilry under the influence of liquor, or were angered by Arana's refusal to halt when he was signalled to stop. It was wartime. Respect for life and property was at its lowest ebb brought on by a reign of terror and impairment of the moral fiber.

On count 3 Ignacio Macantan testified substantially as follows: On or about July 8, 1944 he was at his home in San Diego, Burauen, with his wife and five children. At about 9 o'clock a. m. the two accused with Feling Pedere, Santiago Pedere and Simeon Refuerzo arrived. The two Pederes, Simeon Refuerzo and Gregorio Refuerzo came up to the house with two Constabulary men and asked him for his brother Cirilo. He answered that since the outbreak of war he had not seen his brother, upon which he was told he was lying and that he did not want to work on the landing field. He was pushed violently and as he was very near the door, he fell to the ground. After he fell Feling Pedre seized him and tied his hands with, a rope which Pedere fetched from a neighboring house.

From his home, he was marched off to the barracks by Emillara, Cristeto Rellador, Luis Guiwan and Simeon Refuerzo. Avila and Emillara were Constabulary soldiers. In the barracks he was hung in midair and was subjected to other forms of cruelty. Those who tortured him in the barracks were Constabulary soldiers. The maltreatment continued for four days and four nights. On the last day, he was handed documents to sign. He signed them but did not know their contents. Thereafter he was released and he found his wife sick and weak in her parents' home; she had had an abortion. He was also told that his carabao had been taken by Gregorio Refuerzo.

On cross-examination, Macantan said that he signed Exhibits 1, 2, 3 and 4; that he was tortured not only because his brother was a guerrilla but also because of a carabao; that in the Constabulary barracks they told him that he had slaughtered Simeon Refuerzo's carabao and he denied the charge; that he signed the above documents because they told him that the carabao was already in their hands. He admitted that on July 8, 1944, he slaughtered a carabao and that he was brought to the Constabulary headquarters in connection with that carabao.

From Macantan's testimony it is manifest that he was tortured not by the accused but by members of the Constabulary, and not for refusing to tell the whereabouts of his brother but because he was accused of stealing and butchering a carabao of Simeon Refuerzo, son of Gregorio Refuerzo. The signing of the exhibits above mentioned by the witness at the instance of his torturers reveal the cause of his torture to be theft and not his refusal to disclose his brother's whereabouts or his being suspected as a guerrilla. The carabao and other livestock which he said were carried away by the accused or which he was forced to part with, were in exchange for the stolen cattle. As to Macantan's wife, it is also apparent that the latter was not deliberately maltreated but was pushed away when she interfered with the apprehension and punishment of her husband. That she had an abortion seems to have been due not only to this pushing but perhaps also to the anguish she must have endured over her husband's fate during his confinement in the Constabulary quarters.

In conclusion, we find appellants guilty of murder, unconnected with treasonable intent, for the slaying of Pelagio Arana alleged in count 2. For this offense, intoxication is to be appreciated as a mitigating circumstance. There is positive evidence, supplied by the prosecution, that the defendants had been drinking.

The appealed judgment is modified so as to reduce the sentence to an indeterminate term of 8 years and 1 day of prison mayor to 17 years and 4 months of reclusion temporal, with the accessories of law, jointly and severally to indemnify the heirs of the deceased in the sum of P6,000, and each to pay one-half of the costs.

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

Mr. Justice Ozaeta voted in accordance with this decision.—Moran, C.J.

DISSENTING

PERFECTO, J.:

PROSECUTION

The witnesses for the prosecution testified in substance as follows:

- Ignacio Macantan, 33, married, farmer and Resident of San Diego, municipality of Burauen, province of Leyte.—During the Japanese occupation he was living in San Diego, but in 1943, he was living in San Andres, same municipality. "On May 25, 1943, at about 3 p. m., * * * we went to barrio San Diego to look for food and arrived there at 3:30 p. m. In San Diego, I saw Gregorio Refuerzo, Conrado Cobalida, Feling Pedere, Santiago

