

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. SUSANO PEREZ (ALIAS KID PEREZ), DEFENDANT AND APPELLANT.

G.R. No. L-856. April 18, 1949

Ponente: TUASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/4b8e1e4216dd/>

TUASON, J.:

Susano Perez alias Kid Perez was convicted of treason by the 5th Division of the People's Court sitting in Cebu City and sentenced, to death by electrocution.

Seven counts were alleged in the information but the prosecution offered evidence only on counts 1, 2, 4, 5 and 6, all of which, according to the court, were substantiated. In a unanimous decision, the trial court found as follows:

"As regards count No. 1—

"Count No. 1 alleges that the accused, together with the other filipinos, recruited, apprehended and commandeered numerous girls and women against their will for the purpose of using them, as in fact they were used, to satisfy the immoral purpose and sexual desire of Colonel Mini, and among such unfortunate victims, were Felina Laput, Eriberta Ramo alias Miami Ramo, Eduarda Daohog, Eutiquia Lamay, Feliciano Bonalos and Flaviana Bonalos.

"It would be unnecessary to recite here the testimonies of all the victims of the accused; it is sufficient to reproduce here succinctly the testimony of Eriberta Ramo. She testified that on June 15, 1942, the accused came to her house to get her and told her that she was wanted in the house of her aunt, but instead, she was brought to the house of the Puppet Governor Agapito Hontañosas; that she escaped and returned to Baclayon her hometown; that the accused came again and told her that Colonel Mini wanted her to be his Information Clerk; that she did not accept the job; that a week later, the accused came to Baclayon to get her, and succeeded in taking some other girls to Puppet Governor Agapito Hontañosas; that Governor Hontañosas told her that Colonel Mini wanted her to be his wife; that when she was brought to Colonel Mini the flatter had nothing on but a "G" string; that he, Colonel Mini threatened her with a sword, tied her to a bed and with force succeeded in having carnal knowledge with her; that on the following night, again she was brought to Colonel Mini and again she was raped; that finally she was able to escape and stayed in hiding for three weeks and only came out from the hiding when Colonel Mini left Tagbilaran.

"As regards count No. 2—

"Count No. 2 of the information substantially alleges: That the accused in company with some Japs and Filipinos took Eriberta Ramo and her sister Cleopatra Ramo from their home in Baclayon to attend a banquet and a dance organized in honor of Colonel Mini by the Puppet Governor, Agapito Hontañosas in order that said Japanese Colonel might select those girls who would latter be taken to satisfy his carnal appetite and that by means of threat, force and intimidation, the above mentioned two sisters were brought to the headquarters of the Japanese Commander at the Mission Hospital in Tagbilaran where Eriberta Ramo was forced to live a life of shame. All these facts alleged in count No. 2 were testified to by said witnesses Eriberta Ramo and her mother Mercedes de Ramo. It is not necessary here to recite once more their testimony in support of the allegations in count No. 2; this Court is fully convinced that the allegations in said count No. 2 were fully

substantiated by the evidence adduced.

"As regards count No. 4—

"Count No. 4 substantially alleges that on July 16, 1942, the two girls named Eduarda S. Daohog and Eutiquia Lamay, were taken from their homes in Corella, Bohol, by the accused and his companion named Vicente Bullecer, and delivered to the Japanese Officer, Dr. Takibayas to satisfy his carnal appetite, but these two, the accused Susano Perez and his companion Vicente Bullecer, before delivering them to said Japanese Officer, satisfied first their lust; the accused Susano Perez raping Eduardo S. Daohog, and his companion, Vicente Bullecer, the other girl Eutiquia Lamay. Eduarda S. Daohog, testifying, said: that while on the way to Tagbilaran, the accused through force and intimidation, raped her in an uninhabited house; that she resisted with all her force against the desire of the accused, but of no avail; that upon arriving in Tagbilaran, she was delivered to the Japanese Officer named Takibayas who also raped her. Eutiquia Lamay testified that on July 16, 1942, the accused and his companion, Bullecer, went to her house! to take her and her sister; that her sister was then out of the house; that the accused threatened her with a revolver if she refuses to go; that she was placed in a car where Eduarda Daohog was; that while they were in the car, the accused carried Eduarda out of the car, and their companion Bullecer took the other witness (Eutiquia Lamay); that when the accused and Eduarda returned to the car, the latter, Eduarda, covered her face, crying; that later, she and Eduarda were taken to the Governor's house; that on arriving and in the presence of the Puppet Governor Hontañosas, the Governor exclaimed: "I did not call for these girls"; but the accused replied saying "These girls talked bad against the Japs, and that is why we arrested, them"; that the said Governor Hontañosas then, said "Take them to the Japs"; that the accused and Bullecer brought the two girls to the Japanese headquarters; that Eduarda Was taken to one room by the Japanese Captain called Dr. Takibayas, and she (Eutiquia Lamay) was taken to another room by another Japanese, living in that house; that she was raped by that Jap while in the room; that she resisted all she could, but of no avail.

