

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FORTUNATO MUÑOZ (ALIAS FORTUNATO VIZCARRA), DEFENDANT AND APPELLANT.

G.R. No. L-880. December 17, 1947

Ponente: PERFECTO, J.

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PERFECTO, J.:

The substance of the testimonies of the eight witnesses for the prosecution is as follows:

- Adelaida Villareyes, 25, single, resident of Bamban, Tarlac, testified that in September, 1943, she was in Tapuak, Bamban, with the Americans Captain Bruce and Lt. James Hart, and Zinghine, and a Filipino named Jose Raagas. They were in their hideout in a small hut. There were plenty of tall grasses and bamboo thicket. Captain Bruce was forming a guerrilla organization. "I was the supply officer and I was nursing them." At 5 o'clock in the morning of September 3, 1943, the hideout was raided by Japanese constabulary and spies. "That morning we were sleeping soundly and we had a little dog named Daisy. This dog started making noise inside the mosquito net and we all woke up. Then we heard the noise of so many people coming and they opened fire so we finally dropped to the ground and stayed there for a while until the firing was over. After the firing was over, I crawled and I wanted to get away because the place was surrounded by Japanese, constabulary men and spies." The spies were Jose Arquiola, Garcia, Mateo Lacsina, and Fortunato Muñoz, the accused. When the Americans "were already tied up, Fortunato came, and I saw him with Hart's shoes and his flight overall, and a small bag, and the .45 caliber revolver that used to belong to Hart. When I was grabbed by the Japanese—there was no other trail, and as I happened to look at the stream I saw Lt. Hart lying there. His back was against the bank of the stream. I saw a hole on his forehead they grabbed me and took me where Zinghine was and tied me." Zinghine "was tied up when I got there like I was, hands behind his back." Captain Bruce and Raagas "got away." From the place "they walked us and when we got by the gold mine, we sat there for a while, and then we continued to the garrison." There were about twenty Japanese, ten constabulary men and four spies. There were guns in the Bambang garrison, "When we got there they untied me and took me to another office inside the garrison and asked me questions if there are other guerrillas and more Americans, and I said no. The next day they took us to Capas jail; we stayed there two and a half days and then they took us back to Bamban." In Capas the Japanese asked them about guerrillas. After six days in Bamban, "they took me to Magalang." In the Magalang Japanese garrison "I stayed there almost three months. I was captured on April 3, 1943, and was released on December 7, 1943. I went back to the mountains and joined Captain Bruce and the rest of the guerrillas that they used to have while I was away." While in Bamban, she saw guerrillas being tortured. "They (the Japanese and the spies, including Fortunato Muñoz) tortured them everyday just to make them tell if they knew more guerrillas and whatever they wanted to find out. I saw them, and they dipped them into the swimming pool there, and they sat on their stomachs." Since the accused had Lt. Hart's .45 pistol "he had that always. The only spy that was not carrying a gun was Arquiola." The witness was connected with the Luzon Guerrilla Forces, South Tarlac Military District, under Captain Bruce, the organization having been recognized on February 21, 1945. The witness held the rank of captain and was

discharged on May 29, 1945.

The witness was held by the Japanese in Magalang for almost three months and she saw that the accused arrived three times with the Japanese. They were all armed and appeared tired. After the raid in which she was captured she saw the accused when she was already tied up and thereafter she saw him everyday in the garrison.