Pedere, Luis Guiwan and Simeon Refuerzo." They were drinking tuba. (2). They were in the house of Gregorio Refuerzo. There were four Japanese talking with them; they were armed with rifles. "The Japanese left later and the six persons * * * hissed at Pelagio Arana. Pelagio Arana did not listen and proceeded to his direction. All of a sudden Conrado Cobalida fired shots and Arana was trembling. Conrado Cobalida proceeded to where Arana was and when Cobalida overtook Arana, he took hold of Pelagios' hands and held them behind, whereupon, Feling Pedere stabbed him in the stomach. Gregorio Refuerzo struck him on the head and Conrado Cobalida immediately released him." Arana was stabbed with bolos. The other companions also "unsheathed their bolos and stabbed Pelagio Arana." (3). They used bolos. After Arana was released by Cobalida, he died. He was already down when Cobalida stabbed him. After that the six persons proceeded to the town of Burauen. Then "I went to Arana to find out how many wounds have been inflicted on him." (4). "There were about ten wounds." "The wounds were big in the abdomen and in the head because the scalp on the head was almost taken off." Arana was in the mountains as a guerrilla; he was a USAFFE soldier; the witness saw him drilling in the mountain of Bunawa. Arana was wanted by the Japanese "Jutai", composed of Filipinos who "are servant of the Japanese." "Their duties were: to bring to the Japanese tuba, sweet potatoes, chickens and firewood and other things the Japanese needed." The two accused belonged to that organization. (5). On June 15, 1943, the witness saw the accused in San Diego, telling the people to work in the landing field because there were supplies coming. (6). On or about July 8, 1944, "at about 9:00 a. m., I saw the accused, Gregorio Refuerzo and Conrado Cobalida, with Feling Pedere, Santiago Pedere, and Simeon Refuerzo going to the direction of our house * * * they asked me where my brother was and pushed me down to the ground." The witness answered that "since the Japanese arrived, my brother (Cirilo Macantan) never came here." Then the two accused said: "You are lying and you do not want to work in the landing field." "When I was already on the ground Feling Pedere took hold of me and tied my hands." (7). "They pushed me and brought me to the headquarters." The witness was accompanied by Emillara, the BC soldier, Cristeto Rellador, Luis Guiwan and Simeon Refuerzo. When they arrived at the garrison they told him: "You are a guerrilla. If you don't tell us where your brother is, we will kill you." Avila and Emillara were the ones who told him so. "After that, I was tied behind my back and my neck and stomach and made to stand on a ganta barely touching the ground when the ganta is removed. Then I was struck by Avila with the butt of his rifle and boxed my body." "I was suspended." "I was like a carabao because they placed weights on my neck and below it." (8). "I vomitted blood. They also forced me to drink waste matter which was used after cleaning ulcers. The two BC's forced on my mouth the husks of corn and after that forced me to bite a steel pipe." The witness was suspended four days and four nights. "My hand and wist were swollen." "They showed me a document and said: 'If you will sign this document, you will be set free and will not be killed.' " The witness signed the document, the contents of which he does not know. After that "I was released." (9). When the witness reached his house he did not find his carabao, because: "It was taken by Gregorio Refuerzo." It was a female carabao. His credential of ownership was lost the same day the carabao was taken. (10). The witness was investigated in the Constabulary garrison, but no mention was made of the carabao, Exhibit 1 is the certificate of ownership. Although the signature on Exhibit 2 is his, the witness does not know the contents of that certificate. "I signed this certificate because of the severe punishment inflicted upon me." The witness signed also Exhibit 3, "because I was afraid and also because of the punishment inflicted upon me," (11). The truth is that the investigation of the witness was not only to find out if his brother was a guerrilla, but also because of the carabao. "I signed the documents because Gregorio Refuerzo said that the carabao is already in their hands." It is not true that the witness slaughtered any carabao before July 8, 1944. He did not receive the sum of P299, in Japanese currency, in payment of the carabao that was killed. "I did not get it because I already left, although I saw that money." The witness recognized his signature in Exhibit 4, "but I signed it because I was punished." The witness was taken to the Constabulary Headquarters in connection with the carabao. (12). The witness said that he heard that Mayor Cordero of Burauen is dead. "I was not investigated regarding the carabao." "They told me that I was a guerrillero and feeding my companions in the mountain."

(13). "They did not ask me about that carabao." Later on, they investigated him in connection with the carabao of Simeon Refuerzo, supposed to have been stolen, and said that "I have slaughtered his carabao." "I told them I have not slaughtered any carabao." Gregorio Refuerzo and Emillara asked the witness about the carabao three days after the 8th of July, whether he had slaughtered it. (14). The female carabao had fallen in the hands of Gregorio Refuerzo. (15).