"In the light of the testimonies of these two witnesses, Eduarda S. Daohog and Eutiquia Lamay, all the allegations in Count No. 4 were fully proven beyond reasonable doubt.

"As regards count No. 5—

"Count No. 5 alleges: That on or about June 4, 1942, the said accused commandeered Feliciano Bonalos and her sister Flaviana Bonalos on the pretext that they were to be taken as witnesses before a Japanese Colonel in the investigation of a case against a certain Chinese (Insik Eping), and upon arriving at Tagbilaran, Bohol, the accused brought the aforesaid two girls to the residence of Colonel Mini, Commander of the Japanese Armed Forces in Bohol and by means of violence threat and intimidation, said Japanese Colonel abused and had sexual intercourse with Flaviana "Bonalos; that the accused subsequently brought Flaviana Bonalos to a small house near the headquarters of Colonel Mini and through violence, threat and intimidation, succeeded in having carnal knowledge with her against her will; that about two days, later, upon the pretext of conducting the unfortunate girls to their homes, the said accused brought the other girl Feliciano Bonalos to a secluded place in Tagbilaran, Bohol, and in the darkness, by means of threat and violence had carnal knowledge with her against her will.

"Feliciano Bonalos testifying in this count, declared that the accused came to get her on the pretext that she was to be used as witness in a case affecting certain Chinaman before Colonel Mini; that she and her younger sister Flaviana were brought in a car driven by the accused; that they were brought to the house of Colonel Mini; that her sister Flaviana was conducted into a room and after remaining in the same for about an hour, she came out with her hair and her dress in disorder; that Flaviana told her immediately that she was raped against her will by Colonel Mini; that she (Feliciano), after leaving the residence of said Japs officer, was taken by Perez to an uninhabited house and there by threat and intimidation the accused succeeded in raping her; that when she returned to her (the witness), Flaviana was crying; that the following day while conducting the two girls back to their hometown, she (Feliciano) was also raped by the accused in an uninhabited house, against

her will.

"Victoriana Arayan (mother of Feliciano and Flaviana Bonalos) testified as follows: That on June 15, 1942, the accused came and told her that the Japs needed her daughters to be witnesses; that accordingly, her daughters, under that understanding, started for Tagbilaran; that later, she went to Tagbilaran to look for her daughters and she found them in the office of the Puppet Governor; that on seeing her, both daughters wept and told her that they were turned, over to the Japs and raped them; that her daughter Flaviana told her (the witness) that after the Japs had raped her the accused also raped her (Flaviana) in an uninhabited house; that the accused did not permit her two daughters to return home on the pretext that the Puppet Governor was then absent and in the mean while they stayed in the house of the accused Perez; that when her daughters returned to her house ultimately, they related to her (mother) what happened; that both daughters told her they would have preferred death rather than to have gone to Tagbilaran; that Feliciano told her (the mother) that the accused had raped her.

"The information given by Feliciano to her mother is admitted in evidence as a part of the *res gestae* regardless of the time that had elapsed between the occurrence and the time of the information. In the manner these two witnesses testified in Court, there could be no doubt that they were telling the absolute truth. It is hard to conceive that these girls would assume and admit the ignominy they have gone through if they were not true. The Court is fully convinced that all the allegations contained in Count No. 5 have been proven by the testimonies of these two witnesses beyond reasonable doubt.

