

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. URBANO MARASIGAN, DEFEDANT AND APPELLANT.

G.R. No. L-2235. January 31, 1950

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

Urbano Marasigan is appealing from a decision of the People's Court finding him guilty of treason and sentencing him to reclusion perpetua with the accessory penalties prescribed by law, and to pay a fine of P10,000, plus costs. Marasigan was charged with treason under four counts—A, B, C, and D but he was found guilty only of count A. A careful review of the evidence establishes beyond reasonable doubt the following facts.

The appellant admitted in open court that he was a Filipino citizen. On or prior to January 21, 1945 Marasigan was a member of the Japanese Military Police in Sariaya, Tayabas (Quezon). He was often seen wearing a Japanese uniform and carrying a rifle and he used to accompany Japanese patrols and raiding parties.

On January 21, 1945, Nicasio Siores was residing in the barrio of Concepcion Banahaw, Sariaya, Tayabas. He lived with his wife Regina Menias, a grown up son named Maximo, and the latter's two .kid brothers. In another house within shouting distance, lived another son named Macario and his wife Hilariona Liwag, At the time, both Maximo and Macario were attached to the guerrillas, acting or serving as messengers. About noon of the day in question, Regina happened to be in the house of Macario. A Japanese raiding party composed of Japanese soldiers and several Filipinos belonging to the Japanese Military Police, among them, the appellant, headed by a Japanese captain, approached and surrounded the house of Macario. Marasigan wore a Japanese uniform and carried a rifle. He shouted to the inmates of the house, ordering all the men. to come down. Macario went down his house and was asked by the appellant if lie was a guerrilla and upon answering in the negative, he told him to go to the Japanese captain. The patrol, taking Macario with it, proceeded to the house of Nicasio Siores. Regina, curious and fearful of what the raiding party was going to do, especially since it was going in the direction of her house, followed at a distance, trying not to be seen. Arriving at the house of Ilicasio the appellant again summoned the male inmates of the house and Nicasio and his son Maximo came down. Upon denying that they were guerrillas, Marasigan told them to go to the Japanese captain for investigation. The captain said that because of his advanced age, Nicasio may stay. Macario and Maximo were taken by the raiding party, of which the appellant formed part, toward the mountains and since then, the two brothers have not been heard from.

About a month thereafter, while Hilariona was nursing her baby inside her house, she heard someone passing by her house and saying in a loud voices "Woman inside the house, you should not wait for your husband to return because he is already dead. You better offer a prayer for him." Hilariona hurried to the window to find out the source of this doleful news and she saw that it was the appellant Marasigan.

In his defense, the appellant presented seven witnesses besides himself. lie claims that he could not have been with the raiding party that arrested Macario and Maximo on January 21, 1945, for the reason that on January 18th of the same month} he was arrested by the Japanese and confined and that he was able to escape from their

custody only during the first days of March, 1945; that the alleged false charge, for treason was motivated by revenge because while he was being held by the Japanese, Nicasio Siores used to frequent his (Marasigan's) house and courted his wife; that after Marasigan had escaped from the Japanese he took his family, including his wife to a house in the barrio of Concepcion Banahaw preparatory to his fleeing to the mountains; that he left them in said house and went to the mountains to have a conference with the Chief of the guerrillas⁵ that during his absence Nicasio Siores came and renewed his courtship of his (defendant's) wife and upon being rejected, he tried to rape her; that upon his return and upon being apprised of the outrage committed upon his wife, he went to the house of Ivicasio and challenged him to a fight and then beat him up; and that it was the resentment of this punishment inflicted upon Nicasio that impelled the latter to falsely accuse him of treason.

The People's Court rejected this theory of the defendant and among the reasons given by it, it said that if the claim of the defendant was true, then it was Marasigan who should feel offended and not Nicasio who was the offender; and that the latter had no reason to take retaliatory measures against him, especially to the extent of accusing him of the serious crime of treason and taking the trouble of taking his wife and daughter-in-law, including another witness from Tayabas to Manila, just to testify at the trial. Moreover, the People's Court found and the evidence supports the finding that about a month before trial of this case, Juana Rios, wife of the appellant went to the house of Hilariona and said that they were cousins, although according to Hilariona they were not in any way related; that Juana asked Hilariona to forget to what had happened to her husband and not testify in court, and that even if she attended the trial and was called to the witness stand, she should say that she had no more interest in the case. The record further shows that before the trial Emiliano Marasigan, father of the defendant, accompanied by one Mariano Vito, went to the house of Nicasio Siores, father of the two brothers Macario and Maximo and pleaded and begged for forgiveness, saying that if Jesus Christ could forgive the sins of men, he (Nicasio) a mortal, could well forgive; that when Nicasio did not grant his plea, Mariano Vito said: "Compadre Nicasio, if you will compromise this matter with us I will be willing to give you P100." on this point we quote Nicasio's testimony. "I answered that even if my two sons were here, I would not give a damn to that money, even if you will cover me with money."

Counsel for the appellant contends that inasmuch as there were eight witnesses who testified for the defense, and only four witnesses testified for the prosecution, the numerical superiority should incline the balance of justice in defendant's favor. Unfortunately however, the findings of fact of a tribunal of justice are seldom based upon the number of witnesses but rather upon their credibility and the nature and quality of their testimonies. The lower court found the witnesses for the prosecution more worthy of credit and their testimonies more reasonable and credible. We find no reason for disturbing said findings.

Although we agree with the People's Court that the appellant's guilt has been fully established, we notice that unlike other cases of treason that have come before and been decided by us where the accused, besides helping the enemy by committing overt acts, have either killed or tortured their own countrymen suspected of being guerrillas or possessing firearms, In the present case, although Marasigan accompanied the Japanese raiding party that arrested the two brothers and took them to the mountains where they were presumably killed, there is no evidence that he had taken part in the killing. Neither is it shown that in effecting the arrest, the defendant had tortured, manhandled or otherwise abused Macario and Maximo, For this reason, we are inclined to be lenient with the appellant. Acting upon the plea of his counsel that the mitigating circumstance of lack of instruction be considered in his favor inasmuch as Marasigan had not gone to and studied in the public schools; that he can neither read nor write English; and that his schooling if it can be so called, was confined to studying and finishing the caton, an elementary Spanish reader for beginners, we find this Mitigating circumstance in favor of the appellant. We therefore reduce the penalty imposed by the People's Court to seventeen years and four months of reclusion temporal and a fine of P5,000. In all other respects, the decision appealed from is hereby affirmed, with costs

against the appellant.

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

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