

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
TEOFILO PAAR (ALIAS TEOFILO PAJAR, ALIAS BEN PAJAR),
DEFENDANT AND APPELLANT.**

G.R. No. L-2318. March 31, 1950

Ponente: TORRES, J.

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TORRES, J.:

This is an appeal from a judgment of the Low defunct People's Court which found Teofilo Paar guilty of treason and sentenced him to the penalty of reclusion perpetua, and to pay a fine of P10,000.00 and the costs. The defendant entered the plea of not guilty of the charge specified in each of the fifteen counts, and the prosecution presented evidence to support only the allegations made in the first, fourth, seventh and eighth counts.

From Our study of the evidence, We find that as regards the first count, it has been established by the prosecution, and the defense did not deny, that between October, 1944 and February, 1945, Teofilo Paar worked for the Japanese Kempei Tai as an undercover man. In fact, the appellant himself, by his testimony, and that of his witness Juan S. Alano, admitted that he affiliated himself with the Military Police in Baguio. The government witnesses have, during that period of time, seen him parading in the streets of Baguio with members of the Kempei Tai, dressed in their uniform and carrying a .45 caliber pistol.

It is claimed by appellant that he entered the service of the Kempei Tai without the intent of betraying his country and his people, and that even if he were responsible for or participated in the arrest of civilians on suspicion of underground activities, he can not be held liable for treason in view of the absence of the essential elements of adherence. The record, however, shows that his overt acts evidenced his adherence to the enemy, and even in the absence of other proof, the very act of giving information to the enemy, constitutes not only giving aid and comfort, but also shows adherence to the enemy. It clearly appears that Teofilo Paar Joined the Kempei Tai or Japanese Military Police, whose main purpose was to obtain information and other necessary data to suppress the resistance movement. This is treasonous adherence which constitutes a violation of Article 114 of the Revised Penal Code.

Much emphasis is given by appellant on the allegation that Teofilo Paar joined the Kempei Tai upon the advise of one Major Laconico of the underground movement. Apart from the fact that he never mentioned Major Laconico to the CIC (Counter Intelligence Corps of the USAFFE) when he was being investigated by said organization, if he was really made to join the Kempei Tai in obedience to instructions of Major Laconico and in furtherance of the resistance movement, his direct participation in the activities of the Kempei Tai, for whom he was acting as agent or undercover man, having been observed by the witnesses for the prosecution, completely negatives his exculpatory explanations.

It stands to reason that, if appellant was really "planted" by Major Laconico in the City of Baguio, as an observer, to further the resistance movement, he had many other means to accomplish his alleged mission of helping the guerrillas. But his close association with the Kempei Tai, that most hated organization of the Japanese Invader, his

participation in the arrest of several persons who were subsequently deprived of their freedom and tortured on suspicion that they were sympathetic with the underground forces, far from convincing Us that he joined the Japanese Military Police for a worthy patriotic purpose, strengthens Our belief that he deliberately, for sordid motives, entered the service of the Kempei Tai, because he thought that Japan would win, the last war.

To substantiate Count No. 4 the prosecution, through the testimony of Patricia Guerrero, a waitress in the City Lunch Restaurant in Baguio, proved that in the morning of October 3, 1944, while she was dressing up, she heard a knock on the door of her room on the upper floor of the Mayo Building. Before opening the door, she peeped through the window and saw the accused standing beside a car. When Patricia opened the door of her room, she met two members of the Japanese Military Police who ordered her to dress up because she was to be taken to their headquarters. She went with the two Japanese, but when she reached the car, the accused was no longer around. She was Investigated and maltreated by the Japanese who wanted to get information about the resistance movement. As they could not get anything from her, she was made to work as washer-woman in the garrison, until she was released sometime on December 20, 1944. The testimony of Patricia Guerrero was, to a certain extent, corroborated by Carlitos Costales.

