

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. RUSTICO NOBLEZALA, DEFENDANT AND APPELLANT.

G.R. No. L-758. May 12, 1948

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal from a judgment of the fifth division of the People's Court finding the appellant, Rustico Noblezala, guilty of treason and sentencing him to undergo imprisonment (*reclusión temporal*) for fifteen years and to pay a fine of one thousand pesos, plus the costs.

According to the prosecution, the appellant was a member of the crew of the motor launch "Tsumaru", operated and used in 1943 by the Japanese army for patrolling the waters of Dumaguete, Oriental Negros. In the middle of said year, the appellant reported to his commander the presence of a sailboat that was heading for Cebu; whereupon the Japanese officer in charge of the launch (then docked at the wharf in Dumaguete), together with the appellant and other members of the crew, boarded the same and pursued the sailboat which, after being captured, was taken ashore. While the eleven passengers of the sailboat were being questioned in the Japanese headquarters located at the Guy Hall of Silliman University, the appellant made a search of and found in said watercraft a sheet of paper purporting to be a "Usaffe" pass, which was turned over by the appellant to the Japanese and which, it is alleged, caused the Japanese to liquidate said eleven passengers.

The Solicitor General's brief concedes "the point of the defense that only Narciso Cipres testified as to the alleged tipping of the Japanese commander of the 'Tsumaru' of the presence of the sailboat in the open sea" and that "the lone testimony of Cipres is not sufficient to prove this act as an overt act of treason." Indeed, the Solicitor General contents himself in arguing that "the main charge against the appellant in this case lies in his having reported to the Japanese authorities that the sailboat was sailing under a 'Usaffe' Pass, considering that the enemy was not cognizant of that fact."

We have examined the record carefully and come to the conclusion that, under the very evidence for the prosecution, the appellant is entitled to the benefit of a reasonable doubt. Thus, we find that the theory of the Government is contradicted on at least two material details. (1) While the appellant is said to have informed the Japanese commander about the presence of the sailboat in question, prosecution witness Benedicto Piñero testified that it was one Severo Lara who notified the Japanese garrison of the movement of the sailboat, probably upon order of the captain of the launch. (2) While prosecution witnesses Narciso Cipres and Jesus Palencia claimed that, upon finding a piece of paper, the appellant shouted in their and other's presence that it was a "Usaffe" pass before taking it to the garrison, the other prosecution witness Benedicto Pifiero testified that the appellant did not say anything about the contents of the paper and that it was only after he had delivered it to the Japanese that he gave the information that the same was a "Usaffe" pass.

In addition, we cannot help suspecting that the witnesses for the prosecution exaggerated somewhat when two of them wanted us to believe that the appellant shouted upon discovering the alleged "Usaffe" pass and when all

three of them pictured themselves as calm ringside spectators of the incident in question and even of the burial at midnight of one of the eleven passengers liquidated by the Japanese. There was really no sense for the appellant to publicly broadcast the finding of the alleged "Usaffe" pass, unless he was insane enough at least to engender the hatred of his friends and countrymen; and there is no showing that the appellant was losing his mind or that he would thus act for the mere sake of boasting. And it was quite unnatural that the aforesaid witnesses would enjoy the ceremonies that allegedly resulted in the killing of the eleven passengers of the sailboat, absolutely unmolested or unnoticed, unless they had friendly relations with the Japanese. It is of common knowledge that no Filipino ever ventured to fool around a place wherein the Japanese military authorities conducted a liquidating investigation, for obvious reasons. There is no pretense that said witnesses were interested in the alleged incident as members or in behalf of the underground movement, or in order to become witnesses in appellant's prosecution for treason.

To the foregoing considerations, it may be added that there is no proof whatsoever tending to establish the alleged killing of the eleven passengers or any of them, much less to specify the author or authors thereof. In other words, none of the witnesses for the prosecution was able to testify that he saw any of said passengers in the act of being killed on the occasion in question.

The appealed judgment is, therefore, hereby reversed and the appellant acquitted, with cost de oficio. So ordered.

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

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