

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AGRIPINO BAUTISTA, DEFENDANT AND APPELANT.

G.R. No. L-1502. May 24, 1948

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a judgment of the first division of the People's Court finding the appellant, Agripino Bautista, guilty of treason and sentencing him to suffer *reclusión perpetua* and to pay a fine of ten thousand pesos, with costs.

The information charges two counts, namely: (1) On December 26, 1942, the appellant, being an enemy agent, informer and spy, caused the arrest to Aquilino Inocencio and Remedios Tello — because of the latter's guerrilla activities — and their confinement and torture in the Far Eastern University Garrison resulting in the disability for labor of Remedios Tello and in the death of Aquilino Inocencio. (2) From December, 1944, to the year 1945, the appellant was a Makapili.

The People's Court held that appellant's membership in the Makapili organization was not proved by the necessary two witnesses. Yet, ruling that the connection was established by appellant's admission Exhibit "A" made before the CIC on March 2, 1945, said court took the same into account merely as an act of adherence to the enemy. In the view adopted by us regarding the overt act alleged under the first count, it is unnecessary to inquire into the sufficiency of appellant's admission (Exhibit "A").

There can be no doubt that the appellant was instrumental in the arrest of Remedios Tello and Aquilino Inocencio, and if it had been conclusively proved that the appellant was motivated by their guerrilla activities, conviction would prosper. Upon a review of the evidence, however, we are inclined to believe that the appellant made the complaint that led to the arrest of Remedios and Aquilino solely for the purpose of apprehending the assailants of his brother, Isidro Bautista, who was shot on December 25, 1942 in the vicinity of Remedios' house. The following facts are too obvious to be ignored: (1) When Benjamin Duarte, son of Remedios, was arrested in the evening of said day by Filipino detectives, he was brought to the police station at the City Hall. (2) The arrest of Remedios Tello and Aquilino Inocencio on December 26, 1942, was effected also by Filipino law agents, unaccompanied by any Japanese. (3) The appellant had no participation whatsoever in the alleged torture of Benjamin Duarte at the City Hall and of Remedios Tello and Aquilino Inocencio at the Far Eastern University Garrison. (4) There is no conclusive showing that Remedios and Aquilino were in fact guerrillas.

If the latter had been denounced for their alleged connection with the resistance movement, the Japanese would undoubtedly have personally conducted the raid in their house. The fact that Benjamin Duarte was arrested by Filipino detectives and brought to and investigated in the City Hall, negatives the idea, or at least engenders a doubt, that the appellant made a complaint directly to the Japanese authorities about the guerrilla connections of Benjamin, Remedios or Aquilino. It is not improbable that the Japanese, who maintained their own eyes and ears in almost all government offices, came to meddle only in the course of the investigation of Benjamin Duarte by

the Manila police and that, as then usual, they tried to connect every disturbance of peace in Manila and elsewhere to their favorite theme — underground movement, — with the result that when Remedios Tello and Aquilino Inocencio were arrested the next day, December 26, 1942, the Manila police agents were under direction from the Japanese to bring them to the Far Eastern University Garrison for questioning, something over which the appellant had no control. Upon the other hand, it was very natural for the appellant to notify the police of the attempt against his brother's life and to suspect that Remedios or her son Benjamin knew something about it, since it is not disputed that the shot that hit appellant's brother came from the direction or vicinity of the house of Remedios.

As there is absolutely no direct proof that the appellant had ever known Remedios or her son Benjamin to be in fact guerrillas or at least sympathetic to the underground work, the theory of the prosecution becomes the more untenable.

In other words, we shall be charitable enough towards the prosecution if we state that the evidence gives rise to two probabilities, one consistent with appellant's innocence and another indicative of his guilt. Consequently, that which is favorable to the accused should be considered.

Wherefore, the appealed judgment is hereby reversed and the appellant acquitted, with costs de oficio. So s ordered.

Feria, Perfecto, Bengzon, and Tuason, JJ. concur.

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