

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. AQUILINO VILLANUEVA, DEFENDANT AND APPELLANT.

G. R. No. L-5838. February 09, 1953

Ponente: JUGO, J.

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JUGO, J.:

Aquilino Villanueva was accused of treason before the People's Court on three counts. Upon the abolition of said court, the case was remanded for trial to the Court of First Instance of Nueva Ecija. He was found guilty by this court and sentenced to suffer 16 years and 1 day of reclusion temporal with the accessory penalties of the law and to pay the costs. The defendant appealed to the Court of Appeals claiming that the trial court erred in finding him guilty of the crime charged.

The Court of Appeals, finding that there was no mitigating nor aggravating circumstance, held that the penalty of reclusion perpetua should be imposed upon the appellant, and, consequently, certified the case to this Court in accordance with law.

The evidence for the prosecution has established the following facts:

The accused is a Filipino. At about midnight of December 24, 1944, the defendant accompanied eight or nine Japanese soldiers to the place where Pablo Parungao, Eugenio Maliwat and Jose Maliwat were doing guard duty as members of the neighborhood association in Talavera, Nueva Ecija. The Japanese soldiers were armed with rifles with fixed bayonets while the appellant was carrying a pistol. This group of Japanese soldiers arrested Jose Maliwat and carried him away. They came back and also arrested Pablo Parungao. Parungao and Maliwat were taken to the Japanese garrison in the poblacion of Talavera, where they were detained for forty-eight hours until they were released upon request of the Mayor of Talavera, Jose B. David. In said garrison two other persons, Manuel Corpus and Francisco Payoyo were already detained. This fact was testified to by Pablo Parungao and Eugenio Maliwat, brother of Jose.

Late in December, 1944, the appellant formed a unit of the "Makapili" organization, with himself as chief, with the rank of captain. Said unit was engaged in patrolling the town and looking for guerrillas and persons suspected of helping the underground movement against the Japanese. Some of the members were wearing uniforms similar to those used by the Japanese soldiers and arm bands with Japanese characters which, according to the Japanese commander, were the symbol of membership in the "Makapili" organization, and those wearing said arm bands were entitled to the respect and protection of the local authorities, and the people were obliged to bow to them. At the time of the arrest of the Filipino guards, the defendant was wearing said arm band. These facts were testified to by the Mayor and other witnesses for the prosecution.

The defendant testified in his own behalf to the effect that he was the head of the "Ganap" a religious organization in Talavera, where they had a temple; that he moved to Cabanatuan in order to escape from the Japanese, staying there from June 12, 1942 to January 6, 1945, engage in the business of a tinsmith; and that he never took part in the arrest of any person.

The trial court did not give credence to this testimony of the defendant which consisted of a mere denial of the charges, nor did it give any weight to his alleged alibi. We see no reason for distributing this finding.

Inasmuch as it has not been established by the prosecution that the appellant participated directly or indirectly in the killing or disappearance of any person, the judgment appealed from should not be modified.

In view of the foregoing, the decision of the trial court is hereby affirmed with costs against the appellant. So ordered.

Paras, C. J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Bautista Angelo and Labrador, JJ., concur.

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