

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. BENJAMIN ALBANO, DEFENDANT AND APPELLANT.

G.R. No. L-1805. January 31, 1949

Ponente: BENGZON, J.

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BENGZON, J.:

For having aided the Japanese invaders, torturing some guerrillas and even causing the death of one of them, the appellant Benjamin Albano was sentenced by the People's Court to suffer life imprisonment and to pay a fine of P10,000 and the costs.

There is enough evidence, in accordance with the two-witness rule in treason cases that:

In the night of August 8, 1943, Castillo M. Tidang, a young intelligence officer of the guerrillas under Colonels Nakar and C. A. Thorpe assigned to the Province of Nueva Vizcaya was arrested in the house of Martin Felipe in Cayapa Proper, Nueva Vizcaya, by four Filipinos, armed with two rifles (among them Ruperto Basig and Antonio of Aritao) who brought him to the Japanese headquarters one kilometer away. After a fruitless investigation of his guerrilla activities, and physical ill-treatment on account thereof by Lt. Orimoto and Sgt. Marikiwa, who informed him incidentally that they knew he was a guerrilla through a report of Benjamin Albano, Tidang was conducted by Sgt. Marikawa and the two Filipino retainers above-mentioned to the quarters of Capt. Saito, a Japanese, about two kilometers farther, in barrio Alupat in the house of Pedro Medina. There Castillo Tidang was entrusted to the custody of the accused Benjamin Albano, a Filipino citizen, at that time a sergeant in the Bureau of Constabulary of the puppet government.

The next day the accused directed his men (around 12 soldiers) to order the people of the locality to gather near Medina's house, and there he addressed them more or less as follows:

"You people of Cayapa, we called you to let you know that we have a new government now—the Japanese government and we ought to recognize their authority. And second, is that many of you people here are collaborating with the guerillas and many of you are guerrillas here and there are seven Americans staying in these barrios and have been supporting them".

Immediately thereafter he produced a list of those suspected of being guerrillas, and reading from it, he named Castillo Tidang, Balolong Tidang, Waket Gomoy, Pedro Medina, Martinez Cuyangan, Ligmayo Bugnay, Jose Bugnay and many others. Then he announced that the women and children may go home, but the men must remain. Presently he called Castillo Tidang and asked the latter whether he was a guerrilla under Major Lapham and Major Enriquez. Tidang said he was not. Albano insisted he was, and called other persons (Jose Felipe and Feliciano Fely) for corroboration. Capt. Saito wanted to stop the investigation, but Albano said "no, Castillo Tidang is number one in the list", tied the latter up and led him to the brook about twenty meters from the place. There he forcibly submerged the captive's head under water many times and otherwise manhandled him to extract admission of his underground activities. All to no avail: Tidang kept his secret though he was tortured to unconsciousness.

Next Albano took Waket Gomoy to the same brook and examined the latter about his guerrilla work and the help he had extended to Americans. Naturally, Gomoy denied all connection with the resistance movement. Because of such denial the accused applied to Gomoy the same treatment he had administered to Tidang, this time with fatal consequences, because Gomoy died, and had to be buried that same day by Martin Felipe and others.

Another victim of the appellant was Pedro Medina who suffered in identical fashion, for insisting he had no understanding with the underground forces nor with the Americans.

On that same occasion and in connection with his investigation Albano boxed and kicked Balolong Tidang, caned and manhandled Ligmayo Bugnay and whipped Martinez Cuyangan for denying there were arms and guerrilleros in Alupat.

Resuming the inquiry the following day, Albano hung Balolong Tidang from the beam of a hut and singed his back with a "burning fire" leaving therein scars which were shown to the judges. He also hanged Celino Vergara upside down; and, anxious to extract from him information about guerrillas and Americans, inserted a reed in his private parts causing him intense pain and suffering. Vergara, like the others, refused to squeal.

The foregoing treasonable acts have all been testified to by not less than two persons. The brief of the Solicitor General has indicated the pages of the transcript of the stenographic notes concerning each point. These have been checked. They are substantially in accordance with the findings of the First Division of the People's Court. Such findings counsel for appellant impliedly admits; but he contends that the evidence for the prosecution failed to establish adherence to the enemy and the rendering of aid and comfort to it. The contention is without merit, because the words and deeds of appellant clearly exhibit such adherence and assistance to the foe. Possibly, under certain circumstances, members of the police force during the occupation who merely urged guerrillas to keep the peace and to stop their activities did not commit treason; but when it is shown by positive evidence that said officers were not content to render lip service to the enemy in making pleas for public order, but went further and tortured their own countrymen who were guerrillas or guerrilla sympathizers, a verdict of guilt must inevitably be returned.

In this connection appellant, pretended he had been sent to Alupat by one Capt. Casupang of the Isabela Guerrillas to help the inhabitants and that he had actually saved some people from further punishment at the hands of the Japanese. But the lower court discounted his story, and rightly we believe, because of the dubious nature of his supporting testimonial and documentary evidence and principally, because of this significant detail: of the more than four hundred people who observed his conduct in Alupat not a single person was presented in his favor, at least to substantiate the benefits he allegedly bestowed on some of them. And yet even if he succeeded in proving the good deeds he claims he had performed on that occasion, he would still be criminally liable for the pains he inflicted upon fellow-citizens and the death of the unfortunate Gomoy. (People vs. Victoria, 44 Off. Gaz., 2230.[1])

Contrary to appellant's contention, we find that his case does not come within the purview of President Roxas' amnesty proclamation of January 28, 1948, because his is a crime against persons committed for the purpose of aiding the Japanese.

The offense is treason with physical injuries and murder. Following precedents in appeals of similar character, the Court votes to affirm the penalty imposed in the decision herein reviewed.

Moran, C.J., Paras, Pablo, Perfecto, Briones, Tuason, and Montemayor, JJ., concur.

Moran C. J.:

I certify that Mr. Justice Feria voted for the affirmance of the decision appealed from.

[1] 78 Phil., 122.

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