

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LAMBERTO SAN JUAN, DEFENDANT AND APPELLANT.*G. R. No. L-2997. June 29, 1951*

Ponente: PARAS, C.J.

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This is an appeal from the judgment of the Court of First Instance of Quezon, finding the appellant, Lamberto San Juan, guilty of treason and sentencing him to reclusion perpetua and its legal accessories, and to pay a fine of fifteen thousand pesos, plus the costs. The information charged eleven counts, but appellant's conviction is predicated only on counts 1, 2, 8 and 10.

That the appellant is a Filipino citizen is beyond question. The evidence for the prosecution tends to show that one day in December, 1943, during the so-called amnesty period, Vivencio Panganiban, Rustico Cabasco, Lt. Tusó, Lt. Ovena, and Gerundio Villanisa, coming to the town of Lopez, Quezon, met in the house of Potenciano Desembrana for the purpose of talking about guerrilla matters. In the midst of their conference, somebody appeared and gave the news that the Japanese were coming, whereupon the group began to leave. Meeting Gerundio Villanisa who, upon being asked, disclosed that he was talking with guerrillas, the appellant proceeded to the Japanese garrison and returned with four Japanese soldiers, armed like the appellant. The latter and his Japanese companions went in the direction taken by the guerrillas, and when the latter approached the hospital, the appellant fired at them, with the result that the intended victims had to flee. These facts constitute the basis of count No. 1 and were testified to by Gerundio Villanisa and Rustico Cabasco.

Counsel for appellant insists that there is a discrepancy in the testimony of these two witnesses, because Villanisa stated that the appellant rushed to the Japanese garrison and returned with Japanese soldiers, while Cabasco alleged that he saw the appellant with Japanese soldiers, without mentioning appellant's trip to the garrison. The discrepancy is more apparent than real. Cabasco merely omitted a detail which Villanisa was able to recite, but the former's testimony is nonetheless complete in specifying that the appellant and his Japanese companions pursued the abovenamed guerrillas and that the appellant fired at them near the hospital.

We are inclined to agree with counsel for appellant that the other counts, Nos. 2, 8 and 10, (that the appellant arrested Melecio Villate, that he delivered a speech in Lopez in which he claimed that the Americans would not return and General Vera was a bandit, and that the appellant sent a patrol of Makapilis to barrio Villahermosa with orders to arrest all), have not been proven in accordance with the twowitness rule; but count No1 is sufficient to support appellant's conviction, his adherence to the enemy being implied from the overt acts charged and established thereunder, and confirmed by his admission that he evacuated with the Japanese from Lopez to Atimonan.

There being neither mitigating nor aggravating circumstances, the penalty imposed by the trial court is conformable to law. The appealed judgment will therefore be as it is hereby affirmed, with costs against the appellant. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes and Jugo, JJ., concur.

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