

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
INOCENCIO BERNARDO, DEFENDANT AND APPELLANT.***G.R. No. L-2231. May 19, 1950*

Ponente: TUASON, J.

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Inocencio Bernardo was prosecuted in the People's Court, charged with treason on eight counts. Counts I and VI are of general application to all the charges, accusing the defendant of being a ganap and later a makapili and of cooperating with the Empire of Japan and the Imperial Japanese Forces. The rest of the charges refer to the arrests of Bibiano Azores (Count II), Marcelino Reyes (Count III), Eustaquio Santos (Count IV), Elpidio Cruz (Count V) and Sebastian Raymundo (Count VII), for being guerrillas or guerrilla suspects. The case was one of the 30 which were tried jointly in Pasig, Rizal. The People's Court found "established, without any doubt, the arrests of Bibiano Azores, Eustaquio Santos and Elpidio Cruz Toy the accused and his companions and Charges 2, 4 and 5." The court dismissed the other charges for want of proofs.

The Solicitor General correctly states that the arrests of Bibiano Azores and Elpidio Cruz have not been proven under the two-witness rule and that the evidence relative thereto should be taken only as proof of adherence.

On Count IV, Pedro Santos, 74 years old, testified that Eustaquio Santos was his son. On November 24, "1941 may be," Santiago Damian who, he said, was a very bad man, came up his house and arrested Eustaquio. Damian had companions who remained downstairs. These, he attested, were Daniel Santos, Benito Tuason, Cirilo Tuason, Alfredo Espiritu, Faustino Santos, Inocencio Bernardo, Felipe San Pedro and Rufo Mejia. After November 24, he did not see his son anymore. His son and others, his neighbors, were apprehended because the defendants said they were guerrillas. On cross-examination, this witness said that just before his son was arrested he (witness) went to the other side of the fence and hid. The distance of his hiding place from the house was about six meters. The houses of his neighbors were near one another, and the victims were apprehended one by one. His son was the first to be arrested and Bibiano Santos next. He said his son was a guerrilla because he went with guerrillas, and so did the other men apprehended.

Eleuteria Bautista declared that Eustaquio Santos was her son. Eustaquio was arrested by makapilis on November 24, 1944, in their home in Ugong Norte, Pasig, Rizal. Others arrested were Rafael Raymundo, Elpidio Cruz, Pedro Cruz, Bibiano Azores, Valentin Cruz and Eustaquio Santos. She could not tell where they took her son, and did not see him anymore after he was arrested, she did nothing but weep. She knew who arrested her son but did not know who did her neighbors. Requested to point to the men who apprehended her son, she indicated Santiago Damian, Faustino Santos, Benito Tuason, Inocencio Bernardo, Cirilo Tuason and Alfredo Espiritu. These, she said, were armed with long guns though she did not notice how they were dressed. She had been a resident of Ugong Norte for 30 years and had known them. Four of them were from Ugong, namely, Faustino, Benito, Alfredo and Inocencio. On cross-examination she said all the persons she named came up the house; all of them tied her son, and all took hold of him simultaneously while he was being tied.

The accused took the stand as the sole witness in his behalf. He said he was 34 years old. He branded as untrue the testimony against him given by Pedro Santos and Eleuteria Bautista. He said he did not remember the date when Eustaquio Santos was arrested. He said that, according to the witnesses who testified against him, Eustaquio was arrested in November. He heard only in court that Eustaquio Santos was allegedly arrested by him. He was in Ugong but he did not see Eustaquio apprehended. When asked if during the Japanese regime he came to learn of Eustaquio Santos' arrest, he said, "This is what happened: About November, 1944, one time, Primo Reyes came to me to buy cigarettes. All of a sudden, while we were transacting business, Felipe Reyes came and he told Primo Reyes that he heard news that the Japanese were arresting men in the part of our barrio. He told us to pack up and hide ourselves. I and Primo Reyes ran towards the fields. We reached a hut which was at a distance of more than one kilometer from the barrio. We stayed there up to 4:00 o'clock in the afternoon. When we returned to the barrio, we came to know from Felipe Reyes that the Japanese had really arrested people and among those he saw arrested was Eustaquio Santos. That is the only thing I knew about the arrest in Ugong which came from Felipe Reyes." He does not know of any reason why Pedro Santos and Eleuteria Bautista pointed him out. May be they were influenced. In Pasig, before he was arrested, they were on good terms. As a matter of fact, he said, they used to borrow things from each other.

The first ground of attack against the testimony of Pedro Santos and his wife is that the former was not certain as to the date his son was arrested. Although this is the case, there is no doubt that husband and wife referred to one and the same arrest. One of them, the wife, was in the house when her son was seized and the husband was only a few meters away, having left the house when he saw the defendant and his companions coming. Granting that Eustaquio Santos was arrested on several occasions, an assumption which is not warranted by the record, it is a fact that Pedro Santos and Eleuteria Bautista in their testimony referred to their son's arrest after which Eustaquio was never seen alive again.

That the accused was recognized by the witnesses, there can be no doubt. Accused and witnesses lived in the same barrio for years, had known each other very intimately, and the arrest took place when it was already light.

Eleuteria Bautista's testimony is assailed on the ground of the alleged incredibility of her assertion that all the men entered the house, grabbed him, took part in tying him, and pointed their guns at him. Considering the witness' excitement and her grief and emotions upon seeing her son apprehended, little or no significance should be attached to these little flaws in her testimony. They do not impair her credibility on her identification of the appellant as a party to the crime charged.

The contention that the accused had lost his Philippine citizenship by swearing allegiance to a foreign government need no comment further than a reference to the decision of this Court in *People vs. Manayao*, 78 Phil., 721, which dismissed a similar contention.

The Solicitor General recommends modification of the sentence imposed by the lower court, which is 14 years, eight months and one day of reclusion temporal, and P7,000 fine, to the medium of the imprisonment prescribed by law for Hie offense, namely, reclusion perpetua, and the fine. We agree.

With the modification of the sentence as thus recommended relative to the imprisonment, the judgment appealed from is affirmed with costs of this appeal.

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

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