

JOSE GUINTO, PETITIONER, VS. JOSE P. VELUZ, SALVADOR ABAD SANTOS, AND EUSEBIO M. LOPEZ, JUDGES OF THE PEOPLE'S COURT, RESPONDENT.

G.R. No. L-980. December 21, 1946

Ponente: FERIA, J.

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FERIA, J.:

The original information filed on March 6, 1946, against the petitioner in the People's Court charged him with the crime of treason in that he being a Filipino citizen, and owing allegiance to the United States and the Commonwealth of the Philippines, in violation of said duty of allegiance during the period comprised between November 1, 1944, and February 3, 1946, in the City of Manila, the petitioner for the purpose and with the intent of giving aid and comfort to the enemy, did willfully, unlawfully, feloniously and traitorously join and accept, hold and perform the functions and duties, of a spy or informer for the Japanese Military Police, helping them in the apprehension of guerrillas and other pro-American elements; and more particularly on or about December 15, 1944, arrested one Ernesto Simpao, a guerrilla, tied his hands behind his back and forced him to jump into the water in the Manila North Harbor, and while said Ernesto Simpao was in such helpless condition he was shot to death.

Before the defendant has pleaded, the Office of the Official Prosecutors filed on May 25, 1945, an "Amended information by way of a Bill of particulars on the original information," in which, besides the overt act alleged in the original, other overt acts are alleged or specified, to wit: That in the City of Manila the petitioner, in his capacity as spy or informer of the Japanese Military Police, for the purpose and with the intent of giving aid and comfort to the enemy, on or about October 29, 1944, did willfully guide and help five (5) armed Japanese spies and informers in the arrest of one Albino Rutao, a guerrilla suspect, who was taken by them to places unknown, and since then he has never been seen again or heard from; that on or about January 24, 1945, the petitioner did lead, accompany and help six (6) armed Filipino spies and informers in the arrest of one Ariston Tamon and another guerrilla companion of said Tamon (name unknown), because of their guerrilla activities, and after punishing said Tamon and companion severely, they were taken to places unknown, and since then they have never been again seen or heard from; and that on or about the afternoon of January 24, 1945, the petitioner did lead, guide, and help three (3) armed Japanese spies and informers in the arrest of one Felix de Leon, a guerrilla belonging to Ramsey unit, and took him to the Japanese Military garrison at the Air Port Studio, Azcarraga, Manila, and since then said De Leon has never been seen again or heard from.

The attorneys for the petitioner filed a motion to quash the allegation of three additional overt acts in the amended information, on the ground that the amendment constitutes a new information filed after the period of six months fixed by law from the passage of Commonwealth Act No., 682, has elapsed. The People's Court denied the motion to quash, as well as the motion for reconsideration filed by the petitioner on September 4, 1946.

This case is now before us because the petitioner has filed a petition for certiorari on the ground that the

respondents acted in excess of the People's Court's jurisdiction in admitting said amended information. Section 2 of Act No. 682 provides:

"SEC. 2. The People's Court shall have jurisdiction to try and decide all cases of crimes against national security committed between December eight, nineteen hundred forty-one and September two, nineteen hundred forty-five, and filed within six (6) months from the passage of this Act: Provided, however, That any such cases not so instituted within said period of six (6) months shall be filed with, tried and determined by the proper Court of First Instance; * * *."

The only question to be determined in the "present case is, whether or not after an information charging a person with the crime of treason has been filed within the period of six months from the passage of Act No. 682, said information may be amended, before the defendant has pleaded, by alleging in the amended information additional overt acts committed by the defendant in aid of the enemy within the period of time alleged in the information.

After a careful consideration of the matter, we are of the opinion, and therefore so hold, that the amended information is not a new information, and the presentation thereof is not the filing of a new case of treason, because it does not charge another offense different or distinct from that charged in the original one. It merely amends the original information by more particularly specifying the charge or laying what is termed "to adhere to the enemies, giving them aid and comfort"; and consequently, in accordance with elementary rules of procedure, the amended information relates back to the date at which said original information was filed, that is, within the prescribed period of six months. The crime of treason such as charged against the petitioner may be committed by executing, either a single, or several intentional overt acts, different or similar but distinct, and for that reason it may be called or considered a continuous offense. A person who commits treason is not criminally responsible for as many crimes of treason as overt acts he has intentionally committed to aid the enemy. All overt acts he has done or might have done for that purpose constitute but a single offense.

The overt acts alleged in the amended information are but a specification of the crime charged in the original. It is necessary to make such specification, because it is a well known rule that treason can only be established by proof of overt acts; and those overt acts only which are charged in the indictment or information can be given in evidence. It is perfectly clear that it would not be sufficient to allege generally that the accused had adhered to the enemy giving her aid and comfort, as alleged in the second paragraph of the original and amended information. The charge must be more particularly specified by laying what is termed an overt act of giving aid and comfort to the enemy. A person charged with treason can only be convicted of the overt act or acts laid in the information, because, according to section 1 (b), Rule 111, of the Rules of Court, a defendant has the right to be informed, not only of the nature of the accusation or the offense charged, but also of the cause thereof, that is, the acts committed by the defendant constituting that offense.

As a matter of procedure, the amendment was properly admitted, because section 22 of Act No. 682 provides that "The prosecution, trial, and disposal of cases before the People's Court shall be governed by existing laws and Rules of Court unless otherwise provided for herein." And section 13, Rule 106, of the Rules of Court prescribes that "the information or complaint may be amended, in substance or form, without leave of court, at any time before the defendant pleads." There is nothing in Act No. 682 which provides otherwise. To uphold the contention of the petitioner would be tantamount to authorize the Government to file in the proper Court of First Instance another information against the petitioner for treason constituted by the overt acts alleged in the amended information, splitting thereby the single crime of treason committed by the petitioner into two, and put him in danger of being convicted twice for the same offense.

In view of all the foregoing, the respondents or the People's Court acted within its jurisdiction in admitting the

amended information in this case, and therefore the petitioner's petition is dismissed with costs against him. So ordered.

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

CUNCURRING

HILADO, J.:

I concur in the foregoing majority opinion. The filing of the so-called amended information dated May 25, 1946, within the very same case wherein the original information had been presented against the self-same accused, did not bring the case within the purview of the proviso of section 2 of Commonwealth Act No. 682. The reason is that said proviso, in express terms, refers to cases not instituted before the People's Court within six months from the passage of said Act, which took place on September 25, 1945 and the original information having been lodged within the said six-month period, namely, on March 6, 1946 and the filing of the so-called amended information thereafter not constituting the institution of a new case, it is clear that we are not dealing here with a case not instituted within said six-month period.

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