The same witness, Ignacio Macantan, testified that he happened to be in San Diego on May 25, 1943 with Marcelo Piko, "because, we were looking for food." Piko is his brother-in-law. (16). Mayor Jose Cordero was not in the garrison when the witness signed Exhibits 2, 3 and 4; the witness did not appear before Mayor Cordero. (1617).

- Marcelo Piko, 26, married, farmer, resident of Burauen, Leyte.:—During the Japanese occupation he was living in the barrio of San Andres. In the afternoon of May 25, 1943, he was in an evacuation place. He did not go to another place. (17). Pelagio Arana died on May 25, 1943. "When we were going to San Diego from our evacuation place to get bananas * * * on our way near Gregorio Refuerzo's house, we heard some noises. I saw in the house of Gregorio Refuerzo four Japanese, Gregorio Refuerzo, Simeon Refuerzo, Conrado Cobalida, Feling Pedera and Santiago Pedere. They were drinking tuba. The Japanese left for Burauen so that Gregorio Refuerzo, Conrado Cobalida, Feling Pedere, Santiago Pedere and Luis Guiwan went down from the house and went to the street. They saw P. Arana, and Conrado Cobalida hissed at him but Pelagio Arana did not stop. Conrado Cobalida then fired a shot with his revolver to the air and P. Arana then stopped. Cobalida proceeded towards Arana and Cobalida asked him where he was going and who were his companions." "Cobalida held both hands of Arana on the back and tied him. Gregorio Refuerzo stabbed him and Conrado Cobalida released him. Cobalida struck him before doing so. After that, the companions of Cobalida also stabbed Arana and they left for the town. Feling Pedere also clubbed Arana before he died." (18). All used bolos. "I, with Ignacio Macantan, came closer to where Pelagio Arana was and found him lying on the ground on his right side." "He has wounds in the abdomen and on the head which were the big ones," Arana was a guerrilla. (19). He was killed because he was suspected as such. There was no conversation between the accused and Arana. (20). The witness was about ten brazas from the house, Macantan and the witness hid themselves, they were crouching on the ground. "We were afraid to move because we might be seen." "I was bent on observing on what was happening in the house." (21). The accused were members of "Jutai"; they abandoned their house in San Diego but they went once in a while to San Diego, they were afraid of the guerrilleros. In May, 1943, there were no people residing in San Diego. (23). During the Japanese occupation San Diego was abandoned by the residents, who returned only when the Americans arrived. In San Diego there was no food then. Gregorio Refuerzo used to go to San Diego every day to gather tuba. (24). The accused and their companions had only bolos. At that time guerrilla bands were roaming around in San Diego. Conrado Cobalida did not shoot Arana with his revolver but stabbed him with a bolo. (26). Before the war, the accused were criminals. "He was imprisoned here in Tacloban for three months for the crime of killing Scong Refuerzo." (27).

- Trinidad Piko, 33, married, housekeeper, resident of San Diego, Burauen, province of Leyte, wife of Ignacio Macantan:—At 9 o'clock, July 8, 1944, several persons, including the two accused, went up to her house and asked her where Cirilo Macantan was. She answered she did not know. (27). Gregorio Refuerzo and Feling Pedere said: "You are all liars. You are guerrillas." They pushed her husband to the ground. Simeon Refuerzo gave him a blow. "Upon seeing my husband on the ground, I went down also and Conrado Cobalida took hold of me also." Ignacio Macantan was maltreated by the accused and Luis Guiwan. "Everytime I tried to go near my husband, they pushed me and I fell down." Feling Pedere tied his hands on the back, and brought him to town. "Gregorio Refuerzo saw our carabao and took it while Conrado Cobalida got our chickens." (28). She suffered bruises and had abortion, and was confined for thirty days. Later, her husband returned. He was very weak and same parts of

his body were swollen. (29). The certificate of ownership of the carabao was inside a trunk which was lost. When she left her house with her children, without taking anything with her, she left the trunk there. (30). She did not know why her husband was taken to the BC headquarters. (31).