- Jose Raagas, 48, married, residing at Bamban, Tarlac, testified that in September, 1943, he was in Tapuak in the hideout which he made for his American companions, James Hart, Zinghine, and Captain Bruce. There was also Deling, the wife of Captain Bruce, whose full name is Adelaida Villareyes. At dawn, on September 3, 1943, they were raided by twenty Japanese soldiers, ten constabulary men and four Filipino spies. The latter were Vizcarra, the accused, Garcia and Jose Arquila. He saw the accused Vizcarra carrying a rifle, M-1. "He was lying flat on the ground with the rifle on his hands. I recognized him because he was near me; he was facing the American James Hart who was shot by the accused. I ran away and two constabulary soldiers were chasing me. I went to the top of the hill. I saw them assembled, with Zinghine already captured. I went to look for my other companions." Captain Bruce was the first to run away. On the following day he returned to the place and "I saw the body of James Hart, and our hideout was burned. When I was captured on September 15th or 16th, 1943, in my house, I saw the accused again. When I went to my house to get food for the Americans, my wife told me that Vizcarra and Lacsina went there and were looking for me." "After I had finished my supper at eleven o'clock that night, the Japanese came. They arrested me, they tied me around my waist like a monkey. I was tied tightly after arriving at the garrison by Vizcarra and Lacsina, and I was made to drink water by the Japanese—water cure. They were forcing me to divulge the whereabouts of Captain Bruce," referring to Vizcarra and Lacsina. "I did not reveal because it was against my conscience, and besides, I was taking care of them." From the garrison he was taken to the Mayor of Bamban. "I was given an appointment as a spy of the Mayor, and he told me to fetch my shotgun from the mountains and surrender it to him." The day following his arrest "I was taken again to the garrison by a policeman and a Japanese. I was again made a spy by the Japanese, and they told me to go to the barrios to look for Americans." He surrendered his shotgun and worked as a spy for the Japanese for about two months. "I just reported every two or three days, and when I was not able to report any American, they dismissed me and told me that I was useless, and they got back my gun." During those two months he sometimes saw the accused joining the Japanese in their raids, and sometimes in the company of three other spies. "He used to go in and out of the Japanese garrison freely. Every time the Japanese went on raid he was always with them." The accused used to carry with him the .45 caliber pistol which belonged to Lt. Hart. The witness recognized it because there was a nail on it instead of a pin. When the accused went out on raids he carried with him a rifle. The witness is connected with the USAFFE Guerrilla, Bamban Battalion, Co. A, under Captain Wage. He knew the accused as a Hukbalahap since 1942. He was a Hukbalahap "until the time he became a spy."

On September 3, 1943, when the raid took place, it was raining and foggy. "When the dog barked we were awakened then, and I said that may be they were Japanese, and Bruce ran away." Zinghine "was inside the mosquito net, sick with malaria, and did not move, so he was captured by the Japanese." Adelaida stayed in the hut. "When the firing began, Bruce already disappeared. I urged Hart to escape but he told me, 'No, I want to shoot a Japanese.' The firing was on, so I went down the hut and lay down. Hart also went down and began to fire also. It was dawn between light and darkness, and the sun was already rising." After going down, Hart "went away from me because he told me he wanted to fight the Japanese. When I saw him he was already dead, I ran away, but before that, I saw the accused in front of Hart, with his gun aiming at him." Hart died in front of the hut. The next day the witness saw Hart with a gunshot wound at the forehead.

- Florentino Manipon, 45, married, police of Bamban, Tarlac, testified that he served as chief of police during the Japanese occupation from February 21, to December 31, 1942. Then he was incarcerated for six days and

dismissed as chief of police, but served again as such from May, 1943, to April, 1944. He was incarcerated by the Japanese. "They were suspecting me as giving aid to these Americans hiding in the mountains," which was true. The witness knows that the accused Fortunato Muñoz alias Vizcarra worked in the Japanese garrison as a spy, "because whenever they raided a certain barrio he was with them—with arms and rifles—and that time I used to see him at the Japanese kempeitai in Bamban, Tarlac, and whenever he went with the raiding party he had a side arm and a rifle with him." The witness saw the accused in a raid in the last week of August, 1943, in barrio La Paz "where they captured eight guerrilla suspects." The witness saw the accused in raids on several occasions, but he can remember only that made on the last week of August, 1943, because a policeman, Florentino de la Cruz, was among those captured. The witness remembers also the raid made in barrio Bagco by the Japanese and Fortunato Muñoz, because they asked the witness, a policeman, Fortunato Rivera, to act as a guide "In the poblacion I used to see Vizcarra with the Japanese raiding the market." The accused worked as a spy for the Japanese in 1943 and 1944, up to October, when the witness fled to the mountains. The last time he saw him was in the garrison on December 19. At that time the Japanese, accompanied by the accused, apprehended all the policemen including Miguel Ballesteros, the chief of police.

