

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
AMADO PANGANIBAN, ACCUSED AND APPELLANT.***G.R. No. L-711. January 28, 1950*

Ponente: TORRES, J.

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Amado Panganiban was prosecuted before the People's Court for treason under Article 114 of the Revised Penal Code. The information embodies six counts, but after trial the People's Court found him guilty of the first four counts, and dismissed the fifth and the sixth counts. Holding him guilty of treason, the court sentenced him to death and to pay a fine in the sum of P15,000 and the costs. This case is before us for review of, and by virtue of appeal taken by Panganiban from, the judgment of conviction rendered against him by the People's Court.

When in the early part of 1942, the Japanese invading forces occupied the municipality of Lobo, province of Batangas, the mayor and other town officials and a great portion of the population left the town. The defendant, however, who was chief of police, remained in his post and met the Japanese forces, thus initiating a close contact of collaboration with the enemy.

A resume of the evidence is as follows:

First count.— To substantiate the charge made in this count, the prosecution, proved that at 9 o'clock in the evening of December 27, 1943 in Lobo, Batangas, defendant shot Felicisimo Godoy and as a result thereof the victim died at 2 o'clock the following day, without any help to save his life, because defendant prohibited members of the family of the victim from doing so. Defendant even prevented the father of the victim from taking his son to the municipality of Batangas, because according to him Godoy should die because he was "a bad man and a guerrilla."

On that night, Godoy was trying to enter a gambling den conducted by Gerardo Marasigan and when a policeman, at the request of Marasigan, was going to search him for firearm Godoy ran away. According to Marasigan, Godoy was making trouble in the gambling place and when Godoy was shot by the accused the former was sitting on a culvert near the intersection, of Regidor and Burgos streets of said town. The evidence shows that the defendant fired at Godoy at a distance of about two meters while Godoy was standing with the body inclined forward. The bullet entered the body just above the heart and came out near the waistline. Although appellant admits the shooting, he alleges self-defense. But it has been shown that Godoy, who was unarmed, was only starting to rise from his sitting position when the defendant, who was standing in front of his victim, suddenly fired at the latter, who exclaimed: "Mayor, why did you shoot me? What have I done?"

Defendant knew that Godoy was engaged in guerrilla activities since April, 1943, and prior to this there was an attempt against his life on June 30, 1943 in Batangas, Batangas. Defendant suspected as authors thereof, a group of guerrilla leaders composed of Colonel Espina, Major Aguirre, Captain Boruel, the De Chaves brothers and Godoy, Before shooting Godoy he made the latter admit that he was a member of the guerrillas.

Upon consideration of the evidence submitted by the prosecution in connection, with the killing of Godoy it may not be amiss to state that, aside from the fact that appellant with the chief of police and four policemen, brought Godoy in a very serious condition to the latter's house and left almost immediately, it has been shown that upon hearing that Godoy's father and other relatives were making arrangements to take the injured man to Batangas, the provincial capital, in a last and desperate effort to save his life, this appellant came back with two armed Japanese soldiers and told the relatives of his victim that they should not take him to Batangas, but should let him die "because he is a bad man, he being a guerrilla." It is thus that out of sheer fear of defendant, who was all-powerful in the town, and notwithstanding his unsupported contention that he had used some iodine on the wound of his victim, Godoy was let to die at about 2 o'clock in the afternoon of the following day, without adequate medical assistance.

As to appellant's allegation that he acted in self-defense, the evidence plainly shows that it was a last effort made by the accused to distort the facts and justify his criminal act of shooting Godoy at the time when the latter had not given any cause for the sudden attack made upon him and which resulted in his death. Moreover, it has been also proven that, during the exchange of words between appellant and his victim, the latter finally admitted to the former that he was a member of the guerrillas. Under those circumstances, we can safely conclude that as an active demonstration of appellant's adherence to the enemy, Godoy was killed by him because of his connections with the guerrillas and, also, because he could not forget the attempt against his life by some members of the guerrillas.

Second count.—Emilio Boruel was a guerrilla captain attached to the Fil-American guerrilla forces and then later to the PQOG (President Quezon's Own Guerrillas). On April 29, he was arrested by the municipal police of Lobo, locked in the municipal jail and later taken to the Japanese garrison and executed on the same day.

