

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FLORENTINO CANIBAS, DEFENDANT AND APPELLANT.

G.R. No. L-2193. February 01, 1950

Ponente: TUASON, J.

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TUASON, J.:

Charged with treason on two counts, appellant Florentino Canibas was found guilty, in a unanimous decision, by the 3rd Branch of the People's Court, and sentenced to life imprisonment and a fine of P10,000.00, with costs

On count 1, the court found that the accused, a native of Tarlac, arrived in Batangas from Lopez of the now province of Quezon, in November, 1944. Soon after that, a Makapili unit was organized in Lipa by the accused together with one Nicolas Gonzales and others. Gonzales became the titular head of the organization and defendant, its secretary. The accused, as member of the Makapili, wore Japanese uniform and white arm band, was armed with a revolver, mounted guard and did sentry duty, accompanied Japanese soldiers in raids against supposed guerrillas, confiscated foodstuff, and forced male citizens to work for the Japanese army.

In support of count 2, the court found that on February 11, 1945, a group of Makapilis, among whom was the accused, accompanied by Japanese troops, raided barrio Marajuy, municipality of Lipa, province of Batangas, apprehended almost the entire population of the barrio, about 300 in all, including children and adults, men and women, and marched them to a citrus experimental station. In that place, the accused and others tied the victims by two's, after which the Japanese slaughtered the prisoners with bayonets, with the exception of a few who were able to escape, one of them being Juan Navarro, who testified at the trial. In the killings, children were tossed up in the air and caught with the points of bayonets as they fell. Besides those who succeeded in escaping, five young girls were spared; they were selected for their good look by the accused and his fellow Makapilis, and taken to Nicolas Gonzales' house in a barrio in Sto. Tomas, Batangas, where they were kept as "servants" for Gonzales and the Japanese. One of those "girls" was Lutgarda Tolentino, scarcely 15 years of age at the time of the massacre, also a witness for the prosecution.

The first count has not been established by the oaths of at least two witnesses. There are no two direct witnesses to any of the component parts that made up the whole overt act of appellant's membership in the Makapili. (People vs. Adriano, 44 Off. Gaz., 4300.)^[1] But the testimony on this branch of the case is sufficient proof of adherence to the enemy. Adherence, unlike overt acts, need not be proved by two witnesses. Clear intent and knowledge may be gathered from the testimony of one of the witnesses, or from the nature of the act itself, or from the circumstances surrounding the act. (Cramer vs. U. S., 65 S. Ct. 980; People vs. Adriano, supra.)

The second count has been established in the manner required by the law of treason. There is no proof by two witnesses of the seizure at their homes of the inhabitants of barrio Marajuy by the Japanese and the accused, but there were three eye-witnesses to the fact that the accused was present at the mass killings, taking active part therein in collaboration with the Japanese, by personally tying the hands of some of the victims and directing the same operation with regard to others.

The accused, corroborated by Gonzales and another witness, put up an alibi, saying in, answer to various questions that he knew nothing of the charges and of the testimony of the Dvernment witnesses against him. He said he fled to the mountains when the Americans were coming. The People's Court believed the testimony of the prosecution' witnesses and we do not think it committed any error in so doing.

The judgment of conviction and the penalty imposed are in accordance with law and are hereby affirmed, with costs of this instance against the appellant.

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

[1] 78 Phil., 561.

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