"As regards count No. 6—

"Count No. 6, alleges: That the accused, together with his Filipino companions, apprehended Natividad Barcinas, Nicanora Ralameda and Teotima Barcinas, nurses of the Provincial Hospital, for not having attended a dance and reception organized by the Puppet Governor in honor of Colonel Mini and other Japs High ranking officers, which was held in Tagbilaran market on June 25, 1942; that upon being brought before the Puppet Governor, they were severely reprimanded by the latter; that on July 8, 1942, again said nurses were forced to attend another banquet and dance in order that the Jap officers Mini and Takibayas might make a selection which girl would suit best their fancy; that the real purpose behind those forcible invitations was to lure them to the residence of said Japanese Officer Mini for immoral purposes.

"Natividad Barcinas, a Lieutenant of the P. A., testified at length. She declared: That on June 29, 1942, she and companion nurses, saw the accused coming to the hospital with a revolver and took them on a car to the Office of the Puppet Governor where they were severely reprimanded by the latter for not attending the dance held on June 25, 1942; that the real purpose in compelling them to attend said dances and receptions was to select from among them the best girl that would suit the fancy of Colonel Mini for immoral purposes; that she and her companions were always afraid of the accused Perez whenever he came to said Hospital; that on one occasion, one of the nurses on perceiving the approach of the accused, ran up into her room, laid down on her bed and simulated to be sick; that said accused not satisfied, went up into the room of that particular nurse and pulled out the blanket which covered her and telling her that it was only her pretext that she was sick.

"The testimony of Lt. Natividad Barcinas is fully corroborated by that of Nicanora Ralameda. Said testimony need not be reproduced here."

In a carefully written brief for the appellant, these findings are not questioned, but it is contended that the deeds committed by the accused do not constitute treason. The Solicitor General submits the opposite view, and argues that "to maintain and preserve the morale of the soldiers has always been, and will always be, a fundamental concern of army authorities, for the efficiency of an army rests not only on its physical attributes but also, mainly, on the morale of its soldiers" (citing the annual report of the Chief of Staff, United States Army, for the fiscal year ending June 30, 1933).

If furnishing women for immoral purposes to the enemies was treason because women's company kept up their morale, so fraternizing with them, entertaining them at parties, selling them food and drinks, and kindred acts, would be treason. For any act of hospitality without doubt produces the same general result. Yet by common agreement those and similar manifestations of sympathy and attachment are not the kind of disloyalty that are punished as treason.

In a broad sense, the law of treason, does not proscribe all kinds of social, business and political intercourse between the belligerent occupants of the invaded country and its inhabitants. In the nature of things, the occupation of a country by the enemy is bound to create relations of all sorts between the invaders and the natives. What aid and comfort constitute treason must depend upon their nature; degree and purpose. To draw a line between treasonable and unreasonable assistance is not always easy. The scope of adherence to the enemy is comprehensive, its requirement indeterminate, as was said in *Cramer vs. U.S.*, 89 Law. ed., 1441.

As a general rule, to be treasonous the extent of the aid and comfort given to the enemies must be to render assistance to them as enemies and not merely as individuals, and, in addition, be directly in furtherance of the enemies' hostile designs. To make a simple distinction: To lend or give money to an enemy as a friend or out of charity to the beneficiary so that he may buy personal necessities is to assist him as an individual and is not technically traitorous. On the other hand, to lend or give him money to enable him to buy arms or ammunition to use in waging war against the giver's country enhances his strength and by the same count injures the interest of the government of the giver. That is treason. (See *U.S. vs. Fricke*, 259 F., 673; 63 C. J., 816, 817.)

Applying these principles to the case at bar, appellant's first assignment of error is correct. His "commandeering" of women to satisfy the lust of Japanese officers or men or to enliven the entertainments held in their honor was not treason even though the women and the entertainments helped to make life more pleasant for the enemies and boost their spirit; he was not guilty any more than the women themselves would have been if they voluntarily and willingly had surrendered their bodies or organized the entertainments. Sexual and social relations with the Japanese did not directly and materially tend to improve their war efforts or to weaken the power of the United States. The acts herein charged were not, by fair implication, calculated to strengthen the Japanese Empire or its army or to cripple the defense and resistance of the other side. Whatever favorable effect the defendant's collaboration with the Japanese might have in their prosecution of the war was trivial, imperceptible, and unintentional. Intent of disloyalty is a vital ingredient in the crime of treason, which, in the absence of admission, may be gathered from the nature and circumstances of each particular case.

