

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO DE LOS REYES, DEFENDANT AND APPELLANT.

G.R. No. L-1961. December 22, 1948

Ponente: PERFECTO, J.

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PERFECTO, J.:

A soldier of the Philippine Constabulary, which was merged with the USAFFE at the outbreak of the Pacific War, appellant surrendered with his unit to the Japanese army about two months after said unit withdrew from Cebu City. He became sergeant of the Bureau of Constabulary under the Japanese regime.

On September 3, 1944, he took part, together with other undercover agents in the service of the Japanese Army, in the maltreatment of Teofilo Ponce and Tereso Saso, and in their investigation as to their connection with and knowledge of the whereabouts of the guerrillas. Their maltreatment and torture took place at Cabadiangan, municipality of Liloan, Cebu, where Teofilo Ponce had been previously apprehended by appellant and his companions in the early morning. Appellant and companions were looking for Governor Hilario Abellana, whom they did not catch at the time. Sometime thereafter, Governor Abellana was arrested and liquidated by the Japanese.

From Cabadiangan, Teofilo Ponce and Tereso Saso were brought by appellant and his group to the market place of Tamiao and there they saw also arrested by appellant's group Francisco, Evaristo, Epifanio and Victorio Magdadaro. Francisco Magdadaro was, on the same day, finally killed on the spot by appellant and his companions.

The above facts have been conclusively proved by the testimonies of Teofilo Ponce and Tereso Saso and partly corroborated by appellant himself and his witnesses with respect to appellant's membership in the Bureau of Constabulary during the Japanese regime. Appellant has never questioned the motives of the witnesses for the prosecution and there is no reason why their veracity should be doubted.

Appellant attempted to put alibi as defense, alleging that, at the time the facts narrated by the witnesses for the prosecution happened, he was in the constabulary barracks in Barili, serving as mess sergeant and engaged in buying foodstuffs in the Barili market. To support his contention he offered the testimony of Florentino Villarta, a detainee in the provincial jail for treason, and the declarations of Jose Alviar and an indictree. Alviar testified that he was in command of the barracks; that during all the time that he was in Barili, appellant never separated from him, never got out from the garrison, never separated from him, and all the time has been under his observation. To make the alibi as air-tight as possible, Alviar would almost convey the idea that appellant was as much his companion as the Samar twins were. This yarn is an index of the nature of the testimonies presented by appellant in support of his alibi, making it completely unbelievable. It is unnecessary to consider the testimony of Ambrosio Velasquez, another witness of appellant, who testified that in February, 1945, he brought appellant from Cebu City to the mountains, where they remained until the end of March, 1945. Velasquez is confined in prison for illegal possession of firearm and his testimony, even if accepted, would not belie appellant's

participation in the investigation and torture of Teofilo Ponce and Tereso Saso and in the killing of Francisco Magdadaro.

The facts proved by the evidence on record show conclusively that appellant adhered to the enemy, by giving him aid and comfort and, therefore, has committed the crime of treason which is punishable under Article 114 of the Revised Penal Code. The trial court sentenced him to suffer the penalty of reclusion perpetua and to pay a fine of P10,000.00 and the costs. The sentence, being supported by the facts and the law, is affirmed.

Moran, C.J., Paras, Feria, Pablo, Bengzon, Briones, Tuason, and Montemayor, JJ., concur.

Judgment affirmed.

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