- Tecla Anota, 38, married resident of Burauen, Leyte: During the Japanese occupation the accused were under the Japanese with duties to apprehend persons against the Japanese. On July 8, 1944, she saw Ignacio Macantan in the yard of the BC garrison in Burauen; he was tied with his hands on the back, followed by two BC soldiers. (31). He was suspended in mid-air in the upper part of the building. Avila struck him on the breast with the butt of his rifle and with his fists. Ignacio Macantan vomitted blood; he was moaning. The following day he was still suspended; he remained in the garrison for four days, maybe he was released on the fourth day. (32). He was not given food. (33).

- Benito Arana, 25, farmer, resident of San Diego, Burauen, Leyte, brother of Pelagio Arana: Pelagio Arana is dead. (33). Pelagio went to San Diego to get some food on May 25, 1943, but he did not return for three days. He found the body of his brother beside the road in San Diego; it was pointed to him by Ignacio Macantan; it had many wounds. (34). "I later took his bones." (35).

DEFENSE

The witnesses for the defense testified in substance as follows:

- Gregorio Refuerzo, 61, widower:—Conrado Cocalida is his nephew, and Simeon Refuerzo, his son. (36). He has never gone to school and does not know how to write. During the war he was in the mountains in the sitio called Lunoyon, Burauen, about 10 to 15 kilometers from San Diego, to which he went in June 1944. (37). It is not true that he went with Conrado Cocalida and some BC soldiers on July 8, 1944 to the house of Ignacio Macantan and asked for the whereabouts of Cirilo Macantan, Ignacio Macantan had a grudge against him because of a carabao stolen by Ignacio and belonging to witness' son. "At dawn of Friday, July 10, 1944, that carabao was tied near our house. The following morning, Saturday, July 8, 1944, the carabao was already missing." Later they discovered that "it was already butchered." (33). It was found about two analengths from the yard of Ignacio Macantan. "My son went immediately to the town saying that he will file his complaint." "He returned in the afternoon" with BC soldiers. The soldiers took Ignacio Macantan to the town. (39). "The soldiers and my son were able to find carabao meat in one of the corners of the house of Ignacio Macantan and also in the back of the house near the banana plants." The meat was brought to town. "We went to the mayor's office." "He told us not to worry about our carabao because Ignacio Macantan is going to change it with another one as payment. And if, Ignacio Macantan does not do so, he will be imprisoned for four years." On Monday, Ignacio Macantan delivered his carabo in payment of the one he had stolen. And so "we asked the mayor to make the necessary papers." (40). The credential of the carabao, Exhibit 1, was delivered at the same time with the carabao. But this carabao "was stolen while we were in the stockade." (41).

- Conrado Cocalida, 33, married, detainee, one of the accused herein:—On Saturday July 8, 1944, he happened to go to the house of Igancio Macantan because he met Gregorio Refuerzo who cold him that the carabao of his (Gregorio's) son, Simeon, was stolen the previous night "I went with them to find if it really was true." "We went in to see the carabao that was butchered. It was butchered in the yard of Ignacio about twenty armlengths from the house. We found in the yard three legs of the carabao and the head * * *." At that time Ignacio was not in the house but he arrived later. (42). The BC soldiers investigated him. The BC soldiers found meat in his house. Ignacio said that he bought it from one Julita. The BC soldiers went around the house, and around the back of the house, and found some meat and hide of the slaughtered carabao hidden near the banana plants. Trinidad Piko was not investigated nor harmed, but Ignacio Macantan was beaten with a piece of meat because of his denials. (43).