But the accused may be punished for the rape of Eriberta Ramo, Eduarda Daohog, Eutiquia Lamay and Flaviana Bonalos as principal by direct participation. Without his cooperation in the manner above stated, these rapes could not have been committed.

Conviction of the accused of rapes instead of treason finds express sanction in section 2 of Commonwealth Act No. 682, which says:

"Provided further, That where, in its opinion, the evidence is not sufficient to support the offense (treason) charged, the People's Court, may, nevertheless, convict and sentence the accused for any crime included in the acts alleged in the information and established by the evidence."

All the above mentioned rapes are alleged in the information and substantiated by the evidence.

Counsel assails the constitutionality of this provision as violative of section 1, Paragraph 17, Article III of the Constitution, which guarantees to an accused the right "to be informed of the nature and cause of the accusation against him." The contention is not well taken. The provision in question requires that the private crimes of which an accused of treason may be convicted must be averred in the information and sustained by evidence. In the light

of this enactment, the defendant was warned of the hazard that he might be found guilty of rapes if he was innocent of treason and thus afforded an opportunity to prepare and meet them. There is no element of surprise or anomaly involved. In fact, under the general law of criminal procedure, conviction for a crime different from that designated in the complaint or information is allowed and practised, provided only that such crime "is included or described in the body of the information, and is afterwards justified by the proof presented during the trial." (People vs. Perez, 45 Phil., 599.)

The defendant personally assaulted and abused two of the offended girls but these assaults are not charged against him and should be ruled, out. The crime of coercion alleged and found on count No. 6 need not be noticed in view of the severity of the penalty for the other crimes which he must suffer.

We find the defendant guilty of four separate crimes of rape and sentence him for each of them to an indeterminate penalty of from 10 years of prison mayor to 17 years and 4 months of reclusion temporal, with the accessories of law, to indemnify each of the offended women in the sum of P3,000, and to pay the costs; it being understood that the total duration of these penalties shall not exceed forty years.

Moran, C.J., Feria, Perfecto, Bengzon, Briones, and Reyes, JJ., concur.

Paras, J., I reserve my vote.

Montemayor, J., I concur in the result.

DISIDENTE

PABLO, M.:

Disiento En mi opinion, los hechos probados constituyen delito de traicidn.

El acusado, al reclutar con sus companeros, muchas senoritas de buena reputacl6n en Bohol para ponerlas a disposici6n de los oficiales del ejSrcito enemigo, ha ayudado a ellos en la obra de destruccifin. En la guerra se emplea la destrucci6n para triunfar, y la destrucci6n se realiza en las cosas y en las personas, Inutilizar para el trabajo o para la guerra a los habitantes del pals invadido es destruirles en mayor o menor grado y violar. o deshonnar a las mujeres es tambiSn destruirlas material y moralmente y es peor aun que matar y aniquilar. En el caso presente, el acusado ayud<5 al Coronel Mini y Dr. Takibayas en deshonnar a varias senoritas, ponie'ndolas en una situacidn peor que la de las esclavas. Si el reclutar a hombres o mujeres para ser obligados a construir trinciieras para el ejSrcito invasor constituye delito de traicifin; si el apoderarse del arroz de los ciudadanos en sus casas para dSrsele a los soldados hamtoientos del ejircito japon&s es traici6n; por qu5 no ha de constituir traici6n el reclutar a senoritas para ser utilizadas por los enemigos en sus deseos bestiales, como 2 G. R. No, L-856 m .medio de entreteniraiento o alivio de sus trabajos? Plaviana y Feliciano Bonalos, ilegalmente arrestadas y entregadas despuSs a los dos oficiales-bestias, en su declaraci6n, han dicho que hubieran preferido morir que ser violadas.