It is noted, however, that Carlitos Costales did not corroborate the statement of Patricia Guerrero that she saw the appellant standing beside a car parked in front of the house and which brought the two Japanese members of the Military Police who arrested Patricia. It appears, therefore, that while the evidence of the prosecution regarding this count establishes the adherence of the appellant to the enemy, it fails to prove the same overt act as required by law.

Three witnesses were put on the stand by the prosecution in support of Count No. 7. In December, 1944, Melquiades Valdez, assistant sanitary inspector in Baguio, was making an inspection around the market accompanied by Dr. Emilio Reyes. While they were conversing, Teofilo Paar approached the group and inquired for Melquiades Valdez. The latter identified himself and Paar told Dr. Reyes that he was taking Valdez to the military police for questioning. The accused conducted Valdez to the Kempei Tai, and, upon arrival at their headquarters, wrote on a piece of paper the names of Valdez and one Antonio Romero and handed it to the Japanese guard, saying: "here are Valdez and Romero." Valdez was investigated and tortured on the charge of listening to radio broadcasts from San Francisco and spreading the news heard by him.

Regarding the eighth count, it appears that at about noon of December 30, 1944, while Dr. Irineo Solano was in the house of Felisa Caliao, his niece, named Maria Taverna, informed him that a Filipino and a Japanese were waiting for him. Solano met the visitors, the accused and a Japanese. In answer to defendant's query, if he was Irineo Solano, the latter identified himself and the accused told him that he was to go with the Japanese officer. Dr. Solano was conducted to the Japanese Military Police headquarters and once in the garrison, the accused left the group. Investigated on account of his guerrilla activities and his pro-American propaganda work, the doctor was maltreated and was not released until January 14, 1945.

The testimony of Dr. Solano was corroborated by that of Felisa Caliao regarding the fact that on December 30, 1944, while the doctor was in her house, Solano was taken by a Filipino who happened to be this appellant; she further said that Paar called for Dr. Solano and took him to the car where a Japanese officer was waiting.

The evidence is very clear from the testimonies of Melquiades Valdez and Dr. Emilio Reyes, that the former was arrested and brought to the headquarters of the military police by Teofilo Paar who delivered him to the Japanese garrison. Soon after the accused delivered Melquiades Valdez to the Kempei Tai, he was investigated for disseminating news broadcasted by the San Francisco Station known as KGEI. The testimonies of Valdez and Dr. Reyes are corroborated by a third witness Antonio Romero, who substantially told the court his observations in

connection with the arrest of Melquiades Valdez.

The testimony of Dr. Solano, corroborated by that of Felisa Caliao, established that the appellant was responsible for the arrest of the doctor. The appellant alleged that he could not have participated in the arrest of Melquiades Valdez and Dr. Irineo Solano, because he didn't know either of them. But it seems to Us that his mere denial can not overcome the direct and positive statements made not only by the victims of his treasonable acts but also by Dr. Emilio Reyes and Felisa Caliao.

Discarding Count No. 4 because, as already stated, the evidence presented by the prosecution does not comply with the two-witness rule required by Article 114 of the Revised Penal Code, We are satisfied that this appellant who, by his own admission is a Filipino citizen, has been properly convicted by the People's Court for the crime of treason, not only because of his adherence to the enemy but also on account of his having committed treasonable overt acts resulting from his having directly participated in the arrest, detention and torture of the persons mentioned elsewhere in this decision.

The People's Court sentenced him to reclusion perpetua, but from Our careful consideration of the facts, it seems to us that, inasmuch as the treasonable acts committed by this appellant have not resulted in the killing of the persons arrested by the Kempei Tai, through his intervention, the ends of justice will be served if this culprit is sentenced to a lesser term of imprisonment.

Appellant is, therefore, sentenced to seventeen (17) years, four (4) months and one (1) day of reclusion temporal, with the accessories of the law. Thus modified, the Judgment appealed from is otherwise affirmed, with costs.

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

MORAN, C.J.:

Mr. Justice Paras, for the reasons given in this opinion voted for the modification of the judgment appealed from, but, on account of his being on leave at the time of the promulgation thereof, his signature does not appear herein.

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