

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. LORENZO MORALES, DEFENDANT AND APPELLANT.

G.R. No. L-4533. May 28, 1952

Ponente: PARAS, C.J.

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PARAS, C.J.:

The defendant, Lorenzo Morales, was charged with the crime of treason in a two-count information, count one of which was abandoned by the prosecution. The other count reads as follows:

"That on or about December 12, 9 in San Miguel, Bulacan, the above-named accused Lorenzo Morales, then a member of the MAKAPILI organization, for the purpose of giving and with intent to give aid and/or comfort to the enemy, did then and there wilfully, unlawfully, and feloniously lead, join, and accompany a group of Japanese soldiers and other MAKAPILI members in a raid in barrio Santa Lucia, San Miguel, Bulacan, resulting in the capture and apprehension of Maximo Ramos, Alejo Velayo, Rufino Velayo, Ricardo Velayo, Fermin Chico, Bonifacio de Jesus, and Arsenio Pacheco, all guerrillas, and in the confiscation of 112 rounds of ammunitions and clothing of said Bonifacio de Jesus; and thereafter all the above-named persons were taken to the Japanese garrison in San Miguel, Bulacan, where they were beaten, maltreated and detained for a period of 22 days after which Bonifacio de Jesus was released, Maximo Ramos was able to escape, and Alejo Velayo, Rufino Velayo, Ricardo Velayo, Fermin Chico and Arsenio Pacheco were killed."

After trial, the Court of First Instance of Bulacan rendered a decision finding the defendant guilty as charged, and sentencing him to imprisonment for 20 years, reclusion temporal, and to a fine of P10,000, plus the costs. From this decision, the defendant appealed.

The facts as found by the trial court and supported by the evidence for the prosecution are briefly as follows: In a raid made by a group of Japanese and Makapili in the early morning of December 12, 1944, in Santa Lucia, San Miguel, Bulacan, Ricardo Velayo and Rufino Velayo, brothers, were arrested from their house. During the raid, the appellant, armed with a gun, remained downstairs as a guard. At about 10:00 o'clock in the same morning, Ricardo and Rufino Velayo, together with Fermin Chico, Alejo Velayo, Arsenio Pacheco, Maximo Ramos, Bonifacio de Jesus and Salvador Eusebio, also arrested from other places in Santa Lucia, were taken near the house of Rosalina de Guzman where they were tortured to death, with the exception of Bonifacio de Jesus, Maximo Ramos, and Salvador Eusebio. The dead bodies were buried near the place of the torture, but those of Ricardo Velayo and Rufino Velayo were later exhumed and buried in Gapan, Nueva Ecija. The appellant, however, though present on the occasion when the victims were tortured, did not actually take part in the fatal ceremony. All those thus apprehended and killed were guerrillas.

The arrest of Ricardo and Rufino Velayo in their house was testified to by Ramon Velayo, their father, and Herminia de San Jose, wife of Rufino Velayo, who lived in the same house. Ramon Velayo declared that, as the raiders approached his house, he jumped out and hid himself among the bushes nearby, from which he was able to recognize the appellant who went back and forth, with a gun, as a guard near the premises. Herminia de San Jose in turn testified that Ricardo and Rufino Velayo were guerrillas; that when the Japanese came to her house, they

asked for firearms and arrested her husband and brother-in-law; that the appellant in the meantime posted himself, with a gun, as a guard around the house.

The torture which resulted in the death of the victims above mentioned, except Bonifacio de Jesus, Maximo Ramos and Salvador Eusebio, is established by the testimony of Maximo Ramos, Salvador Eusebio (two survivors) and Rosalina de Guzman. The latter testified that a group of Japanese and Makapilis brought several Filipino prisoners near her house in Santa Lucia, among whom she recognized Bonifacio de Jesus, Maximo Ramos, Rufino Velayo, Ricardo Velayo, Alejo Velayo, Arsenio Pacheco and Fermin Chico. All, except Bonifacio de Jesus and Maximo Ramos, were tortured to death. The testimony of Maximo Ramos and Salvador Eusebio is corroborative.

The defense presented Cirilo Domingo and Luis Santa Maria, former guerrilla officers, who testified that their investigations showed that the appellant had nothing to do with the crime imputed to him. The appellant also introduced Felisa de Velayo, who testified that she saw Rufino Velayo, Ricardo Velayo and Alejo Velayo while they were maltreated to death, and that the appellant did not take part in the killing, although he was present as a prisoner. The appellant testified that he was working in the field and, while the Japanese conducted their raid in Santa Lucia, he was not molested.

The trial court was correct in finding the appellant guilty. The two-witness rule was fully met. Counsel for appellant doubts the veracity of Salvador Eusebio, because the latter was not mentioned in the information as one of the victims. Even without said witness, however, the testimony of Maximo Ramos and Rosalina de Guzman is sufficient. No ulterior motive on the part of the witnesses for the prosecution has been shown, so that it cannot be argued that they were biased against the appellant. There can be no dispute that the victims were guerrillas, because the appellant himself and his witness, Cirilo Domingo, admitted that fact.

Upon the other hand, the evidence for the defense is materially conflicting, in that while the appellant testified that he was in the field when the raid was made, his own witness, Felisa de Velayo, declared that as the Velayos were being tortured, the appellant was there as a prisoner. The testimony of Cirilo Domingo and Luis Santa Maria as to the result of their investigations, cannot overcome the positive evidence presented by the prosecution.

Appellant also insists that his mere presence is not sufficient to constitute treason. It appears, however, that he was carrying a firearm and was seen behaving as a guard. During the Japanese occupation, nobody could carry a gun freely in the presence of Japanese soldiers, unless he was an agent of or in cahoots with the enemy.

"We think it far-fetched to suppose that the defendant happened to be in the place above mentioned as a mere spectator or by addident. Openly carrying a firearm while going with Japanese soldiers can only be reconciled with the idea that the man was in league with and had the confidence of the enemy. (People vs. Capacete, 45 Off. Gaz. 2035.)"

Appellant's Filipino citizenship is proven by certified true copies of his identification record card and certificate of citizenship (Exhibits A-1 and B-1), the originals of which (Exhibits A and B) are on file in the Bureau of Prisons. Since these are official records, it was not necessary to identify them. The criticism of appellant's counsel that they were not properly identified is therefore without merit.

Although, in the absence of any modifying circumstance, the prescribed penalty should be in the medium period, or reclusion perpetua, as recommended by the Solicitor General, we are inclined to affirm the sentence imposed by the trial court, it appearing that the appellant admittedly did not have any participation in the torture that resulted in the death of the victims. "We have punished the commission of treason on the basis of the seriousness of the treasonable acts, and of the presence or absence of atrocities on the victims, rather than on the presence or absence of aggravating or mitigating circumstances." (People vs. Caña, 87 Phil. 577.)

Wherefore, the appealed decision is affirmed, with costs against the appellant. So ordered.

Feria, Pablo, Bengzon, Tuason, Montemayor, and Labrador, JJ., concur.

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