El argumento del Procurador General, que merece seria consideraci6n, es del tenor siguientes

In the United States Army, and we believe this is also true in the Japanese Imperial Forces, a unit known as the United Services Organization (U.S.O.) functions with the primordial aim and view to keep at peak the morale of the soldiers. To achieve this, varied forms of entertainment like movies, dances, stage shows and the like are provided for at an enormous expense. In fine, the soldiers are surrounded with all the comforts and opportunities that they ordinarily enjoy in their normal civilian life. The reason for this is to tone their nerves and minimize as much as possible, the heavy strain on them incident to the nature of their mission in time of

war. Such entertainment becomes the more imperative when it comes to soldiers who are assigned overseas, on a foreign soil} in a no man's land, devoid of the inspiring association of their families, girl friends, and all those dearest to them,

xxx Clearly, therefore, appellant provided them with what should have been the burden of the Japanese Imperial Forces, relieving the latter of the trouble, expense, and difficulty of sending over to these Islands Japanese women to entertain their soldiers to bolster up their morale. In other words, the services of the Japanese women, who were so replaced by ours, through the efforts of the appellant, could be diverted to other important phases of military activities either in the homeland or in this sector. Hence, the aid and comfort to the enemy is evident.

Si el Coronel Mini y Dr. Takibayas del ejercito japonés no encontraban otro consuelo o solaz para olvidar sus preocupaciones y tristezas más que en saciar su lujuria, en Jf £ G. R. No. L-856 entonces el proporcionarles mujeres contra la voluntad de Sstas es ayudarles en recuperar entusiasmos perdidos e infundirles nuevo vigor para proseguir la guerra de conquista, Bien sabido está que los soldados no son m&quirias de acero que pueden estar peleando todas las horas de todos los días; necesitan tiempo de descanso para recuperar fuerzas perdidas, de entretenimiento para olvidar irtJgubres. pensamientos y franco esparcimiento para vigorizar su espíritu. Si para el Coronel Mini y Dr. TaMbayas, el violar la las señoritas reclutadas por el acusado era buena recompensa de sus esfuerzos militares, entonces para ellos vale la pena de exponer la vida en la lucha porque. después de todo quedan bien compensados, Qu^ mayor satisfacción para ellos como la de disfrutar libremente de las señoritas de la provincia con la ayuda del acusado? Por esa satisfacción KSñ, redoblarían sus esfuerzos de conquista para tener otras oportunidades de saciar sus apetitos bestiales* Bajo tales inclinaciones morbosas, darles entretenimiento} solaz y esparcimiento es ayudarles en la guerra.

No es exagerado suponer que dichos oficiales japoneses hayan dejado en sus hijos, esposas y madres a quienes quieren de corazón, y en sus momentos de soledad, de tristeza y de nostalgia, no es iraposible que se acuerden de ellos y lleguen a decir para sí mismos: "¿Qué sacamos de esta guerra de invasión, dejando a nuestros hijos y nuestras familias y nuestros hogares abandonados sólo para el G. R. No. L-856 satisfacer las ambiciones de conquista del emperador? Cada vez que nos damos cuenta de que no somos más que unos simples instrumentos para sacrificar tantas vidas y haciendas para la vanagloria del Japón, se nos rebela la conciencia. Creemos que la guerra es inicua, injusta debemos abandonarla. No deberíamos continuar invadiendo territorios." Si estos pensamientos persistiesen en la mente de dichos oficiales, indudablemente perderían su entusiasmo, su eficiencia en el servicio su obsesión les haría indiferentes, pasivos, inútiles para la guerra. Pueden deponer su actitud, pueden cruzarse de brazos e inclusive pueden desertar, y eso sería fatal para la nación invasora, Pero si, por inclinación natural, encuentran entretenimiento, esparcimiento y alegría en violar a las mujeres, entonces el proporcionarseles es una ayuda efectiva, Es darles calor, entusiasmo y valor en la guerra de conquista.

Hay mayor traición como el poner a disposición de los enemigos al ser mi querido, a la mujer Que se apoderen de todos nuestros productos, de todos nuestros recursos de todo cuanto encuentran & su paso; pero, por Dios, salvemos el honor de nuestras mujeres.

Voto por que el acusado sea condenado por el delito de traición.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.