

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANDRES BUOOY, DEFENDANT AND APPELLANT.

G. R. No. L-1621. March 29, 1951

Ponente: PADILLA, J.

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PADILLA, J.:

For disloyal activities in the City of Zamboanga during the occupation of the Philippines by the Imperial Japanese Army, Andres Bucoy is charged with treason in an amended information setting out fourteen (14) counts. He was tried, found guilty of the crime charged on all counts" except on counts 3, 4, 5, 8 and 13, and sentenced to suffer twenty (20) years of reclusion temporal, the accessories of the law, and to pay a fine of P5,000 and costs. He appeals from the judgment.

He admitted in open court his Filipino citizenship before, during and after the occupation of the country by the Imperial Japanese Army.

It appears that from October 1943 until near the end of 1944, defendant used to confer twice a week with Sergeants Yane Guihara and Fugisawa and was given a kilo of sugar by Sergeant Watanabe in the headquarters of the Kempeitai. He wore the uniform of a Japanese soldier and bore a revolver, used to lead or guide Japanese patrols in the island of Santa Cruz, in the hills of Manikaan in May 1944, and in Santa Maria in June 1944 where the patrol spent one night, looking for an American officer by the name of Colonel McGee (who, as prisoner of the Japanese bound for Manila, had leaped from the ship he was on board docked at the wharf of the city and was harbored by Filipino civilians and guerrillas). One day in December 1943, before 8 o'clock in the morning, the defendant brought to the Kempeitai headquarters Honorio Aliado, an officer of the USAFFE, who was investigated for his guerrilla activities, especially in connection with certain maps he had sent to the guerrillas in the mountains showing the Japanese gun emplacements in that area, kept in the prison cell for two months, never released in Zamboanga, but sent to Fort Santiago in Manila.

The foregoing evidence is in support of counts 1, 2 and 7, and the facts were testified to by Neri Natividad who from the latter part of 1943 to the latter part of 1944 served as driver and jailer, and Carlos Camins Jr., who from October 1943 to August 1944 served as clerk, in the Kempeitai headquarters in the City of Zamboanga.

On 8 May 1944, the defendant brought Fausto Centeno to the headquarters of the Kempeitai and there asked about his car, the former saying that the Kempeitai needed it for their use. Fausto Centeno said that he had it at home. On 11 May, or three days thereafter, the defendant, together with some Japanese soldiers, appeared at Centeno's place and there the defendant asked him about his car. The latter pointed to the place where it was. The car, a 1938 model Ford V-8, was found under guava trees, 25 meters from the house, with detached wheels and some parts of the engine missing but the Japanese found the wheels, tires and the missing parts and the mechanic brought by them put it in running condition, was taken away by them, and was never returned. On 11 or 15 June 1944, the defendant, together with Japanese soldiers, came again to the house of Fausto Centeno in Santa Cruz, about 3 or 4 kilometers from the city proper, to ask information from Joaquin Cases, who was living in the house,

about Colonel McGee, and for the latter's picture, but Cases told him that he did not have any. Cases was asked to accompany the patrol to look for Colonel McGee, but as he could not walk on account of eczema in one of the legs he was excused. The defendant offered Cases a prize of P500 if he or anybody would reveal the whereabouts of Colonel McGee.

These facts prove the allegations of counts 6 and 11, and were testified to by Joaquin Cases and Fausto Centeno, both of whom the defendant had known before the war, the first as a friend of Colonel McGee and the second as owner of a Ford car.

One day in May 1944, the defendant, together with three Japanese soldiers, all armed, came to the house of Rosalio Apostol on Canelar Street, Zamboanga City, and there opened his trunk and wardrobes in search of arms and ammunitions, but Rosalio told the defendant and his Japanese companions that he had turned all his arms and ammunitions over to the Japanese when he surrendered. The defendant charged Rosalio Apostol with being a special agent of the guerrillas. On that occasion the defendant wore a brassard or a band around his arm with letters MP and Japanese characters. One day in June 1944, in the afternoon, the defendant, together with three Japanese soldiers, returned to the house of Rosalio Apostol looking for Colonel McGee. Before leaving the house, the defendant offered a reward of P500 to Rosalio Apostol and the other inmates of the house if he or any one of them would give information on the whereabouts of Colonel McGee. One day in the third week of September 1944, the defendant, together with three Japanese, raided the house of Rosalio Apostol looking for leaflets dropped by American planes. On 30 September 1944, at about 3 o'clock p. m., Rosalio Apostol was arrested, taken to the MP headquarters and put in jail. The following morning, he was told he was under arrest as a spy of the guerrillas, investigated concerning the activities of the undercovers, ill-treated for three days during the week from 1 to 7 October 1944, and together with one Sardan, was tied and questioned by the MP guard from 7 October to 13 March and for three days deprived of drinking water. To quench his thirst he had to drink toilet water by soaking his handkerchief with it. That day in May 1944, after searching the house of Rosalio Apostol, the defendant and his Japanese companions went to the adjoining house of Alberto Carpio, brother-in-law of Rosalio, and searched it also. The search made in the house of Rosalio Apostol in May, June and September, was witnessed and testified to by him and Alberto Carpio. These facts support the allegations of count 9.

