

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROMEO GOLEZ, DEFENDANT-APPELLANT.***G.R. No. L -4618. March 28, 1952*

Ponente: REYES, J.

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Convicted of treason on three counts (counts 8, 4, and 7) in the Court of First Instance of Occidental Negros and sentenced to 20 years of reclusion temporal, a fine of P10,000, accessory penalties and costs, the accused Romeo Golez appealed to the Court of Appeals but that court has certified the case to us on the ground that the penalty to be imposed is life imprisonment.

The accused is a Filipino citizen. During the early part of the last war he worked for the guerrillas in the mountains of Negros. But later he moved to the City of Bacolod where he was captured by the Japanese. Thereafter he worked for the latter, committing the various acts of treason alleged in the information.

COUNT 3

This court charges the accused with having, together with one Juanito Diaz, in June, 1944, arrested Mrs. Mary Estella Gay and her sister Emilia Young, taken them to the Kempeitai and charged them with aiding the guerrillas, as a result of which the two sisters were investigated, maltreated and detained for one day.

Testifying on this count, Mrs. May Estella Gay declared that she was acquainted with the accused, having met him in the mountains when they were with the guerrillas and talked with him sometimes; that at about 9 o'clock in the morning of June 30, 1944, while she and her sister Emilia were in the market of Bacolod City, they were apprehended by the accused, who was then accompanied by one Juanito Diaz, a Japanese spy, loaded on a calesa and taken to the Japanese Kempeitai; that there she was investigated and tortured by a Japanese upon the assurance given by the accused that she was connected with the guerrillas; that luckily a priest came and was able to secure the release of herself and sister later in the day. The arrest of the two sisters was corroborated by Dominador Gravino, who knew the accused and testified that he was present when Mrs. Gay and her sister were apprehended and loaded in the calesa to be taken to the Kempeitai.

COUNT 4

Under this count the accused is charged with having, together with one Juanito Diaz, a Japanese spy, arrested Filomeno Gino-o one night in June, 1944, and accused him before the Kempeitai of being a mechanic for the guerrilla forces in the mountains, for which reason Gino-o was investigated and maltreated.

The evidence on this count consists of the testimony of Filomeno Gino-o himself and his wife, Felipa de Gino-o. Filomeno's testimony is to the effect that on the night in question the accused, in company with Juanito Diaz, fetched him from the house of Fulgencio Villacampa in Bacolod where he was staying, tied his hands, took him to the Japanese garrison and delivered him to the Japanese, accusing him of being a mechanic and weapon-repairer

for the guerrillas; that to make him confess he was tortured by the Japanese until his friend, Donato Zamudio, interceded for him and obtained his release; that he had known the accused since before the war and sometimes saw him in the Japanese headquarters.

Felipa de Gino-o corroborated her husband's testimony regarding his arrest in the house of Fulgencio Villacampa and further testified that as she changed her husband's shirt when he got home after his release she saw contusions on his body.

COUNT 7

Under this count the accused is charged with having, on November 6, 1944, in company with two other Japanese spies, led a Japanese Kempeitai officer to Talisay, Occidental Negros and there arrested or caused to be arrested a guerrilla named Manuel Chua, who, taken to the Kempeitai office and detained until midnight, was never again seen or heard from.

Testifying on this count the witness Vicente de la Cruz, a merchant of Talisay, declared that while he was in the carenderia of Jose Coswanko in the market of that town at about two o'clock in the afternoon of March 5, 1944 he saw the accused arrive in a car in company with other spies and a Japanese sergeant; that getting off the car the accused and his Filipino companions apprehended Manuel Chua, who was then at the entrance to the carenderia and took him to the garrison; that thereafter he never saw Manuel Chua again; that Manuel Chua was a member of the intelligence division of the guerrillas; that the accused was himself formerly attached to the guerrillas but became a Japanese spy after he was captured.

Jose Coswanko, who was present when Manuel Chua was arrested, corroborated Cruz' testimony on that point. In addition, a third witness, Higino Lopez, testified that while he was in the municipal jail of Talisay, where he was detained by the Japanese, he saw Manuel Chua and four others all tied pass by accompanied by the accused and some Filipinos and Japanese, who were all armed. A fourth witness, Enrique Chua, brother of Manuel, testified that on learning that Manuel had been apprehended and had not returned, he made inquiries and was informed that he was one of those arrested by the Japanese in Caba-cahwan, near the Bacolod-Murcia Central; that with the aid of his informant, who was a compadre of his mother, he was able to locate the spot where Manuel was buried and to recover his remains.

After going over the evidence we find that the charges contained in the three counts have been established by the required number of witnesses. There may be, as the defense contends, no complete corroboration between the prosecution witnesses on all the points testified to by them. But the fact is that their testimonies agree on the overt acts of treason committed by the accused when actively participating in the arrest of persons connected with the guerrillas. And this, as this Court has already held, is a sufficient compliance with the two-witness rule. (*People vs. Francisco Concepcion*, 84 Phil. 787; 47 Off. Gaz., 1812.)

The accused denies having taken part in the arrests in question and imputes the apprehension of the victims named in counts 3 and 4 to Juanito Diaz. But the question being one of credibility, we find no reason for disturbing the findings of fact of the trial court, especially because the accused has not mentioned any motive which could have induced his accusers to testify falsely against him.

The accused may, as he claims, have been a guerrilla. But this fact does not necessarily preclude the idea that he later became a tool of the Japanese. And this Court has already held that one's connection with the guerrilla movement "is no legal excuse for treasonable activities." (*People vs. Atilares*, 90 Phil. 868.)

The accused is guilty of treason, and there being neither aggravating nor mitigating circumstances, he should, as recommended by the Solicitor-General, be sentenced to the medium degree of the penalty prescribed by law for

that offense.

Wherefore, with the only modification that the prison term imposed upon the accused in the sentence appealed from is raised to life imprisonment, the said sentence is affirmed with costs.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, and Jugo, JJ., concur.

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