It appears that at about 11 o'clock of April 29, there was a fight in the Lobo cockpit between Emilio Boruel and Eugenio Gonzalvo, a barrio lieutenant, when the former tried to collect a debt from the latter. The defendant was in the cockpit and ordered a policeman to arrest Boruel and to lock him in the municipal jail. After the policeman had left the cockpit with Boruel, the defendant addressed the crowd in the cockpit and told them these words: "The end of Emilio is at hand." The defendant then went to the Japanese garrison where he talked briefly with a Japanese soldier who was then carrying a saber. Following an exchange of a few words with the soldier, defendant went inside the garrison and came out with six soldiers who accompanied the defendant to the municipal building. After tying Boruel, the Japanese soldiers took him to the Japanese garrison and after about thirty minutes he was again taken out of the garrison and conducted to the river where he was killed with bayonet thrusts and then buried. It should be remembered that Boruel was one of those suspected by the defendant as being connected with the attempt against his life when he was in a restaurant one morning before the incident at the cockpit.

The defendant admitted that Boruel and Gonzalvo had a fight in the cockpit, but denied that he was present at that place when a policeman arrested Boruel and took the latter to the municipal jail. The appellant said that he went to the cockpit to make inquiries and that when he went to the municipal jail to look for Boruel the latter was no longer there because he was taken by Japanese soldiers; and that when he went to the Japanese garrison to save Boruel from punishment or death, the Japanese commander informed him that Boruel had been liquidated for being a bad man, and that it was the second time that Boruel had been locked in the garrison following his fight with Gonzalvo who was friendly to the Japanese.

It appears, however, that although councilor Gonzalvo was one of the participants in the row in the cockpit, he was not arrested, notwithstanding all the protestations of appellant. We are satisfied that his lone testimony in this regard cannot prevail upon the affirmative statements made by several witnesses for the prosecution to the effect

that appellant was present in the cockpit when the fight took place, and that he was instrumental in the arrest of Boruel and his final disposition as already stated. Although in this particular instance it cannot be affirmed that he was directly responsible for the liquidation of Boruel, yet the arrest of the latter by a policeman upon orders of this appellant led to the killing of said victim by the members of the Japanese garrison.

Third count.—Frank O. Bacon and three other Americans, who turned out to be former employees of Marsman and Company, were in hiding in the barrio of Sawang, Lobo, about the month of April, 1942 while trying to contact Mindoro guerrillas. Those four Americans refused to be concentrated at the beginning of the war and preferred to cast their lot with the guerrillas. They often visited the town of Lobo and the defendant knew of their whereabouts. The defendant, fearing that the Japanese would know sooner or later about their presence in the town, advised them to surrender to the Japanese, but the Americans refused to do so. Then he advised them to move to Lahia, another barrio of Lobo, but only two of them—Johnson and Meyer—seemed to have followed the suggestion, while the other two, Bacon and Ralph, remained in barrio Sawang, or, according to defendant, moved to Malabrigo. To both groups, defendant sent word to leave their places because the Japanese were coming, but the Americans' simply replied: "Let them come."

One day, defendant, his chief of police and several policemen, surrounded the hiding place of the Americans. And in order to avoid a clash with the Americans, he sent a messenger to tell them that Toinas Villanueva, the mayor who refused to serve under the Japanese, was waiting for them there in the seashore. The Americans in good faith believed the truth of the message. As soon as they left, the defendant and his men ransacked their house and carried away their rifles, ammunition, blankets and other personal belongings. Defendant admits that he himself confiscated the arms of the Americans.

