

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE DIZON, DEFENDANT AND APPELLANT.

G.R. No. L-923. June 24, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Appellant is accused of treason on the information which reads as follows:

"1. That on or about August 2, 1943, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of one Roman Malapitan, suspected of being a guerrilla member, and thereupon, the said accused did turn over the said Roman Malapitan to the enemy who brutally maltreated, tortured and subsequently executed him.

"2. That on or about October 5, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of one Maximo Avendaño, suspected of being a guerrilla member, and thereupon, the said accused did turn over the said Maximo Avendaño to the enemy who brutally maltreated, tortured and subsequently executed him.

"3. That on or about November 3, 1944, in Santa Rosa, Laguna, Philippines, the said accused acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving aid and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of one Isidoro de los Angeles, suspected of being a guerrilla member, and thereupon, the said accused did turn over the said Isidoro de los Angeles to the enemy who brutally maltreated, tortured and subsequently executed him.

"4. That on or about November 16, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity and taking advantage of the darkness of the night, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of one Major Leopoldo F. Santos (USAFFE), suspected of being a guerrilla member, and there upon, the said accused, did turn over the said Major Leopoldo F. Santos to the enemy who brutally maltreated, tortured and subsequently executed him.

"5. That on or about November 16, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him

impunity and taking advantage of the darkness of the night, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany, and participate in the apprehension and arrest of one Roque Lazaga, suspected of being a guerrilla member, and thereupon, the said accused did turn over the said Roque Lazaga to the enemy who brutally maltreated, tortured and subsequently executed him.

"6. That on or about November 16, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity, and taking advantage of the darkness of the night, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of Antonio Alumno and Jurado Alumno, both suspected of being guerrilla members, and thereupon, the said accused did turn over the said Antonio Alumno and Jurado Alumno to the enemy who brutally maltreated, tortured and subsequently executed them.

"7. That on or about November 24, 1944, in Santa Rosa, Laguna, Philippines, the said accused, acting as informer or agent of the Imperial Japanese Forces in the Philippines, and for the purpose of giving and with intent to give aid and/or comfort to the said enemy, with the aid of a group of armed men who afforded him impunity and taking advantage of the darkness of the night, did then and there wilfully, unlawfully, feloniously and treasonably lead, accompany and participate in the apprehension and arrest of one Lucio Aguilar, suspected of being a guerrilla member, and thereupon, the said accused did turn over the said Lucio Aguilar to the enemy who brutally, maltreated, tortured and subsequently executed him.

"8. That about December, 1944, in Santa Rosa, Laguna, Philippines, the said accused, in order to make more effective the aid or comfort which he intended to give and did give to the enemy, did voluntarily enlist and serve as a member of the Makapili, an instrumentality of military nature, created and conceived in the spirit of collaboration with the Imperial Japanese Forces in the Philippines with the end in view of collaborating unreservedly and unstintedly with the said enemy, and to fight side by side with the same against the Armed Forces of the United States of America and the guerrilla forces then operating in the Philippines, and as such member thereof, the said accused did further voluntarily join and evacuate with the said enemy in his retreat to the mountains of Luzon, and did stay and remain with the same until his apprehension and capture by the American and guerrilla forces."

The trial court found appellant guilty on all counts except on counts two and eight, and sentenced him to reclusion perpetua and to pay a fine of P10,000 and the costs.

The evidence shows that appellant took part in the arrest of Roman Malapitan at about 6 o'clock in the afternoon of August 2, 1943, in Santa Rosa, Laguna, the fact having been testified to by Maxima Dedicatorio, widow of Malapitan, and Concha Pascual, a neighbor. It has been proved that the arrest was undertaken by the accused and several persons, including a Japanese civilian named Mikawa.

The evidence also shows that appellant participated in the arrest of Isidoro de los Angeles on the afternoon of November 3, 1944, in the rice mill of Andres Villanueva in barrio Balibago, Santa Rosa. Isidoro was brought, as a guerrilla suspect, to the house of Mikawa, where he was investigated and beaten. Afterwards, he was taken to the Japanese garrison by the accused and the Japanese. These facts were testified to by Gorgonio Cantos, Pantaleon Lara and Amanda Lasaga.

It was also proved that Major Leopoldo F. Santos, an ex-USAFFE officer, another guerrilla suspect, was arrested by a raiding party composed of Japanese and Filipinos, one of whom was appellant, who chose not to deny this charge in his testimony.

Regarding the arrest of Roque Lazaga, because of the contradictions between the testimonies of the witnesses for the prosecution Julia Alinsod and Teofila Lazaga, wife and daughter, respectively, of Roque Lazaga, appellant is

entitled to the benefits of the doubt and, therefore, he cannot be found guilty on count five of the information.

Appellant cannot also be found guilty on count six because only one witness, Sancha Sayao, testified to the arrest of Antonio and Jurado Alumno.

Under count seven, upon the testimonies of Rosa Alinsod and Federico Aguilar, wife and son, respectively, of Lucio Aguilar, it appears that the accused, armed with revolver and accompanied by several persons three of whom were in Japanese uniforms, arrested Lueio Aguilar as a guerrilla suspect, who was taken away in a truck.

Upon the facts proved, we are convinced beyond doubt that appellant, a Filipino citizen, is guilty of treason and the trial court sentenced him correctly under article 114 of the Revised Penal Code to reclusion perpetua and a fine of P10,000 and to pay the costs.

The appealed judgment is affirmed with costs against appellant.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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