The witness was the one who beat him with the meat; Ignacio Macantan was brought, with the meat, to the mayor, Jose Cordero but he was not tied. The meat was brought on a sled. After talking things over in front of the mayor, Ignacio Macantan said that he was willing to pay for the carabao which was butchered. "He promised to pay it back with another carabao." Simeon Refuerzo accepted the proposition, but the carabao was to be delivered on Monday, the tenth, because the carabao of Ignacio idacantan was still with his father-in-law in San Andres. "On Monday, it was brought to town by Ignacio Macantan." (44). He delivered it to Mayor Jose Cordero, who in turn gave it to Simeon Refuerzo; the carabao was a female; it was given merely as a guaranty, to be forfeited if Ignacio should fail to pay. The carabao is the same as that mentioned in the certificate Exhibit 1; it was given to Simeon Refuerzo. Exhibit 2, is the note signed by Ignacio Macantan before the mayor promising to pay for the carabao stolen from Simeon. (45). The carabao of Simeon Refuerzo which was slaughtered was obtained by him from Serapio Rellama, cousin of Dalmacio Rellama. The meat of the slaughtered carabao was sold by Ignacio Macantan, who signed a document for the proceeds of the sale, (46). It is not true that the witness scabbed Pelagio Arana, who had bean a lunatic since 1937. At one time Arana "went up the house of a girl and was caught by the parents of the girl and since that time he became crazy." He was caught in the house of Dadoy Sudario. On May 25, 1943 the witness was in the mountains of Lunoyon with his family. He was with his uncle Gregorio Refuerzo and the latter's family. They went there in 1942 and went down in June, 1944. (47). The witness is accused in this case because he beat Ignacio Macantan with a piece of carabao meat. It is not true that he was a member of the "Jutai", or that he had accompanied Japanese patrols in the apprehension of guerrillas. He was a volunteer guard of the guerrilla. It is true that "I killed my uncle but it was because of his very bad behavior." (48). He was acquitted for that killing. He went to the mountains in February, 1942, because he was afraid of the Japanese. (49). When the witness slapped Ignacio Macantan with a piece of meat because he denied having slaughtered the carabao of Simeon, Ignacio "Got angry with me." (53). The witness does not know how to write except his name; he reached the second grade and can not understand English. (54). Mayor Jose Codero is dead. (57).

- Eliodoro Compio, 26, single, detainee: In July, 1944 he was a BC soldier stationed in Burauen. (57). "It was around 8 or 9 o'clock in the morning of Saturday, when the mayor want to the BC headquarters to get two BC soldiers for the arrest of Ignacio Macantan. The order was to arrest and bring him to the office of the mayor for the alleged stealing of the carabao of Simeon Refuerzo." The witness sent BC soldiers Rillador and Millara to arrest Ignacio. (56). On Monday, the tenth, the witness met Ignacio Macantan in the BC headqaarters. Ignacio was with the money he received from the sale of the meat of the carabao he had slaughtered. The signature on Exhibit 4 is that of the witness. This Exhibit says that the money to be paid was P299.40; the receipt was issued to show that Ignacio Macantan "really killed the carabao." Simeon Refuerzo was present when Exhibit 4 was made. The document was issued because Simeon Refuerzo wanted it understood that it was Ignacio Macantan who received the money, Ignacio Macantan and Simeon Refuerzo went together to the barracks. Ignacio was not there at the time. (58). After the document was made Ignacio Macantan went home. (59).

Gregorio Refuerzo, on re-direct examination, testified that it is not true that he, together with lis co-accused and other persons, stabbed Pelagio Arana to death, (60). He denied he was a tuba gatherer; it said he could not climb. (62). Ignacio Macantan pleaded guilty of the stealing before the mayor. (66-67).

Exhibit 1 is a certificate of ownership of a large cattle, No. 9005895, issued in Burauen on January 25, 1937, in the name of Ignacio Macantan.

Exhibit 2 is a promissory note sworn to and subscribed by Ignacio Macantan before Mayor Jose S. Cardero, on July 10, 1944, wherein Ignacio Macantan promised to pay Simeon Refuerzo within three months for a, female carabao, containing a proviso that, upon his failure to pay the note, Simeon would be entitled to forfeit the credential guarranty.

Exhibit 3 is another affidavit signed by Ignacio Macantan, in the same tenor as Exhibit 2 Latino lex.

Exhibit 4 is an affidavit signed by Ignacio Macantan on July 10, 1944 before Detachment Commander Eliodoro Compio, stating that he received P299.40 which was the amount he collected when he slaughtered the carabao of Simeon Refuerzo.

Exhibit 5 is a receipt issued July 10, 1944 by the Deputy Provincial Treasurer in favor of Dalmacio Rellama for the amount of P0.30 as fee for the slaughter of a carabao.

Exhibit 6 is permit No. 2114727 issued by the Municipal Treasurer, in favor of Dalmacio Rellama on July 10, 1944 authorizing him to slaughter a carabao, and a receipt issued by the same Municipal Treasurer for the sum of P10 as slaughter fee under Ordinance No. 7 of Burauen.

After carefully weighing the evidence in the record we have reached the conclusion that there is not enough ground to convict the appellants herein of the crime of treason.