- Miguel Ballesteros, 44, married, sergeant of police, residing in Bamban, Tarlac, testified that he served as sergeant of police from February, 1944 to December, 1944. He came to know the accused since August, 1943, after the zoning in Bamban. The accused dropped in at the municipal building in the company of Lt. Fugi and the Japanese interpreter Oka . "They brought about thirty persons for our custody. Seventeen of the thirty persons were picked by the Japanese officer with the assistance of Fortunato Muñoz. Fortunato Muñoz picked seventeen persons out of the thirty as members of the guerrillas. He pointed them out one by one. They were brought to concentration camp at Capas, O'Donnel, in the same afternoon when Vizcarra, the Japanese officer and the Japanese interpreter came, in August, 1943." The remaining persons were told to sit down in front of the municipal building, and "they were instructed by Vizcarra that they must not join the guerrilla forces and that they must co-operate with the Japanese soldiers." The accused talked in Pampango. Then said persons were released. On that occasion the accused was carrying a .45 caliber revolver. The witness saw him many times, sometimes accompanied by Japanese soldiers and sometimes by Garcia and other spies. In September, 1943, the accused was in the company of Lt. Fugi and he was "telling a group of people assembled in the municipal building that he had captured Lt. James Hart, and he was holding the .45 caliber automatic pistol which, as he said, was the gun of Lt. Hart. That was between September 3 and 4, 1943. The accused and the Japanese came to the municipal building with the purpose of telling the people what had been done to Lt Hart and his companion. In November, 1943, the witness and four policemen, while in the municipal building, heard shots coming from the sitio Santol. They went to the place and "we saw Vizcarra and the Japanese soldiers apprehending the people who were running. About fifteen of the persons apprehended were lined up and Vizcarra picked out twelve of them who were brought to the Japanese garrison. Among those apprehended were Hermogenes Sibal and Alberto de Leon. They were accused by Vizcarra as members of the guerrilla. "They were taken to the Japanese garrison. Some were released on the night of the same day and others were released the following morning. Only three of the twelve remained in the garrison. On December 17 or 19, 1944, all the eleven members of the police force, including the witness who was then acting as chief of police were apprehended by Japanese soldiers together with Constabulary soldiers. About one hundred fifty other persons were also apprehended. All were brought to the garrison. There the witness saw Vizcarra,"he was rendering assistance to them." The Japanese were giving the third degree to those captured. The witness was detained for two days. The other policemen were also released. They were arrested because "the garrison commander had received information that the police force were members of the guerrilla forces under Captain Bruce," and the information was correct. After being released, "I ran away to the mountains." When Vizcarra went to the municipal building to tell a group of persons that he was the one who got Hart, he added: "As a matter of fact I am wearing his clothes and got his gun." The witness was tortured in the death chamber. He was

wounded at the back of the head. He was injected with medicine after which "I felt unconscious and I spat blood." He was tortured by the Japanese. "I managed not to talk; I did not squeal."

- Juan Alfonso, 38, married, laborer, residing at Bamban, Tarlac, testified that he came to know the accused because they worked together for the same landlord before the Japanese occupation. In August, 1943, he met him when he came along with the Japanese soldiers who effected the raid in Tapuak. The accused carried a firearm, .45 caliber revolver, on his waist. After the raid on September 3, the accused came again to the barrio, where the people were gathered. Oka, the Japanese, speaking in Tagalog, introduced the accused to the people in the following manner: "Here is the man—pointing to the accused—who killed James Hart. You better capture or kill other Americans as he did and you will also be compensated as we compensated him." At that time the accused was beside the Japanese, and he did not say anything. At the time Vizcarra was introduced to the barrio people, the Japanese zoned the place, but nobody was arrested. Referring to the raid of September 3, the witness said: "At eleven o'clock that same morning when we heard the shots I went to the place which the Japanese raided and I found Hart in the hole dead."

- Fortunato V. Anunciacion, 31, married, unemployed, residing at Bamban, Tarlac, testified that on August 25, 1943, he was captured by the Japanese military forces at Bamban, while he was in the house of his aunt at barrio La Paz. The Japanese were aided by spies, one of them being Vizcarra, the accused. According to Captain Katino, the witness was arrested because the spies who were with him told him that the witness was a guerrilla leader. All in all seven persons were arrested and brought from Bamban to Mabalacat. The accused was carrying a revolver. They were taken below the house of Mr. Morales. The Japanese soldiers and the spies were in the upper story. "After eleven days imprisonment in Mabalacat I was brought by the same Japanese soldiers and constabulary men to Tarlac military police jail. I stayed in Tarlac four months and seven days." He was released on January 12, 1944. "The day I was released by the military police I was bound to the mountains to rejoin my unit, but I have seen Vizcarra with another spy whose name was Posong Garcia. They were both standing on the railroad track in front of the railroad station of Bamban. At the moment I saw them I feared to proceed directly to the mountains and instead I went near them and said: 'How are you tokayo?' and he said 'I am alright'. I further said: 'You have a new uniform' and he said: 'This is the overall used by Lieutenant Hart.' Then he asked me if I knew already the death of Lieutenant Hart and as I kept silent, he proceeded saying: 'And this is the pistol of Lieutenant Hart. You know I was the man who killed him when we raided their hideout, I had only a glance at him and the moment I sighted him I killed him with one bullet and as a reward for killing him, this overall and this pistol were given to me by the Japanese.'" The accused and his companion confiscated rice, sugar and other goods from the civilians who were bound for Manila riding in the train. Witness was arrested on August 25, 1943, and was released only on January 12, 1944, and during that period he has never been out.

