

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. HOSPICIO LABATA, DEFENDANT AND APPELLANT.

G. R .No. L-3775. July 31, 1951

Ponente: REYES, J.

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REYES, J.:

Hospicio Labata, a Filipino citizen, was, at the outbreak of the last war, appointed Mayor of Sogod, Leyte, by the guerrillas operating in that region. During his incumbency, he took part in patrol work conducted by the Japanese and became so influential that he succeeded in delivering many from Japanese torture, among them a brother of Col. Ruperto Kangleon, former Secretary of National Defense. For his cooperation he was awarded a diploma by the Japanese. Arrested as an enemy collaborator when the Americans came back, he was put in the American Prisoner's Camp and then indicted for treason on 16 counts. Some of the counts were later abandoned while others were not proved, but the trial court found him guilty on counts 1, 2, 7, and 12 and sentenced him to life imprisonment, fine and costs. From this sentence he has appealed.

On the ground that counts 7 and 12 have not been proved in accordance with the two-witness rule, the Solicitor General dissents from the finding of the trial court on those counts. After going over the evidence, we agree with the Solicitor General and hold that the finding below should be revoked. This leaves only counts 1 and 2 for consideration.

Count 1 charges that the defendant did, on or about June, 1944,

"wilfully, unlawfully, feloniously and traitorously lead, guide and accompany a Japanese patrol to the house of Exequiel Vecina, a guerrillero or a sympathizer of the resistance movement, and as a consequence of which, said Exequiel Vecina, Josefa de Vecina, their child, Mauricio Paril, Eustaquio Payot and one other whose real name is yet unknown, were captured, imprisoned, tortured and ultimately taken to an uninhabited place and there killed with bolos and bayonets."

On this count, the prosecution presented two witnesses, Conrado Rio and Petronilo Ibarle, from whose testimony we gather that, as a result of the finding of the cadaver of a missing person near the house of Exequiel Vecina, a guerrilla sympathizer, the defendant had Vecina arrested by his policemen, and that the policemen arrested Vecina and his wife together with two others and turned them over to the Japanese garrison where, after investigation, they were executed. Defendant denied having ordered the arrest of Vecina and the others, although he admitted having been present at their investigation because he had been sent for by the Japanese captain. But the trial court found him guilty, declaring that the arrest of Vecina and companions by order of defendant, "tal como se formula en este cargo No. 1" has been fully proved.

Obviously, the trial court has overlooked that the specific charge formulated in count 1 is that defendant led, guided and accompanied the Japanese patrol to the house of Vecina and not that he ordered the arrest of Vecina and his companions. In declaring defendant guilty for having ordered such arrest, the trial court has in effect convicted him of an offense which is not charged.

Furthermore, even supposing that defendant had really ordered the arrest in question, there is no evidence that he had also ordered them turned over to the Japanese garrison. The policeman Conrado Rio declared that the arrested persons were at first brought to defendant's house but were afterwards ordered taken to the garrison. He did not say who gave the order, while it may be gathered from the testimony of the other witness, Petronilo Ibarle, that Vecina and his companions were led by the policemen to the garrison because defendant was not in his house. Our conclusion is that on the evidence of record defendant cannot be held guilty on this count.

Count 2 charges defendant with having taken part.—"in the public execution of Ciriaeo Barug, Tiburcio Domalerio, Mariano Barug, and Sixto Bistol who were bayoneted to death in front of the municipal building of Sogod on the suspicion that they were guerrilleros and who were the ones who threw hand-grenades in the premises of the home of the accused, by preparing the executions of said four victims, by requiring the attendance of all the Sogod people at said executions, and by delivering a speech, immediately prior to said execution warning those in attendance to avoid, on pain of similar death, committing the alleged wrongful acts of said Ciriaeo Barug, Tiburcio Domalerio, Mariano Barug and Sixto Bistol."

There appears to be no question that at least three of the victims named in this count were executed by the Japanese in the town plaza on suspicion, so it would seem, that they formed part of the group commissioned by the guerrillas to burn the town and were able to burn a house very near the residence of the Japanese. But as the Solicitor General says the acts attributed to defendant in this count have not been proved as required by the two-witness rule with the exception of the speech which defendant is alleged to have made warning the people not to follow the doomed men's example if they did not want to be put to death themselves. The speech merely follows the pattern of those delivered on similar occasions during the Japanese regime by the town officials, who, no matter how much they might dislike it, were compelled by their position in the puppet government to "play ball" or feign a certain degree of collaboration with the enemy in order to retain his confidence and remain in his good graces. We cannot hold that the making of such a speech is enough to convict one of the grave crime of treason.

In view of the foregoing the judgment appealed from is reversed and the appellant acquitted, with costs de oficio.

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

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