The appellants are accused of having participated in the killing of Pelagio Arana, in the afternoon of May 25, 1943, and also in the arrest and maltreatment of Ignacio Macantan on July 3, 1944, "the prosecution relying upon the testimonies given by Ignacio Macantan, Trinidad Piko and Marcelo Piko, the latter two being Ignacio's wife and brother-in-law, respectively. It appears, however, that Ignacio Macantan had a strong motive for purposely testifying against the appellants, because of what had happened between Ignacio and his family, on the one side, and the appellants and his companions, on the other, in July, 1944, and it is only understandable that his wife and brother-in-law should give him all the support that he may need.

According to the evidence, before July 8, 1944 a carabao of Simeon Refuerzo, son of Gregorio, had disappeared, and on that date, a carabao was slaughtered in a yard near the house of Ignacio Macantan. So, Simeon Refuerzo, suspecting Ignacio Macantan to be the author of the theft of his carabao, went to the town to report the matter to the police authorities, and thereafter, accompanied by them, he went to the house of Ignacio Macantan. Both appellants also went to the place. In Ignacio's yard traces of the slaughtered carabao were found. Inside the house of Ignacio Macantan the authorities also found carabao meat. Upon being questioned Igaacio told the police authorities that he bought the meat from one Julita; but his explanation appeared to be suspicious because the meat was still unseparated from the hide. So, the authorities made further investigation in the yard of the house, and at the back thereof near a banana plant they found another quantity of carabao meat. Because of Ignacio's insistent denials, appellant Cobalida slapped him with the carabao meat, which act naturally provoked his anger and put him to shame. Ignacio was brought to town with the carabao meat, which he was made to carry on a sled. Simeon Refuerzo and the appellants also went to the town and there appeared before Mayor Jose Cordero. Unable to further deny the stealing of the carabao belonging to Simeon Refuerzo in view of the evidence in the hands of the police authorities clearly pointing to his guilt, Ignacio agreed to pay Simeon for the stolen and slaughtered carabao, and, as guaranty for its payment, to deliver to him a female carabao. But since at the time that female carabao was still in the possession of his father-in-law in another place, Ignacio requested that the delivery of said carabao to Simeon be postponed until the following Monday, July 10, 1944.

As a consequence of the amicable settlement, agreed upon by the parties with the intervention of the Mayor of Burauen, Ignacio Macantan was authorized to sell the meat of the butchered carabao. The proceeds of the sale amounted to P299.40, for which amount he issued the corresponding receipt.

The certificate of ownership of the female carabao was also delivered to the latter and is now attached to the records as one of the exhibits. On the same day, Ignacio signed before Mayor Cordero the corresponding doeument regarding the promise of Ignacio to deliver the female carabao to Simeon as guaranty for the payment

to the latter of that carabao. he had previously stolen and slaughtered.

Ignacio Macantan's allegations that, according to his wife, his carabao was forcibly taken by appellant Gregorio Refuerzo, that his certificate of ownership thereof had disappeared, and that the document he executed before Mayor Cordero was signed by him through duress and torture, are unconvincing and highly incredible. If it is true that the appellants, as contended by Macantan, were members of the "Jutai" and in the service of the Japanese, then it was not necessary for them to secure from Ignacio Macantan any document at all to justify the taking of the latter's carabao. The armed Filipinos, who had been serving as agents, spies, or under-covers in the service of the Japanese during the enemy occupation, were actually,—the same as the Japanese,—veritable masters of life and death. If they could take, torture and kill any fellow Filipino, without any ceremony, they could certainly have taken a carabao for the asking. There was no need for any document to simulate justification in the taking.

Having been caught in the commission of a grave offense—that of stealing a large cattle,—heavily punished by the law, and having undergone the shame entailed in the whole transaction in which he lost his own carabao to Simeon Refuerzo and had to endure the ignominy of being slapped by Cobalida with the meat of the carabao he had stolen and clandestinely slaughtered, it is not unnatural for Ignacio Macantan to purposely accuse the appellants of having tortured him and even killed Pelagio Arana who, according to the evidence, was a crazy person and not a guerrilla as claimed by Macantan.

Appellants should be acquitted.

PARAS and BRIONES, JJ.:

We concur in the foregoing dissenting opinion.

FERIA, J.:

I concur in that the appellants should be acquitted.

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