Gabriel Gutierrez, testifying for the prosecution, said that, at about eleven in the morning of May 25, 1943, while he was in the office of the commander of the Japanese garrison in Batangas, the accused arrived and reported to the Japanese officer that he had confiscated the firearms and other personal belongings of the four Americans, who were hiding in the barrio of Sawang, and that the defendant turned over the confiscated firearms to the Japanese commander. This fact, was corroborated by Francisco Boruel, brother of the deceased Emilio Boruel, who was in a nearby store when the defendant and his policemen arrived followed by a big crowd; in front of the municipal building of Lobo carrying the rifles, ammunition, blankets and other personal belongings of the Americans "who were hiding in Sawang. On that particular occasion the defendant explained to the crowd how he had enticed those four Americans to the seashore and by means of a ruse took possession of their belongings. The testimony of the two above named witnesses is strengthened by that of Frank O. Bacon, one of the Americans in question.

In his defense, appellant said that his attitude in the premises was due to the fact that he wanted to protect himself and the townspeople from the Japanese; that previously he had informed the Japanese that there were no Americans nor guerrillas in the municipality of Lobo, and that, should the Japanese learn that his information, was not true, he would have been liable to punishment by the Japanese.

The fourth and last count on which this defendant was found guilty is based on the testimony of witnesses who stated that on March 25, 1945 the appellant sent foodstuffs, consisting of vegetables, chickens, eggs, one pig and so forth to Japanese soldiers who had retreated to the hills in the barrio of Galo, Lobo, Batangas. Those foodstuffs were collected by defendant from the townspeople who were compelled to give what they could to feed those Japanese soldiers formerly stationed in the poblacion of Lobo. A group of fifty men, like beasts of burden, were compelled by appellant to take the foodstuffs on their shoulders to Mount Calo.

Explaining his conduct, the defendant said that in the afternoon of May 27 he received a note from Captain

Terada, the officer in command of those Japanese soldiers, demanding that food be sent to his command quickly, otherwise they will kill the people and come down from the mountain to burn the town and massacre its inhabitants.

The People's Court remarks that no reliable evidence regarding the supposed message of the Japanese was presented to support this contention. An acting barrio lieutenant of Calo, who was supposed to have been the one through whom the Japanese sent the message to the town, could not assert that he had read the contents of such note. And even assuming that there was such request from the Japanese commander of the garrison to supply him and his soldiers with food, the fact is that at that time the American forces had already landed in the province of Batangas and according to the evidence they were already in Lobo the day before appellant sent those foodstuffs to the Japanese.

Appellant further knew that there were guerrilla units operating in and around the territory of the municipality of Lobo, to whom he could have asked for help in case the Japanese carried out their threat to kill the population and burn the town, if the foodstuffs were not sent to them in Mount Galo, but evidently his adherence to the Japanese made him disregard the actual conditions then obtaining in the municipality, and induced him to come to the help of his friends, the former Japanese occupants of the municipality, over and above the changed situation resulting from the arrival of the forces of liberation.

In the face of the facts proven in this case, the conclusion is inevitable that the appellant is guilty of treasonable acts in violation of the provisions of Article 114 of the Revised Penal Code as amended. Even if we should consider that he cannot be held responsible for the death of Emilio Boruel, a guerrilla captain, and regard that the killing of Felicisimo Godoy was caused by this appellant to avenge an alleged attempt against his life, yet the record contains abundant proof that, during the three years of occupation of the municipality of Lobo by the Japanese garrison, he had done his best to further the war effort of the enemy to the prejudice of the Interest of his countrymen, because notwithstanding the fact that he, as a Filipino citizen, owed allegiance to the United States of America and the Government of the Commonwealth of the Philippines, he had made up his mind that the American sovereignty would not be restored in the Philippines. In fact on the third Sunday of June, 1943, a few days before the alleged attempt to assassinate him, in a speech he delivered in the cockpit of Lobo, he admonished those who had relatives among the guerrillas, to tell them to surrender to the Japanese because Japan was bound to win the war and the Americans could not be expected to return until after many years.

As above stated, the People's Court sentenced the appellant to the penalty of death, but, upon careful consideration of the treasonable acts committed by this appellant. We are satisfied that the ends of justice will be served if the penalty of reclusion perpetua is imposed herein. Amado Panganiban is therefore sentenced to reclusion perpetua with the accessories of the law. Thus modified, the judgment under review is otherwise affirmed, with costs.

Moran, C.J., Ozaeta, Paras, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Reyes, JJ., concur.
Feria, J., no part.

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