

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
BIENVENIDO GARCIA (ALIAS DOMINGO GARCIA) DEFENDANT AND
APPELLANT.***G.R. No. L-406. January 07, 1949*

Ponente: PERFECTO, J.

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At about 4 o'clock in the afternoon of September 21, 1944, three Japanese soldiers and appellant, all armed, went to the house of Carlos Escudero, a guerrilla, at 930 Raon, Manila, and arrested him. After ransacking the house, the quartet, after tying Escudero, took him with them. Escudero has never returned. These facts have been proved by the testimonies of his wife Leonora Escudero, his mother Filomena Sanchez, and Aurelia Escudero.

On the morning of September 22, 1944, while Danilo Tagle was near the pagoda of Ocampo at a foot of the Raon bridge, Manila, he was apprehended by appellant and three armed Japanese soldiers. Appellant tied his hands at his back and brought him to the warehouse in front of Ocampo's pagoda, and appellant's reason for making the arrest was that Tagle tried to shoot the Japanese sentry at the bridge. Tagle was released after twenty six days of confinement. His testimony as to his arrest was corroborated by Rodolfo Lopez.

On October 29, 1944, at about 9:30 o'clock in the morning, three Japanese and appellant, carrying handcuffs and revolvers, went to 1427 Abreu, Manila, and arrested Mario Martinez, a guerrilla, from whose possession a revolver hidden in the house was taken by the Japanese who, by the way, mistook him for an American, because Martinez was of light complexion and had reddish hair. At the time Martinez was arrested, his brother Fernando Martinez arrived, to pay a visit to his parents who were living there. He was also arrested and the two brothers, with tied hands, were taken away and confined in several places. Fernando was released about three days later, but Mario was never seen again by his family. These facts have been proved by the testimonies of Fernando Martinez and Maria Bernardo, wife of Mario.

Several other witnesses for the prosecution, Claudia Torres de Tsugawa, Fernando P. Castelo, Jose M. Lichauco, Tirzo Diaz, Estrella Alfon Rivera and B. L. Rivera testified that at about the time the above arrests had taken place, appellant was a spy in the service of the Japanese military police, and he himself said so expressly to some of said witnesses and even invited Diaz and Rivera to become Japanese spies.

Appellant denied having taken part in any of the three arrests mentioned by the witnesses for the prosecution.

According to him, he went to the house of Carlos Escudero because he was called by his relatives to intervene in his behalf, so that he might not be arrested by the Japanese but, unfortunately, he came late; and the mother and wife of Escudero got angry at him because he was not able to secure the release of Escudero when days after the arrest he was requested by them to work for said release.

As regards Danilo Tagle, he said that he was only called by the Japanese after the arrest had been effected, merely to identify Tagle. Although not acquainted with him personally and having learned that Tagle was working in the

Selecta Ice Cream Factory, he vouchsafed him, telling the Japanese that Tagle was a good person.

As regards the arrest of Mario Martinez, appellant denied any knowledge.

There is no question that appellant was in the service of the Japanese in 1944. He himself has testified about the fact, although he says that he was compelled to do so after he was tortured by the Japanese and compelled to enter their service, as he in fact was a guerrilla, and that, while serving the Japanese, he gave money contributions as well as information about the Japanese, to the guerrillas.

Appellant alleges that, for having been outspoken in his criticism of the government under the Japanese regime, he was arrested and tortured by the Japanese in Lipa, his hometown, for which reason he transferred to Manila, where he was again arrested, while carrying a revolver, and tortured by the Japanese, who later compelled him to enter their service.

His story, including the allegation that in Manila, before his arrest by the Japanese, he had license to carry revolver as a merchant, does not seem credible. But even if we should accept it at its face value, it does not detract an iota from the truth of the three arrests as narrated by the witnesses for the prosecution, who had no motive to falsely testify against appellant.

The only witness for the prosecution alleged by appellant to have had a grudge against him, is Estrella Alfon Rivera. According to appellant, said witness bought rice and, lacking money to pay, requested appellant to guarantee in her behalf that the price will be paid to the vendor at an agreed time, but because said witness failed to make the payment, appellant took the rice from her and sold it to another. Aside from the improbability of this story, it has not been corroborated by appellant's life, who in turn alleged that Estrella Alfon Rivera was angry when he collected from her a debt for a dress ordered by said witness from Isabel Formilleza. There is no reason to believe that Estrella Alfon Rivera had not told the truth, besides the fact that seven other witnesses rare the ones who testified about the arrests undertaken by appellant in the company of three armed Japanese soldiers.

The evidence presented by appellant as to his guerrilla enlistment and alleged services rendered to the guerrilla would not exempt him from criminal responsibility for the arrests he made, which were overt acts of aid and comfort he rendered to the Japanese and, because voluntarily rendered, could have been done only in pursuance of his adherence to the enemy.

By his own testimony and the testimony of some of his witnesses, appellant has shown that he was able to secure the release of several persons who had been confined by the Japanese. The merits he gained in the eyes of the persons whose release he secured cannot relieve him from criminal responsibility for the three arrests proved by the prosecution. Perhaps, the fact that he had so much influence or power with the Japanese that he was able to secure the release of several persons, should rather be taken against appellant as, instead of using said influence and power to impede the arrests of Carlos Escudero, Mario Martinez and Danilo Tagle, he took active part with three Japanese soldiers in their arrests.

The facts proved constitute the crime of treason as punished by Article 114 of the Revised Penal Code and the appealed judgment, sentencing appellant to reclusion perpetua with the accessory penalties of the law and to pay a fine of P10,000 and the costs, being in accordance with law, is affirmed.

Moran, C.J., Paras, Feria, Pablo, Bengzon, and Tuason, JJ., concur.

MORAN, C. J.:

I certify that Mr. Justice Briones voted for the affirmance of judgment in this case.

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