- Melencio Wage, 28, widower, captain, Philippine Army, testified that he came to know the accused in a raid in 1943. The accused was carrying one .45 automatic pistol in the company of a group of Japanese. They came back about 4 o'clock in the afternoon. In the group there were three Filipinos including the accused. The Japanese were armed with rifles. Again he saw the accused between seven and eight one morning in 1943 with Japanese soldiers. When they returned there were three persons with them with hands tied with rope across their backs.

The testimonies of the seven witnesses who testified for the defense are as follows:

- Serafin Sotto, 48, married, laborer, resident of Mabalacat, barrio lieutenant during the Japanese occupation, testified that he was working in the sugar central at Bamban, where he used to see the accused who was working in the garrison which was within the compound of the sugar central. The witness was the president of the twenty-one barrio lieutenants of Mabalacat. He requested the accused that if he knew of any raid to be made "he should let me know. And the accused used to send me the notice directly so that I could notify the others, and

through them the people." In April, 1943, "he wrote me a letter advising me that he and the Japanese were going to raid several places—Bulog, Sapang, Balen, Pesucul, and others. I left my house early in the morning and walked along the roads trying to meet the folks who were selling milk early in the morning, and advised them to return home to advise the barrio people of the coming of the Japanese and PC so that they also advise the guerrillas to leave the place if there were any, thus saving guerrillas and the barrio people." On Good Friday during the Holy Week of 1944, one Japanese guard was killed. "The next morning the accused passed by Mabalacat coming from Bamban and he saw us standing by a barber shop and told us that if we were going to the cockpit in Angeles the following day, to tell the others not to carry guns because the Japanese would raid that cockpit. They really raided that place the following day, and I was one of those arrested in the cockpit. They lined up the people there and made them face the sun. The accused was helping the people in lining up, telling them not to worry because if they had no guns nothing would happen to them, and advised them likewise not to be pale." Upon request of the accused, the people from Mabalacat were released, including the witness. The witness was a sugar cane inspector of the central which operated under the charge of a Japanese who used to be a carpenter for the central. The witness has known the accused since 1920.

- Generoso David, 34, married, residing at Mawake, Mabalacat, testified that he was a classmate of the accused, a former foreman in Mawake. He met the accused during the time he was with the Japanese on September 15, 1943. "He was under the custody of the Japanese." In February, 1944, he saw in his barrio the accused with the Japanese. Nothing happened because "before their arrival I received a note from him to the effect that if there were guerrillas in our place we should tell them to go away because he and the Japanese would come and raid the place. I asked the guerrillas to move to another place."

- Estanislao Melo, 60, married, merchant, resident of Angeles, testified that in February, 1944, "while I was on my way home to Angeles carrying my pigs in a carromata, I met Japanese in a truck on the way, and they tried to get my horse. I saw the accused with those Japanese and he asked me where I got the pigs from, and I told him that I had bought them for sale and then he intervened requesting the Japanese to let the pigs alone." The witness saw again the accused on Easter Sunday in Angeles. "The Japanese ordered all the people in the cockpit to get out, then I saw the accused with them aligning the people. They begin searching us for firearm and when they found none, they told us to continue with the cockfighting."

- Vicente Aquino, 54, married, farmer, resident of Mabalacat, testified that he saw in his barrio the accused who "simply told us that they were on their way on patrol." In September, 1943, between four and five o'clock in the morning, the witness heard shots in rapid succession. It was foggy and dark and drizzling. "According to what I heard after that they said that an American was killed."

- Venancio Rivera, 35, married, barber, residing at Mabalacat, testified that on August 18, 1943, his house in Mabalacat was burned by constabulary soldiers, because "I was suspected as being connected with the guerrillas." The witness used to visit the accused who "asked me why I was there and I told him I was wanted by the constabulary and the Japanese, so he advised me to hide very well lest I would be caught by them. What I knew at that time was that he was already working in the garrison." In August, 1944, "when the Japanese were already hot in pursuit of their enemies, this accused, on about ten occasions, came to notify me to escape because the Japanese were going to raid the place where I was at that time." On September 10, 1944, a place in Bamban where the witness was, was zoned by one Yamashita who came from Concepcion. "The accused knew that my life was at a stake so he talked to that lieutenant Yamashita although I did not know what they talked about, but afterwards I was released."

