

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. FILOMENO CASTRO (ALIAS FELOMINO CASTRO), DEFENDANT AND APPELLANT.

G.R. No. L-300. January 28, 1949

Ponente: BENGZON, J.

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BENGZON, J.:

For treasonable conduct during the Japanese occupation, the defendant Filomeno Castro, a Filipino citizen, was sentenced by the Fourth Division of the People's Court to life imprisonment and to pay a fine of P10,000, plus the costs.

He was tried under an information containing nine counts. However, after presenting his evidence, the special prosecutor withdrew counts 3, 4, 7, 8 and 9. And after the trial ended, the defendant was declared guilty of all the remaining charges, the decision setting forth the pertinent facts and circumstances.

As requested by appellant, we have reviewed the record to determine whether the finding of guilt is sufficiently justified.

On the first count there are proofs that shortly before the last war Filomeno Castro became a member of the Ganap Party and that soon after the Japanese occupation he, with other Ganaps, patrolled the barrio of Parang Norte, Mariquina, Rizal, for the Japanese, carrying arms and wearing the regular Japanese uniform; that he resided in the Japanese garrison in Montalban, same province, later in the Japanese-controlled tannery in Meycauayan, Bulacan; that he went around with Nippon soldiers pointing out persons suspected or known as guerrillas and even helping in their apprehension; that in October, 1943, he accompanied Japanese soldiers to the house of Deogracias Esteban in sitio Bayanbayan, Mariquina, to look for Manuel Soriano, and not having found him there, the party brought Esteban to the house of Ricardo Soriano, Manuel's father, where appellant slapped Soriano's sister for refusing to disclose to him the whereabouts of her guerrilla brother. (It seems that a few days after this the Japanese got hold of Manuel and tortured him.)

On the same count there is evidence that, having been released from the camp of the ROTC guerrilla outfit in barrio Tala, Mariquina, where he had been detained as a Ganap and Japanese spy, Filomeno Castro, armed and wearing a Japanese army raincoat led, one day in June, 1943, a patrol of 25 Japanese soldiers and one platoon of Constabulary men in a raid against that camp, as a result of which a guerrillero named Andoy was wounded by a hand grenade thrown by the raiders.

Establishing the fifth count, the prosecution demonstrated that at about ten o'clock in the morning of one day of November, 1943, while riding with several Japanese soldiers in an army truck, appellant Filomeno Castro saw Francisco Duliente in the barrio of Nangca, municipality of Mariquina, and knowing the latter as a guerrilla Castro indicated him as such to his Japanese companions, whereupon the latter, about four in number, stopped the truck and pursued Duliente, who succeeded in eluding capture by running swiftly away. Appellant joined this pursuit firing with his revolver, caliber .45, several shots which fortunately missed Duliente. He would have con'

tinued pursuing Duliente (although the Japanese had already returned to the truck) had not Duliente returned his fire and showed a determination to face him alone.

In connection with the sixth count there is enough evidence to show that in the evening of March 12, 1944, Teofilo de Guzman, (sergeant of police) Pascual de Leon and Jose Atanacio were arrested as guerrilla suspects in barrio Calvario, Meycauayan, Bulacan by two Japanese soldiers and two Filipino spies (the herein appellant and one Mario). The arrested persons were brought to the Japanese garrison in that town where all of them were boxed by the Japanese, and were later marched to the municipal jail. Afterwards De Leon was taken to the guard-house and again tortured. Although De Guzman and Atanacio were subsequently released apparently through the good offices of Dr. Juan Chanliongco, Pascual de Leon was never heard from.

All the above counts have been established in accordance with the two-witness rule. The first, particularly the search for Manuel Soriano, a guerrilla, in the house of Ricardo Soriano, was seen and told by Deogracias Esteban, Rodolfo Soriano and Felisa de la Paz Soriano. (41-42, 166-170, s. n.; 1, 8, s. n., transcript of Rivera.) The second is supported by the testimony of Dionisio Epetia and Ernesto Sandiego some of the guerrillas who were in the raided camp in June, 1943. Two persons—Gabriel Urrutia and Fabian Villanueva—saw and declared about the frustrated attempt to catch Francisco Duliente. It may be true that ordinarily these witnesses could not have heard the particular words uttered by appellant in stopping the truck but it is quite probable that defendant's actions and their knowledge of Isko's condition as guerrilla (25 s. n.) led them to surmise or match his actions to his words. Anyway, that appellant pointed Isko, a guerrilla, to the Japanese and that the latter pursued Isko and appellant joined the chase is enough to sustain this charge, which is not at all overcome by his untenable defense of alibi.[1]

As to the sixth count two of the arrested persons themselves declared against appellant. (Jose Atanacio and Teofilo de Guzman.) These have no reasons to falsely implicate him in matters involving life or death.

Appellant's second assignment of error needs no extended discussion, because supposing that his written statement (Exhibit A) was the result of tortures he received at the hands of guerrillas after liberation, and is legally inadmissible, the prosecution does not need to rely and does not here rely, on such document to obtain a verdict of guilt. On the other hand, the maltreatment he received at the hands of the underground forces, if any, does it not imply some fundamental reason, for instance, the raid he had led against them as stated in the second count or his presumably known activities as a Japanese informer?

In this connection it is markworthy that when Exhibit A was submitted to the court as containing voluntary admissions in writing of the accused, his counsel objected to it only upon the ground of its incompetency, his argument being that only confessions made personally by the accused in open court are available. Undoubtedly the conviction of the accused may not be based solely upon such written admissions; but they should be logically competent evidence in corroboration of the story of the witnesses for the prosecution; and it is in that light that they should be regarded.

In his third assignment of error, appellant's attorney argues that his client may not be convicted of treason because the sovereignty of the United States and of the Commonwealth of the Philippines was temporarily suspended during the Japanese occupation. A debatable or open question at the time the brief for appellant was submitted, the point has subsequently been overruled in another case,[2] this Court refusing to validate such a theory which is so destructive of national integrity and public interest.

Wherefore, being convinced of appellant's guilt beyond reasonable doubt, we must approve the appealed judgment, because it accords with the legal provisions applicable to treasonous offenses by Filipino citizens. (Article 114, Revised Penal Code.)

Judgment affirmed. So ordered.

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

[1] Can not prevail over positive assertions of witnesses, who saw him and are not shown to be biased.

[2] Laurel vs. Misa, 44 Off. Gaz. [April, 1948], 1176.

CONCURRING AND DISSENTING

PERFECTO, J.:

According to the uncontradicted testimony of appellant, he never studied in any school and he does not know how to read English. He knows a little how to read and write in Tagalog.

Upon this evidence, we are of opinion that appellant is entitled to the benefits of the mitigating circumstance of ignorance or lack of instruction and, therefore, the penalty that should be imposed is the minimum provided by article 144 of the Revised Penal Code.

We agree with the decision finding appellant guilty of the crime of treason.

We vote to modify the appealed judgment by reducing the penalty accordingly.

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