

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. JOSE LUIS GODINEZ, DEFENDANT AND APPELLANT.

G.R. No. L-895. December 31, 1947

Ponente: BENGZON, J.

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BENGZON, J.:

Prosecuted and tried for treason, the accused-appellant Jose Luis Godinez was found guilty by the Fifth Division of the People's Court, Judge F. V. Borromeo dissenting.

He was a shipmaster in the Philippine coastwise trade before the Pacific War. After the Japanese invasion, from May, 1942 to June, 1943, he rendered services to the Japanese Navy, as pilot in the Port of Cebu, bringing their ships into harbor and otherwise performing work connected with navigation. He was paid monthly salaries. After a period of rest due to ill health, he was again engaged by the Japanese Army to do the same chores from May, 1943 to October, 1944, at varying rates of compensation.

The prosecution's case rests on such acts of cooperation interpreted in the light of incidents, hereafter mentioned which, it is argued, demonstrate treasonable adherence to the enemy, making defendant guilty as charged.

In his defense the accused swore that he had to serve the Japanese because he was required by them to do so, that he could not give any valid excuses, that if he made any false statements he would be caught, and killed; and that even if he could escape, the many members of his immediate family would be left to their ruthless ill-will.

The majority of the trial judges discounted this explanation saying, in effect, that the danger to the accused was not imminent, because other merchant marine officers, like Captain Obosa and Joaquin Alex succeeded in evading service to the Japanese and were not molested. It was not demonstrated, however, that these seamen were surrounded by the same circumstances of herein indictee, as to family members, means of evasion, personal relations or conditions, etc., all of which necessarily affected any decision to serve or not to serve. To clinch its case the prosecution should have attested that appellant had a valid excuse or that he could have eluded the wrath of the masters. Furthermore, the mere fact that some Filipinos were brave enough to refuse and were lucky enough to be let alone is no conclusive reason to hold that in truth there was no danger in denying the conqueror's demands. There were persons put to death or maltreated for so refusing, and that was known at the time, as admitted on the stand by the people's witness Francisco Garcia. Again, it may be that such marine officers were not pressed by the Japanese precisely because the herein accused and others (Eduardo Gonzales, Marcelo Ayesa) had consented to render pilotage service. Those who refused to cooperate, in the face of danger, were patriotic citizens; but it does not follow that the faintheart, who gave in, were traitors. On this subject the statement of President Osmeña in November 1944, may be quoted:

"* * * Not all public officials could take to the hills to carry on the heroic struggle. Some had to remain in their posts to maintain a semblance of government, to protect the population from the oppressor to the extent possible by human ingenuity and to comfort the people in their misery. Had their services not been available, the Japanese would either have themselves governed directly and completely or utilized unscrupulous Filipino

followers capable of any treason to their people. The result would have been calamitous and the injuries inflicted to our body politic beyond cure.

"The problem under consideration must be solved with justice and dignity. Every case should be examined impartially and decided on its own merits. Persons holding public office during enemy occupation, for the most part, fall within three categories; those prompted by a desire to protect the people, those actuated by fear of enemy reprisals, and those motivated by disloyalty to our government and cause. The motives which caused the retention of the office and conduct while in office, rather than the sole fact of its occupation, will be the criteria upon which such persons will be judged." (Official Gazette, Vol. 41, No. 1, p. 102.)

It is now undisputed that mere governmental work under the Japanese regime—and pilotage service may be considered in the same light^[1]—does not constitute per se indictable disloyalty.

It is contended, however, that appellant's help to the Japanese together with criminal intention to betray render him guilty of treason. Proof of this traitorous intent is made to consist of five circumstances described in the brief of the Solicitor General as follows:

"(1) During the year 1943, accused often went to the coffee shop of S. P. Banis and during the discussion between Banis and appellant, the latter always showed his pro-Japanese sentiments. On one occasion, during November, 1943, Banis told him about the expected arrival of the Americans, and the appellant exclaimed that Banis was crazy in believing that the Americans were coming back to the Philippines, because according to the appellant, the American forces would never come back to these Islands (testimony of S. P. Banis, p. 10, t. s. n., Lopez).