- Gregorio Gaña, 42, married, laborer, residing in Tondo, Manila, testified that he joined the Huks from 1942 to 1944. The accused was in the same squadron with the witness. "We were coming from sitio Banaba and when we

passed by that sitio Cubcub, when we arrived at the river bank, we were ambushed by the Japanese and we had to fight. After the fight, as we were to leave our hiding place in the sugar-cane field, the accused fell sick and he asked us to let him stay. He was left in barrio Banaba. When I saw him afterwards, he was already with the Japanese, and working for them. On that occasion, he always asked us what we needed, and on several occasions, personally we asked him what we needed in the form of ink, pencil, papers and others. We simply sent someone to him. Because we used to write."

- Fortunato Muñoz, the accused, testified that in May, 1942, he left Mabalacat because he was wanted by the authorities. He joined the guerrillas. "We (including Gregorio Lagman) were accepted as soldiers." After a month he was transferred to another organization under Commander Malvar where he remained "until I was captured by the Japanese in September, 1943. We were in Mapalaksio, we were informed that the Japanese were going to raid us and that they were already near. For that reason, we left the place. We arrived at Cubcub at about three o'clock in the morning. As we were about to cross the river, we met the enemy. There was a fight—our squadron was the first to fight. Luna, our vice commander was shot, and my group was able to retreat in barrio Makbu, a sugar-cane field. While we were there, I became ill. The next day, I asked for permission to separate from my group and remain there. When I was taken to a doctor, I was caught in barrio La Paz by the Japanese. I was taken together with several other people, among them a certain Tanian and Cabanela. Quite a long time, about eight days. We were taken to the garrison. We were punished, maltreated. Our arms were tied behind our back and we were taken out, led by constabulary soldiers. They hang bags on our back" and they were taken to the hills of barrio Tapuak where they arrived between three and four early in the morning. "Mateo Laksina, Jose Orquiola, and Alfonso Garcia went away with some Japanese and constabulary soldiers. We were left in a rice land and those others who were left with us later went around. I don't know where they went. Fifteen minutes afterwards, we heard machine-gun shooting. About thirty minutes or one hour. Jose Orquiola came back to tell them (the Japanese soldiers who were left) that their commander was calling for them. When we arrived there, I already saw Daling, an American, captured. Then I also saw the hut where they lived." The accused came to know Hart. "I did not see him on that occasion, but when we returned to the garrison, Daling and others said that Hart had been shot by the Japanese." The accused denies having shot Hart and having taken his revolver. "As a matter of fact, I saw the gun in the hands of Jose Orquiola." Jose Orquiola, Alfonso Garcia and Mateo Laksina were taken by the guerrillas. It is not true that the accused is responsible for the maltreatment of some of the people caught by the Japanese. He was never responsible for the arrest of any guerrilla. "On the contrary, if the Japanese arrested any, I used to talk to the Japanese and pleaded for them." It is not true as stated by Adelaida Villareyes that the accused was seen by her maltreating a guerrilla in the garrison at Bamban. "I stayed there only for about an hour. As a matter of fact, I went there for a certain purpose of pleading for her and when my request was turned down, we have not invited her to play bowling." Adelaida became angry when the accused did not accede to her request to join the Hukbalahaps in 1942. The accused denies having anything to do with confiscating rice and other commodities at the station in Bamban. "When the constabulary soldiers were confiscating things, I even pleaded to them not to do it." The accused left the service of the central when the Americans began bombing the Philippines, and then joined the resistance movement. After he was arrested by the Japanese, "I agreed to work with them provided they let me live with my children. I could not escape anymore because had I done so, they would have taken my family. They made us guards of the laborers. A Filipino was paying our salary. We were the ones who were taking turns in guarding the premises." The witness served the Japanese from September, 1943, until May, 1944. "At first they made me help the cook, and after that, they used to take me along when they went out. They took from me a revolver, caliber .32, and that was the one they returned to me." Jose Orquiola, Mateo Laksina and Alfonso Garcia were Japanese spies. "I remember I went out with them probably on two occasions. The first time they took me along, we went to barrio Mangcop, because the Japanese wanted to ask for papaya and took us along to carry them. The second time, we went to barrio Mawake, this time to ask for camotes." Regarding the .32

caliber revolver, "I asked for it and the Japanese sergeant returned it to me." The accused was retained by the Japanese "for what use he could be to them in connection with the guerillas." After sometime, the accused went to his barrio and explained his situation to the guerrillas "that the Japanese forced me to work with them and if I did not do so they would take, in my family so that they told me I could stay so that I could also help them:"