On 14 June 1944, at about 9 o'clock in the morning, the defendant, together with two Japanese soldiers, all armed, came to the house of the spouses Gregorio Cortes and Romana Marcial located in Santa Maria, City of Zamboanga, and searched it looking for arms and asked Gregorio Cortes if he had seen Colonel McGee. These facts are in support of count 10 and testified to by the above named spouses.

On 2 December 1943, in a place between the market and the police station, the defendant, who, together with Hilario Romano, worked as foreman in the U. S. Army landing field in Zamboanga before the outbreak of the war, met Vicente Cabato, who was the chief timekeeper in said landing field, and inquired from him about the place where the tools and implements used in the construction of the landing field had been kept. Upon receiving a negative answer, he signalled to Japanese soldiers who took Vicente Cabato and Hilario Romano to the Kempeitai headquarters where he again asked Cabato as well as Romano about the tools, and because of Cabato's insistence that he did not know where those tools had been kept, the defendant slapped the face of Cabato three times and the Japanese beat him up. One day in June 1944, at about 9:30 a.m., the defendant, together with twenty (20) Japanese soldiers, all armed and the defendant wearing the uniform of Japanese soldiers, came to the house of Vicente Cabato, searched it by opening his trunk, asked for the whereabouts of Colonel McGee, and offered a reward for information regarding said officer.

The foregoing evidence supports count 12 and is established by the testimony of Vicente Cabato and Hilario Romano whose houses adjoined one another, except the offer of a reward which was not touched by Hilario

Romano because he did not hear it.

In the morning of 13 October 1944, the defendant, together with two Japanese soldiers, all armed, came to the house of Macario Almazan in Cabatangan, City of Zamboanga, about five kilometers from the city proper, told him in the presence of his mother that he was under arrest; the two Japanese soldiers brought him to the headquarters in Tetuan, the defendant having dropped out on the way, tied his two hands on the back, investigated him about Colonel McGee, asked him whether he was a guerrilla, hanged him on the ceiling with his feet about an inch from the floor, beat him up three times with the handle of a rake, persisted on asking him about Colonel McGee and his connection with the guerrillas, and released him at six o'clock in the morning of the following day, after a futile attempt at extorting from him the desired information.

The appearance of the defendant and the two Japanese soldiers at Almazan's house, the arrest of Macario and his return home the following morning are part of count 14 and are established by the testimony of Macario Almazan and his mother Jacinta.

The defendant denies that he was connected with the Japanese Kempeitai, as testified to by the witnesses for the prosecution; and that he had gone to the houses of Rosalio Apostol, Gregorio Cortes and Fausto Centeno—the only time he had gone to the house of the last named person being on the occasion he was fetched by Guihara to go to said house and the car then used was Centeno's. In connection with his going to that house, he says that he was fetched at his store in the market by Sergeant Yane Guihara who, upon reaching the house, alighted from the car and told him to watch it—he (the defendant) remaining in the car; and that after Guihara had talked to Joaquin Cases who also lived there, he was brought back to his store. He also denies he had arrested Honorio Aliado and says that the day Aliado was brought to the Kempeitai headquarters, he was there to collect money for watches and fountain pens sold to Japanese soldiers. He further denies he had gone to the house of Vicente Cabato to arrest him and says that Guihara asked him whether Cabato had worked in the landing field; that as Cabato did really work there, he answered him in the affirmative; that Guihara asked him to tell Cabato to call on him (Guihara) at the headquarters, so he transmitted Guihara's desire to Cabato, but that he did not know whether Cabato complied with the request. He admits having gone to the house of Macario Almazan for a visit and for the purpose of buying chicken and eggs, and there found two Japanese talking to Macario who took the latter along with them. He finally denies he bore or had in his possession a revolver, but just a hunting knife, the handle of which looked like that of a revolver, especially when it was in the scabbard which also looked like the holster of a revolver.

The defendant's faint denial of the charges proffered against him adds rather than detracts strength to the evidence for the prosecution. It is incomprehensible how and why twelve witnesses, at least three of whom—Vicente Cabato, Macario Almazan and Rosalio Apostol—were his friends, would testify against him, if he were the innocent and guiltless person he represents himself to be.

The crime committed by the defendant is treason for which he must be punished.

The judgment appealed from is affirmed, with costs against the appellant.

Paras, Pablo, Bengzon, Tuason, Reyes, Jugo and Bautista Angelo JJ., concur.

PARAS J.:

I certify that Justices Feria and Montemayor voted to affirm.

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