"(2) Sometime in July, 1942, Capt. Canuto Obosa was in Cebu City for a few days. He saw the appellant inside his own automobile which carried a Japanese flag and on his left arm, appellant was wearing a band with Japanese characters (testimony of Capt. Canuto Obosa, pp. 1-2, t. s. n., Lopez).

"(3) When the Japanese landed in Cebu City on April 11, 1942, the accused with two other persons went up a Japanese ship anchored alongside the Pier, presented his respects to the Japanese officer in charge of the boat, handed to him a revolver which was examined by said Japanese officer. The appellant showed how the firearm worked by firing the pistol (testimony of Antonio Yee, pp. 14-15, t. s. n., Lopez).

"(4) From April, 1942 to October, 1944, the appellant had a Japanese flag placed on the door of his house situated at D. Jakosalem Street, Cebu City about a foot wide and about two feet long and on the left side of the door was a piece of board with Japanese Characters written on it (testimony of Antonio Yee, p. 15, t. s. n., Lopez).

"(5) During the middle of September, 1944, when American planes were dropping bombs in Cebu City, the appellant who was in the lawn of his house said, more or less, the following:

"Those sons of the bitches of Americans (referring to the American aviators) are the gangsters of the United States; they are drunk, they will go down'. (Testimony of William del Villar, p. 7, t. s. n., Dizon.).' "

- On the first point, the accused denied having stated the Americans could never come back, admitting, however, having expressed the belief that it was not easy for them to return, in view of the successive victories of the Imperial hordes at that time. Even if appellant had uttered the words attributed to him, it is doubtful whether they exhibited adherence to the foe, unless it is shown that he wanted, or rejoiced in the inability to return of the American forces. But it is hard to believe appellant wished the defeat of our allies, because he had two sons in the guerrilla forces. And if he ever made the remark, it was probably as one of those arm-chair strategists dishing out war opinions on the basis of doctored news fed by the propaganda machine to the local newspapers and broadcasting stations. The man was sadly in error; he underestimated the publicity corps of the Japanese Army; but should he be jailed for it?

- The second point has no merit. Although there was proof about a Nippon flag fluttering on the automobile the appellant rode, no evidence was adduced that the car belonged to him.

- On the third point the appellant swore that when the Japanese arrived in Cebu, they arrested him, and when they found, after investigation, that he was a marine officer they ordered him to report the next day to the Port Surveyor, bringing any firearms he had in his possession; that he did as directed and surrendered his pistol. His version is entirely credible. Those who were in Manila during the first days of January, 1942, remember identical directives of the Military Commander. And if surrender of the firearm meant treasonable collaboration, thousands of Manila residents would be traitors too.

- About the display of the Rising Sun. The witness of the prosecution had to admit that after the fall of Cebu City the Japanese issued orders requiring every resident to hoist a Japanese flag in their houses and that refusal to obey meant death. Naturally, compliance with this decree should not be chalked against appellant, a resident therein.

- The accused denied having made the insulting statements imputed to him by William de Villar against American aviators that raided Cebu, and proved that said witness bore a grudge against him that probably colored the testimony. Anyway, his counsel, pleading in extenuation, submitted some endorsable comments upholding the proposition that strict accountability should not be demanded of one undergoing the nerve-racking experience of aerial bombardments, for caustic remarks spoken in private motivated by his apprehension for the safety of his family and his own.

After considering all matters, the Court reaches the conclusion that defendant's disloyal heart or treacherous mind has not been established beyond reasonable doubt. He is absolved, with costs de oficio.

Moran, C.J., Paras, Pablo, Perfecto, Hilado, Padilla, and Tuason, JJ., concur.

MORAN, C. J.:

I certify that Mr. Justice Feria and Mr. Justice Briones voted to absolve appellant.

[1] Cf. sec. 1138, Adm. Code.

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