The information filed against appellant reads as follows:

"That during this period comprised between August 1943 to January 1945, more specifically on or about the dates hereinbelow mentioned, in the different places hereinafter stated and within the jurisdiction of this Honorable Court, the herein accused not being a foreigner but a Filipino citizen owing allegiance to the United States and the Commonwealth of the Philippines, in violation of his said duty of allegiance wilfully, unlawfully, feloniously and treasonably did knowingly adhere to their enemy, the Empire of Japan and/or the Imperial Japanese Forces in the Philippines with which the United States and the Commonwealth of the Philippines were then at war giving to said enemy aid and comfort in the following manner, to wit:

" '1. That in or about August, 1943 and at diverse other dates during the Japanese Military occupation, in the province of Tarlac, the herein accused for the purpose of giving and with intent to give said enemy aid and comfort did wilfully, feloniously and treasonably join, become, serve and act as informer of the Imperial Japanese Forces.

"2. That on or about September 3, 1943, in the municipality of Bamban, Province of Tarlac, the herein accused for the purpose of giving and with intent to give said enemy aid and comfort did wilfully, feloniously and treasonably lead, assist and accompany a patrol composed of Japanese and Bureau of Constabulary soldiers to barrio Tapuac, and once there did attack and raid the camp of Captain Alfredo Bruce and in the course thereof the herein accused, with the aid of the Japanese and constabulary soldiers who were all armed thereby affording him impunity did wilfully, feloniously and unlawfully shoot and kill Lt. James Hart and the said patrol did thereupon capture Adelaida Villareyes and (FNU) Zinghine who were in said camp and forthwith bring them to the Japanese garrison in the town where they were detained for over one week after which said Adelaida Villareyes was released and (FNU) Zinghine brought to Capas, Tarlac, where he was bayoneted to death by the Japanese.

"Contrary to law."

The lower court, finding appellant guilty, without the attendance of any circumstance modifying his criminal responsibility, sentenced him to life imprisonment, with its accessories, and to pay a fine of P10,000 and the costs, one-half of his preventive imprisonment to be deducted from the main penalty.

The evidence in this case has conclusively shown that in the early morning of September 3, 1943, appellant was a member of a group of Japanese soldiers, constabulary men and Filipino spies which raided a guerrilla hideout in Tapuac, in which Lt. James Hart was killed, and an American named Zinghine and Adelaida Villareyes, wife of Captain Alfred Bruce, were taken prisoners and brought to the Japanese garrison in Bamban and Capas. At the time the raid took place, appellant, a Filipino citizen by his admission made in open court, was in the service of the Japanese army as agent and spy, and it is evident that he participated in the raid to give aid and comfort to the enemy.

Appellant does not deny having been present near the place of the raid at the time it took place, but alleges that his presence at about one hundred yards from the raided hideout was due not to his own will but to the fact that the Japanese brought him to the place to carry foodstuffs, with hands tied at his back. This allegation, besides being far-fetched, cannot prevail over the testimonies of Adelaida Villareyes and Jose Raagas. The inherent inverisimilitude of appellant's testimony is evident. There was no reason for the Japanese to carry foodstuffs not needed for such a short expedition and it is inconceivable that they should let him bring them on his shoulders

with his hands tied and as prisoner, needing to be guarded by soldiers who had to fight against the guerrillas. The testimony of appellant, taken as a whole, has rather the effect of adding more weight to the evidence of the prosecution. By said testimony, it appears absolutely certain that appellant had voluntarily rendered effective service as an agent of the Japanese. Even crediting to him whatever benefits some individuals, including his witnesses, derived from the help he rendered them, the fact that he was thus able to help them shows his influence upon the Japanese, gained through his usefulness to the latter.

Adelaida Villareyes was later released. There is no evidence as to what finally happened to Zinghine.

Upon the record, appellant's guilt has been conclusively proven.

Being in accordance with article 114 of the Revised Penal Code, the appealed decision is affirmed with costs against appellant.

Moran, C.J., Feria, Pablo, Hilado, Bengzon, and Tuason, JJ., concur.

PARAS, J.:

I concur in the result. Appellant is responsible for the death of Hart.

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